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 HANFORD EXECUTIVE MANAGEMENT EMPLOYEE
 9 ASSOCIATION, et al.

10 UNITED STATES DISTRICT COURT
 11 EASTERN DISTRICT OF CALIFORNIA

13 HANFORD EXECUTIVE
 MANAGEMENT EMPLOYEE
 14 ASSOCIATION, CATHY CAIN,
 LOUIS CAMARA, GEORGE
 15 THOMAS DIBBLE, TIMOTHY
 IERONIMO, MARY ROSE LINDSAY,
 16 CARLOS MESTAS, SCOTT YEAGER

17 Plaintiffs,

18 v.

19 CITY OF HANFORD, HILARY
 STRAUS, DAN CHIN, SUE
 20 SORENSEN, JIM IRWIN, LOU
 MARTINEZ, JOLEEN JAMESON

21 Defendants.

No.

**COMPLAINT FOR DAMAGES AND
 INJUNCTIVE RELIEF**

(DEMAND FOR JURY TRIAL)

22
 23
 24 Plaintiffs HANFORD EXECUTIVE MANAGEMENT EMPLOYEE
 25 ASSOCIATION, CATHY CAIN, LOUIS CAMARA, GEORGE THOMAS DIBBLE,
 26 TIMOTHY IERONIMO, MARY ROSE LINDSAY, CARLOS MESTAS, SCOTT
 27 YEAGER (collectively, "Plaintiffs"), collectively and individually allege as follows:
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I

JURISDICTION AND VENUE

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3 1. This action arises under Article I, Section 10 and the First and Fourteenth
4 Amendments of the United States Constitution as well as 42 USC Section 1983. The
5 federal court also has jurisdiction as to pendent state claims that arise from the same
6 nucleus of operative facts. Venue of this action is appropriate in that the City of Hanford
7 is the county seat of Kings County, California, and that the acts giving rise to the claims
8 asserted herein occurred in the City of Hanford; in addition Plaintiffs are informed and
9 believe that all of the individual Defendants reside in the geographical area encompassed
10 by the Fresno Branch of the United States District Court for the Eastern District of
11 California.

II

PARTIES

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14 1. Plaintiff HANFORD EXECUTIVE MANAGEMENT EMPLOYEE
15 ASSOCIATION (“EMEA”) is the exclusive recognized employee organization
16 representing the City of Hanford bargaining unit consisting of all seven (7) non-exempt
17 executive management employees, pursuant to Government Code sections 3500, et seq.
18 EMEA brings this action on behalf of itself, and its members, and has standing to do so
19 under the doctrine articulated by the United States Supreme Court in *Allee v. Medrano*,
20 416 U.S. 802 (1974), and by the California Supreme Court and the California Court of
21 Appeal in *Professional Fire Fighters v. City of Los Angeles*, 60 Cal.2d 276 (1963);
22 *International Association of Fire Fighters v. City of Palo Alto*, 60 Cal.2d 295 (1963);
23 *California Federation of Teachers v. Oxnard Elementary School*, 272 Cal.App.2d 514
24 (1969).

25 2. Plaintiff CATHY CAIN (“CAIN”) is the City of Hanford (“CITY” or
26 “HANFORD”) Interim Community Development Director, and a member of the EMEA.
27 CAIN was hired by Defendant City of Hanford on August 31, 1998, in the position of
28 Assistant Planner and became a permanent employee of the CITY in that position on

1 March 22, 1999. She was promoted to Associate Planner on May 3, 2006 (the title of that
2 position changed to Senior Planner during her tenure), a position she held until January
3 26, 2008. On January 26, 2008, CAIN became the Interim Planning Manager, and
4 became a permanent employee in the Planning Manager position on December 29, 2009.
5 She worked in that position until May 31, 2010, when she was appointed to her current
6 position of Interim Community Development Director, a position she has continued to
7 hold up to the present time.

8 3. Plaintiff LOUIS CAMARA (“CAMARA”) is the City of Hanford
9 Director of Public Works, and a member of the EMEA. CAMARA was hired by
10 Defendant City of Hanford as an Assistant Civil Engineer on February 8, 1988, served a
11 probationary period and became a permanent employee of the CITY in that position.
12 Subsequently, he promoted to Associate Civil Engineer on July 10, 1989, served another
13 probationary period, and became a permanent employee of the CITY in that position. On
14 January 2, 1995, he was promoted to Assistant City Engineer, served another probationary
15 period, after which he became a permanent employee of the CITY in that position. He
16 worked in that position until July 7, 2003, when he was reclassified to Deputy Director,
17 Public Works on July 7, 2003, for which there was no probationary period. On May 28,
18 2007, he was named the Acting Director of Public Works, and became the Director of
19 Public Works on December 17, 2007. He passed his probationary period and became a
20 permanent employee of the CITY in this position in June of 2008, a position he has
21 continued to hold up to the present time.

22 4. Plaintiff GEORGE THOMAS DIBBLE (“DIBBLE”) is the City of
23 Hanford Finance Director, and a member of the EMEA. He was hired by Defendant City
24 of Hanford on June 9, 1974 as Finance Director. His probationary period was completed
25 on December 9, 1974, and he became a permanent employee of the CITY in that position,
26 a position he has continued to hold up to the present time.

27 5. Plaintiff TIMOTHY IERONIMO (“IERONIMO”) is the City of Hanford
28 Fire Chief, and President of the EMEA. IERONIMO was hired by Defendant City of

1 Hanford as a Firefighter on October 9, 1978, and became a permanent employee of the
2 CITY in that position as of February 19, 1980. From that date until April 8, 1985 (with a
3 one-month gap during which he was not employed by the City), IERONIMO was a
4 Firefighter. On April 8, 1985, IERONIMO was promoted to Fire Engineer, and became a
5 permanent employee of the CITY in that position as of April 8, 1986. On July 13, 1987,
6 IERONIMO was promoted to Fire Captain, a position in which he became a permanent
7 employee of the CITY on July 13, 1988. On August 12, 1996, IERONIMO promoted to
8 Assistant Chief/Fire Marshal, and became a permanent employee of the CITY in that
9 position on August 12, 1997. Finally, on December 24, 2001, he was promoted to Fire
10 Chief, and he became a permanent employee of the CITY in that position on December
11 24, 2002, a position that he has continued to hold up to the present time.

12 6. Plaintiff MARY ROSE LINDSAY (“LINDSAY”) is the City of Hanford
13 Deputy City Manager, and a member of the EMEA. LINDSAY was hired by Defendant
14 City of Hanford on August 10, 1987 as a Personnel Technician. She became a permanent
15 employee of the CITY in that position on February 22, 1988. She was reclassified to
16 Personnel Analyst on January 8, 1990 and became a permanent employee of the CITY in
17 that position on January 8, 1991. On September 2, 1991, she was reclassified to Senior
18 Administrative Analyst, and became a permanent employee of the CITY in that position
19 on September 2, 1992. She was reclassified to Assistant to the City Manager on January
20 1, 1996 and became a permanent employee of the CITY in that position on July 1, 1996.
21 As of July 7, 2003, she has been a permanent employee of the CITY in the classification
22 of Deputy City Manager, a position she has continued to hold up to the present time.

23 7. Plaintiff CARLOS MESTAS (“MESTAS”) is the City of Hanford Police
24 Chief, and Vice President of the EMEA. MESTAS was hired as the Police Chief on
25 September 22, 2003 and became a permanent employee of the CITY in that position after
26 passing his probation on September 22, 2004. He has continued to hold that position up to
27 the present time.

1 8. Plaintiff SCOTT YEAGER (“YEAGER”) is the City of Hanford
2 Recreation Director, and a member of the EMEA. He was hired by the City into this
3 position on June 4, 2007, and passed probation on November 30, 2007, thus becoming a
4 permanent employee of the CITY in that position. He has continued to hold that position
5 up to the present time.

6 9. Defendant CITY OF HANFORD (“HANFORD” or “CITY”) is, and at
7 all times pertinent hereto was, the employer of all employees in the executive
8 management bargaining unit represented by the EMEA, including the individual
9 Plaintiffs.

10 10. Defendant HILARY STRAUS (“STRAUS”) is the City Manager of
11 HANFORD. STRAUS was hired by the CITY on December 1, 2008 as Deputy City
12 Manager and became the City Manager in May of 2010. STRAUS is sued herein in both
13 his official and personal capacities. All allegations made against STRAUS, involve his
14 service as City Manager of HANFORD.

15 11. Defendant DAN CHIN (“CHIN”) is the Mayor of HANFORD and a
16 member of the City Council of HANFORD. CHIN is sued herein in both his official and
17 personal capacities. All allegations made against CHIN involve his service as Mayor and
18 as a member of the City Council of Hanford (“City Council”).

19 12. Defendant SUE SORENSEN (“SORENSEN”) is the Vice-Mayor of
20 HANFORD and a member of the City Council. SORENSEN is sued herein in both her
21 official and personal capacities. All allegations made against SORENSEN involve her
22 service as Vice-Mayor and as a member of the City Council.

23 13. Defendant JIM IRWIN (“IRWIN”) is a member of the City Council.
24 IRWIN is sued herein in both his official and personal capacities. All allegations made
25 against IRWIN involve his service as a member of the City Council.

26 14. Defendant LOU MARTINEZ (“MARTINEZ”) is a member of the City
27 Council. MARTINEZ is sued herein in both his official and personal capacities. All
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1 allegations made against MARTINEZ involve his service as a member of the City
2 Council.

3 15. Defendant JOLEEN JAMESON (“JAMESON”) is a member of the City
4 Council. JAMESON is sued herein in both her official and personal capacities. All
5 allegations made against JAMESON involve her service as a member of the City Council.

6 16. Plaintiffs EMEA, CAIN, CAMARA, DIBBLE, IERONIMO, LINDSAY,
7 MESTAS, and YEAGER, seek the injunctive relief prayed for herein as well as
8 compensatory and punitive damages, and attorneys’ fees, and costs. Plaintiffs bring this
9 action to support and protect themselves, and also to challenge the chilling effect upon
10 union and other collective activities – including, but not limited to, representation,
11 advocacy and participation in protests against political activity that EMEA deems to be
12 detrimental to its membership as a whole – being perpetrated by the Defendants
13 HANFORD, STRAUS, CHIN, SORENSEN, IRWIN, MARTINEZ, and JAMESON and
14 each of them.

15 17. Defendants HANFORD, STRAUS, CHIN, SORENSEN, IRWIN,
16 MARTINEZ, JAMESON, and each of them were and are at all times herein relevant,
17 acting as the agents, servants, and employees of each of the other herein named
18 Defendants.

19 III

20 FACTS APPLICABLE TO ALL CAUSES OF ACTION

21 18. On or about November 16, 2010, six of the seven individual Plaintiffs in
22 this matter (CAMARA, DIBBLE, IERONIMO, LINDSAY, MESTAS and YEAGER)
23 signed a memorandum directed to the Hanford City Council and incoming City Council
24 members, entitled, “Vote of No Confidence – City Manager Hilary Straus”. The three
25 page document set forth the reasons why each of the signatories had no confidence in the
26 ability of STRAUS to properly perform the duties of Hanford City Manager. Some of
27 these stated reasons included allegations of dishonest, unethical and potentially illegal
28 conduct, hiding information from management and the public, improperly awarding

1 contracts to STRAUS' friends, potential Brown Act violations, and other unprofessional
2 conduct. Attached hereto as Exhibit 1, and incorporated herein by this reference is a true
3 and correct copy of the Vote of No Confidence memorandum regarding STRAUS, dated
4 November 16, 2010.

5 19. On or about March 11, 2011, all seven of the individuals named as
6 Plaintiffs in this matter signed and submitted a Petition for Recognition and Certification
7 petitioning the Hanford City Council for formal recognition of EMEA as the bargaining
8 unit for the individual Plaintiffs.

9 20. A true and correct copy of the applicable Personnel Rules and
10 Regulations, including the Policy of Administration for Executive Management, in effect
11 prior to March 15, 2011 is attached hereto as Exhibit 2, and incorporated herein by this
12 reference.

13 21. Attached hereto as Exhibit 3, and incorporated herein by this reference is
14 a true and accurate copy of the March 15, 2011 Memorandum to the City Council, which
15 proposed changes to the Personnel Rules and Regulations.

16 22. Attached hereto as Exhibit 4, and incorporated herein by this reference is
17 a true and accurate copy of the City of Hanford Management Pay Plan that existed prior to
18 the City of Hanford's March 15, 2011 amendments. Among other changes, the pay plan
19 was revised so that step increases can now be denied for "average" performance, where
20 previously, step increases could not be denied for "average" performance.

21 23. STRAUS, on behalf of each and every one of the Defendants, first met
22 with EMEA representatives on March 10, 2011, to discuss the changes proposed to the
23 Hanford City Council for ratification on March 15, 2011. At the time of that meeting,
24 STRAUS refused to provide the EMEA representatives with the PowerPoint presentation
25 that was shown to the City Council on March 15, 2011. It was not until March 10, 2011
26 that Plaintiffs first discovered there was an item on the agenda, submitted to the City
27 Council by STRAUS which would amend the City's Personnel Rules and Regulations to
28 make substantial changes to the Policy of Administration for Executive Management

1 Employees, which applied to each of the individual Plaintiffs. The proposed changes
2 included:

- 3 a. Converting Executive Management Employees from permanent
4 employees with property rights in their employment to at-will
5 employees;
- 6 b. Revising the Seniority, Layoff and Bumping provisions to strip
7 Executive Management Employees of the right to return to previously
8 held positions and reemployment rights in the event of a layoff;
- 9 c. Stripping disciplinary appeal rights from Executive Management
10 Employees;
- 11 d. Changing the process by which Executive Management Employees
12 progress through salary steps and creating a right to deny what were
13 previously automatic step increases on the grounds of “average”
14 performance; and
- 15 e. Increasing Executive Management Employees’ contributions toward
16 retirement, and decreasing Hanford’s contributions toward retirement
17 for Executive Management Employees, including the individual
18 Plaintiffs herein, which also had the impact of decreasing their
19 salaries for purposes of retirement benefit calculations.

20 24. The changes outlined in the paragraph above differed from the rules and
21 regulations set forth in the applicable Personnel Rules and Regulations, including the
22 Policy of Administration for Executive Management, in effect prior to March 15, 2011.

23 25. On March 15, 2011, prior to the Hanford City Council meeting, the
24 EMEA wrote to the City Council and addressed the chief concerns of the EMEA and its
25 members. The letter also warned the City Council that passing the proposal by City
26 Manager STRAUS could expose the CITY OF HANFORD to liability and could also
27 expose the individual City Council members and City Manager STRAUS to personal
28

1 liability. Attached hereto as Exhibit 5, and incorporated herein by this reference is a true
2 and correct copy of the EMEA's letter of March 15, 2011, addressed to the City Council.

3 26. On the evening of March 15, 2011, the HANFORD City Council met to
4 discuss the proposal by City Manager STRAUS. Numerous individuals, including
5 EMEA's counsel, spoke against the proposal, and highlighted the illegal nature of many
6 of the components of the proposal. In spite of being aware of the illegality of the
7 proposal, the Hanford City Council ratified the changes that night, with each and every
8 City Council Defendant voting for the changes. Attached hereto as Exhibit 6, and
9 incorporated herein by this reference, is a true and correct copy of the Minutes of the
10 March 15, 2011 City Council meeting at which the Personnel Rules and Regulations were
11 amended.

12 27. On March 22, 2011, the EMEA delivered a follow-up letter to the
13 Hanford City Council, again advising it of the illegality of the City Council's actions and
14 highlighting the violations of U.S. and California Constitutions, 42 USC §1983, the
15 Meyer-Milias-Brown Act, the Public Safety Officers Procedural Bill of Rights Act, and
16 the Firefighters Procedural Bill of Rights Act, and warned that if the actions were not
17 immediately overturned, the EMEA and its members would file suit, seek damages,
18 statutory penalties, and an award of attorneys' fees. Like the March 15, 2011 letter before
19 it, this March 22, 2011 letter also warned the City Council that its actions, if not
20 rescinded, could expose the CITY OF HANFORD to liability and could also expose the
21 individual City Council members and City Manager STRAUS to personal liability.
22 Attached hereto as Exhibit 7, and incorporated herein by this reference is a true and
23 accurate copy of the EMEA's letter of March 22, 2011, addressed to the City Council.

24 28. On March 25, 2011, the Hanford City Attorney responded by stating that
25 the City Council would not rescind its actions. In response, on March 30, 2011, the
26 EMEA filed a Government Claim Form with HANFORD regarding the state law damage
27 claims arising from the illegal actions of the Defendants, and each of them. An Amended
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1 Government Claim Form was filed with HANFORD on April 13, 2011. Upon rejection of
2 Plaintiffs Claim, Plaintiffs will amend this Complaint, as appropriate.

3 **IV**

4 **FIRST CLAIM FOR RELIEF**
5 **(VIOLATION OF 42 U.S.C. § 1983 – FREEDOM OF SPEECH, ASSOCIATION AND**
6 **COLLECTIVE ACTIVITY)**

7 29. Plaintiffs hereby incorporate by reference paragraphs 1 through 28
8 inclusive, as though fully set forth herein.

9 30. Pursuant to the First Amendment to the United States Constitution,
10 EMEA and each individual Plaintiff is entitled to freedom of association, freedom of
11 speech, freedom to petition for redress of grievances and freedom to engage in protected
12 collective activity, including political activity to promote the interests of the union and the
13 members. Under the penumbra of rights guaranteed thereby, EMEA's and each individual
14 Plaintiff's participation in the protest and Vote of No Confidence against STRAUS, and
15 other associational activity, including the specific examples described herein, constitute
16 protected activity.

17 31. Defendants, their agents, servants, employees, and each of them, have
18 conspired to retaliate, violate and chill EMEA's and each individual Plaintiff's
19 constitutional right to freedom of association, freedom of speech, freedom to petition for
20 redress of grievances, and freedom to engage in protected union activity by: 1) retaliating
21 directly through the unilateral imposition of new and onerous personnel rules which apply
22 only to the individual Plaintiffs and which strip those Plaintiffs of their property rights in
23 their employment; 2) stripping those Plaintiffs of certain "bumping" rights upon layoff; 3)
24 stripping them of their right to appeal discipline, including their right to a full evidentiary
25 hearing; 4) decreasing their retirement benefits and increasing their retirement
26 contributions; 5) by altering the method for granting step increases; 6) willfully and
27 intentionally violating Plaintiffs' rights under the Meyers-Milias-Brown Act; 7) willfully
28 and intentionally violating MESTAS' rights under the Public Safety Officers Procedural

1 Bill of Rights Act; and 8) willfully and intentionally violating IERONIMO's rights under
2 the Firefighters Procedural Bill of Rights Act.

3 32. The actions of Defendants STRAUS, CHIN, SORENSEN, IRWIN,
4 MARTINEZ, JAMESON in this case were wanton, deliberate, willful, malicious, and in
5 full knowledge that they constituted deprivation of the federal constitutional rights of
6 Plaintiffs CAIN, CAMARA, DIBBLE, IERONIMO, LINDSAY, MESTAS, and
7 YEAGER, each of whom have been subjected to one or more acts of retaliation as
8 described herein, and of the representative rights of Plaintiff EMEA.

9 33. By virtue of the facts set forth herein, Defendants, and each of them,
10 under the color of state law and in violation of 42 USC 1983, have deprived and continue
11 to deprive Plaintiffs of their rights to freedom of speech, association, petition for redress
12 of grievances, and union activity under the First Amendment to the United States
13 Constitution.

14 34. As a proximate result of the wrongful conduct of the Defendants and each
15 of them, including but not limited to 1) wrongfully increasing the Executive Management
16 Employees' contributions towards retirement and 2) wrongfully decreasing the CITY OF
17 HANFORD's contributions towards retirement, the individual Plaintiffs have each
18 suffered financial detriment in amounts to be proven at trial.

19 35. This action is brought to enforce 42 USC § 1983, and as such, and
20 pursuant to 42 USC § 1988, the court may allow a reasonable attorney's fee as part of the
21 costs awarded to prevailing Plaintiffs.

22 36. WHEREFORE, Plaintiffs pray for the relief set forth below.

23 **V**

24 **SECOND CLAIM FOR RELIEF**
25 **(VIOLATION OF 42 U.S.C. § 1983 – SUBSTANTIVE DUE PROCESS)**

26 37. Plaintiffs hereby incorporate by reference paragraphs 1 through 36,
27 inclusive as though fully set forth herein.

1 38. Pursuant to the Fifth and Fourteenth Amendments to the United States
2 Constitution, each individual Plaintiff is entitled to substantive due process prior to being
3 deprived of any property interest by the Defendants.

4 39. Here, without due process, the individual Plaintiffs were each stripped of
5 the property interest in their public employment, which – prior to March 15, 2011 – had
6 been a vested right which could only be taken away for just cause after a disciplinary
7 hearing meeting the requirements of due process.

8 40. On March 15, 2011 and continuing thereafter, Defendants, and each of
9 them, deprived each individual Plaintiff of his/her substantive due process rights by:
10 retaliating directly through the unilateral imposition of new and onerous personnel rules
11 which apply only to the individual Plaintiffs and which strip those Plaintiffs of their
12 property rights in their employment; stripping those Plaintiffs of certain “bumping” rights
13 upon layoff; stripping them of their right to appeal discipline, including the right to a full
14 evidentiary hearing; by decreasing their retirement benefits and increasing their retirement
15 contributions; altering the method for granting step increases; and willfully and
16 intentionally violating Plaintiffs’ rights under the Meyers-Milias-Brown Act; and willfully
17 and intentionally violating MESTAS’ rights under the Public Safety Officers Procedural
18 Bill of Rights Act; and willfully and intentionally violating IERONIMO’s rights under the
19 Firefighters Procedural Bill of Rights Act.

20 41. By virtue of the facts set forth herein, Defendants, and each of them, have
21 violated 42 U.S.C. § 1983.

22 42. As a proximate result of the wrongful conduct of the Defendants and each
23 of them, including but not limited to 1) wrongfully increasing the Executive Management
24 Employees’ contributions towards retirement and 2) wrongfully decreasing the City of
25 Hanford’s contributions towards retirement, the individual Plaintiffs have each suffered
26 financial detriment in amounts to be proven at trial.

VII

**FOURTH CLAIM FOR RELIEF
(VIOLATION OF ARTICLE I, § 2(A) AND 3 OF THE CALIFORNIA
CONSTITUTION, CIVIL CODE § 52.1)**

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4 52. Plaintiffs hereby incorporate by reference paragraphs 1 through 51
5 inclusive as though fully set forth herein.

6 53. Pursuant to Article I, § 2 of the California Constitution, Plaintiffs enjoy
7 equal or greater protection of their right to freedom of speech, association, petition for
8 redress of grievances, collective action and union activity to those rights guaranteed by the
9 First Amendment to the United States Constitution. California Civil Code § 52.1 provides
10 a vehicle for the enforcement of California constitutional rights, where the constitutional
11 provision at issue is not self-executing.

12 54. Defendants, their agents, servants, employees, and each of them, have
13 conspired to retaliate, violate and chill the individual Plaintiffs' constitutional right to
14 freedom of speech, freedom of association and protected union activity by: retaliating
15 directly through the unilateral imposition of new and onerous personnel rules which apply
16 only to the individual Plaintiffs and which strip those Plaintiffs of their property rights in
17 their employment; stripping those Plaintiffs of certain "bumping" rights upon layoff;
18 stripping them of their right to appeal discipline, including the right to a full evidentiary
19 hearing; decreasing their retirement benefits and increasing their retirement contributions;
20 by altering the method for granting step increases; and willfully and intentionally violating
21 Plaintiffs' rights under the Meyers-Milias-Brown Act; and willfully and intentionally
22 violating MESTAS' rights under the Public Safety Officers Procedural Bill of Rights Act;
23 and willfully and intentionally violating IERONIMO's rights under the Firefighters
24 Procedural Bill of Rights Act.

25 55. Such actions have resulted and were motivated solely because all
26 Plaintiffs raised concerns about unethical and potential illegal conduct by Defendant
27 STRAUS and Plaintiffs CAMARA, DIBBLE, IERONIMO, LINDSAY, MESTAS, and
28 YEAGER, participated in the Vote of No Confidence against Defendant STRAUS, and

1 formed the EMEA as an exclusive bargaining representative, thus engaging in protected
2 activity.

3 56. The actions of Defendants STRAUS, CHIN, SORENSEN, IRWIN,
4 MARTINEZ, and JAMESON, as alleged above, were wanton, deliberate, willful,
5 malicious, and in full knowledge that they constituted deprivation of the state
6 constitutional rights of Plaintiffs CAIN, CAMARA, DIBBLE, IERONIMO, LINDSAY,
7 MESTAS, and YEAGER, and EMEA.

8 57. By virtue of the premises, Defendants, and each of them, under the color
9 of state law, are depriving Plaintiffs and each of them of their right to freedom of speech,
10 association, petition for redress of grievances and union activity under Article I, § 2(a) of
11 the California Constitution.

12 58. As a proximate result of the wrongful conduct of the Defendants and each
13 of them, including but not limited to 1) wrongfully increasing the Executive Management
14 Employees' contributions towards retirement and 2) wrongfully decreasing the City of
15 Hanford's contributions towards retirement, the individual Plaintiffs have each suffered
16 financial detriment in amounts to be proven at trial.

17 59. As to all causes of action based on state law, a claim with the Central San
18 Joaquin Risk Management Authority, of which Defendant HANFORD is a member, has
19 been filed, but Plaintiffs seek injunctive relief under their federal causes of action and
20 cannot wait for the reasons stated herein.

21 60. WHEREFORE, Plaintiffs pray for the relief set forth below.

22 **VIII**

23 **FIFTH CLAIM FOR RELIEF**
24 **(VIOLATION OF ARTICLE I, § 7 AND 19 OF THE CALIFORNIA**
25 **CONSTITUTION, CIVIL CODE § 52.1)**

26 61. Plaintiffs hereby incorporate by reference paragraphs 1 through 60
27 inclusive as though fully set forth herein.

28 62. Pursuant to Article I, § 7 and 19 of the California Constitution, each
individual Plaintiff is entitled to substantive due process prior to being deprived of any

1 property interest by the Defendants, and enjoy equal or greater protection of their due
2 process rights as under the Fifth and Fourteenth Amendments to the United States
3 Constitution. California Civil Code § 52.1 provides a vehicle for the enforcement of
4 California constitutional rights, where the constitutional provision at issue is not self-
5 executing.

6 63. Here, without due process, the individual Plaintiffs were each stripped of
7 the property interest in their public employment, which – prior to March 15, 2011 – had
8 been a vested right which could only be taken away for just cause after a disciplinary
9 hearing meeting the requirements of due process.

10 64. On March 15, 2011 and continuing thereafter, Defendants, and each of
11 them, deprived each individual Plaintiff of his/her substantive due process rights by:
12 retaliating directly through the unilateral imposition of new and onerous personnel rules
13 which apply only to the individual Plaintiffs and which strip those Plaintiffs of their
14 property rights in their employment; stripping those Plaintiffs of certain “bumping” rights
15 upon layoff; stripping them of their right to appeal discipline, including the right to a full
16 evidentiary hearing; by decreasing their retirement benefits and increasing their retirement
17 contributions; altering the method for granting step increases; and willfully and
18 intentionally violating Plaintiffs’ rights under the Meyers-Milias-Brown Act; and willfully
19 and intentionally violating MESTAS’ rights under the Public Safety Officers Procedural
20 Bill of Rights Act; and willfully and intentionally violating IERONIMO’s rights under the
21 Firefighters Procedural Bill of Rights Act.

22 65. As a proximate result of the wrongful conduct of the Defendants and each
23 of them, including but not limited to 1) wrongfully increasing the Executive Management
24 Employees’ contributions towards retirement and 2) wrongfully decreasing the City of
25 Hanford’s contributions towards retirement, the individual Plaintiffs have each suffered
26 financial detriment in amounts to be proven at trial.

27 66. The actions of Defendants STRAUS, CHIN, SORENSEN, IRWIN,
28 MARTINEZ, and JAMESON, as alleged above, were wanton, deliberate, willful,

1 malicious, and in full knowledge that they constituted deprivation of the state
2 constitutional rights of Plaintiffs CAIN, CAMARA, DIBBLE, IERONIMO, LINDSAY,
3 MESTAS, and YEAGER, and EMEA.

4 67. As to all causes of action based on state law, a claim with the Central San
5 Joaquin Risk Management Authority, of which Defendant HANFORD is a member, has
6 been filed, but Plaintiffs seek injunctive relief under their federal causes of action and
7 cannot wait for the reasons stated herein.

8 68. WHEREFORE, Plaintiffs pray for the relief set forth below.

9 **IX**

10 **SIXTH CLAIM FOR RELIEF**
11 **(VIOLATION OF THE CONTRACT CLAUSE OF THE UNITED STATES CONSTITUTION –**
12 **ART. I, SECTION 10)**

13 69. Plaintiffs hereby incorporate by reference paragraphs 1 through 68
14 inclusive and as though fully set forth herein.

15 70. Pursuant to Article I, Section 10 of the United States Constitution
16 Plaintiffs CAIN, CAMARA, DIBBLE, IERONIMO, LINDSAY, MESTAS, and
17 YEAGER have been guaranteed certain contractual rights relating to their employment
18 with Defendant City of Hanford. These contractual rights include, but are not limited to:

19 a. The right to continue holding their positions except and unless just
20 cause is shown for termination;

21 b. The right to a due process hearing regarding discipline;

22 c. The right to progress through the established salary steps pursuant
23 to the terms in place at the time Plaintiffs were hired and during their employment; and

24 d. The entitlement to certain specified retirement benefits.

25 71. On March 15, 2011, Defendants HANFORD, STRAUS, CHIN,
26 SORENSEN, IRWIN, MARTINEZ, and JAMESON, collectively and individually, took
27 illegal action to unilaterally modify and impair the contract rights of Plaintiffs CAIN,
28 CAMARA, DIBBLE, IERONIMO, LINDSAY, MESTAS, and YEAGER by unilaterally

1 changing the Executive Management Policies which govern the aforementioned
2 contractual rights of Plaintiffs.

3
4 72. As a proximate result of the wrongful conduct of the Defendants and each
5 of them, including but not limited to 1) wrongfully increasing the Executive Management
6 Employees' contributions towards retirement and 2) wrongfully decreasing the City of
7 Hanford's contributions towards retirement, the individual Plaintiffs have each suffered
8 financial detriment in amounts to be proven at trial.

9 73. WHEREFORE, Plaintiffs pray for the relief set forth below.

10 **X**

11 **SEVENTH CLAIM FOR RELIEF**
12 **(VIOLATION OF THE CONTRACT CLAUSE OF THE CALIFORNIA CONSTITUTION –**
13 **ARTICLE I, SECTION 9)**

14 74. Plaintiffs hereby incorporate by reference paragraphs 1 through 73
15 inclusive as though fully set forth herein.

16 75. Pursuant to Article I, Section 9 of the California Constitution Plaintiffs
17 CAIN, CAMARA, DIBBLE, IERONIMO, LINDSAY, MESTAS, and YEAGER have
18 been guaranteed certain contractual rights relating to their employment with Defendant
19 City of Hanford. These contractual rights include, but are not limited to:

- 20 a. The right to continue holding their positions except and unless just
21 cause is shown for termination;
- 22 b. The right to a due process hearing regarding discipline;
- 23 c. The right to progress through the established salary steps pursuant
24 to the terms in place at the time Plaintiffs were hired and during their employment; and
- 25 d. The entitlement to certain retirement benefits.

26 On March 15, 2011, Defendants HANFORD, STRAUS, CHIN, SORENSEN,
27 IRWIN, MARTINEZ, and JAMESON, collectively and individually, took illegal action to
28 unilaterally modify and impair the contract rights of Plaintiffs CAIN, CAMARA,
DIBBLE, IERONIMO, LINDSAY, MESTAS, and YEAGER by unilaterally changing the

1 Executive Management Policies which govern the aforementioned contractual rights of
2 Plaintiffs.

3 As a proximate result of the wrongful conduct of the Defendants and each of
4 them, including but not limited to, a wrongfully increasing the Executive Management
5 Employees' contributions towards retirement and decreasing the City of Hanford's
6 contributions towards retirement, the individual Plaintiffs have each suffered financial
7 detriment in amounts to be proven at trial.

8 76. WHEREFORE, Plaintiffs pray for the relief set forth below.

9 **XI**

10 **NINTH CLAIM FOR RELIEF**
11 **(RETALIATION AGAINST WHISTLEBLOWER – CALIFORNIA LABOR CODE SECTION**
12 **1102.5)**

13 77. Plaintiffs hereby incorporate by reference paragraphs 1 through 76
14 inclusive as though fully set forth herein.

15 78. Plaintiffs' November 16, 2010 memorandum directed to the Hanford City
16 Council and incoming City Council members, entitled, "Vote of No Confidence – City
17 Manager Hilary Straus" included allegations of dishonest, unethical and potentially illegal
18 conduct, hiding information from management and the public, improperly awarding
19 contracts to STRAUS' friends, potential Brown Act violations, and other unprofessional
20 conduct. Such allegations are protected disclosures under California Labor Code section
21 1102.5

22 79. Shortly after making the disclosures referred to above, Plaintiffs are
23 informed and believe that the Defendants began to formulate a plan to retaliate against
24 Plaintiffs in a manner that directly and negatively impacted Plaintiffs' employment.

25 80. On March 15, 2011, Defendants and each of them took retaliatory action
26 against the individual Plaintiffs by: retaliating directly through the unilateral imposition of
27 new and onerous personnel rules which apply only to the individual Plaintiffs and which
28 strip those Plaintiffs of their property rights in their employment; stripping those Plaintiffs
of certain "bumping" rights upon layoff; by stripping them of their right to appeal

1 discipline including the right to a full evidentiary hearing; decreasing their retirement
2 benefits and increasing their retirement contributions; altering the method for granting
3 step increases; and willfully and intentionally violating Plaintiffs' rights under the
4 Meyers-Milias-Brown Act; and willfully and intentionally violating MESTAS' rights
5 under the Public Safety Officers Procedural Bill of Rights Act; and willfully and
6 intentionally violating IERONIMO's rights under the Firefighters Procedural Bill of
7 Rights Act.

8 81. On March 15, 2011, Defendants and each of them also retaliated against
9 Plaintiffs by eliminating the City of Hanford's contribution toward the employee's share
10 of PERS contributions for Plaintiffs CAIN, CAMARA, DIBBLE, IERONIMO,
11 LINDSAY, MESTAS, and YEAGER. This also had the effect of eliminating the
12 reportable Employer Paid Member Contributions ("EPMC") going forward, which has the
13 effect of decreasing reportable income for retirement purposes.

14 82. Although other represented employee groups outside of the named
15 Plaintiffs agreed to the changes referred to in the paragraph above, Plaintiffs are the only
16 individuals in the City who had such changes imposed without bargaining, and who did
17 not receive a pay increase in exchange for such a concession.

18 83. As a proximate result of the wrongful conduct of the Defendants and each
19 of them, including but not limited to 1) wrongfully increasing the Executive Management
20 Employees' contributions towards retirement and 2) wrongfully decreasing the City of
21 Hanford's contributions towards retirement, the individual Plaintiffs have each suffered
22 financial detriment in amounts to be proven at trial.

23 84. WHEREFORE, Plaintiffs pray for the relief set forth below.

24 **XII**

25 **TENTH CLAIM FOR RELIEF**
26 **(VIOLATION OF PUBLIC SAFETY OFFICERS PROCEDURAL BILL OF RIGHTS ACT –**
CALIFORNIA GOV. CODE § 3300, ET SEQ.)

27 85. Plaintiffs hereby incorporate by reference paragraphs 1 through 84
28 inclusive as though fully set forth herein.

1 Plaintiffs as Executive Management Employees progress through salary steps and creating
2 a right to deny what were previously automatic step increases on the grounds of “average”
3 performance; increasing the individual Plaintiffs’ contributions toward retirement, and
4 decreasing HANFORD’s contributions toward retirement, for the individual Plaintiffs,
5 which also has the impact of decreasing salaries for purposes of retirement benefit
6 calculations; by violating the provisions of POBR as to Plaintiff MESTAS; and violating
7 the provisions of FBOR as to Plaintiff IERONIMO.

8 101. Each individually named Plaintiff is forced to walk on egg shells in terms
9 of the performance of their duties, due to the recent illegal and unilateral actions of
10 Defendants which could lead to their dismissal based on the whims of Defendants,
11 without any modicum of due process. The changes have led to increased stress, anxiety,
12 and a negative impact on Plaintiffs’ abilities to perform their day-to-day job duties.

13 102. The individually named Plaintiffs will suffer irreparable and irreversible
14 harm if Defendants are not enjoined from enforcing their illegal and unilaterally adopted
15 employment changes.

16 103. Plaintiff EMEA is also suffering irreparable harm as its newly acquired
17 status as the exclusive representative of employees within the bargaining unit is being
18 undermined. The loss in stature as the exclusive bargaining representative is, itself, an
19 irreparable injury that justifies injunctive relief.

20 104. WHEREFORE, Plaintiffs pray for the relief set forth below.

21 **XV**

22 **THIRTEENTH CLAIM FOR RELIEF**
23 **(DECLARATORY RELIEF)**

24 105. Plaintiffs hereby incorporate by reference paragraphs 1 through 104
25 inclusive as though fully set forth herein.

26 106. An actual controversy has now arisen and now exists between Plaintiffs,
27 on the one hand and Defendants CITY OF HANFORD, CHIN, SORENSEN, IRWIN,
28 MARTINEZ, and JAMESON, individually and collectively, in that Plaintiffs claim that

1 the actions taken by the above-referenced Defendants on March 15, 2011 (as described
2 more fully previously) were illegal and beyond the scope of authority of these Defendants,
3 while Defendants assert that these actions were lawful and within the scope of their
4 authority.

5 107. In view of the controversy as described above, Plaintiffs hereby request a
6 declaration that Defendants may not:

- 7 a. Convert Executive Management Employees from permanent
8 employees with property rights in their employment to at-will
9 employees;
- 10 b. Revise the Seniority, Layoff and Bumping provisions to strip
11 Executive Management Employees of the right to return to previously
12 held positions and reemployment rights in the event of a layoff;
- 13 c. Strip the disciplinary appeal rights from Executive Management
14 Employees;
- 15 d. Change the process by which Executive Management Employees
16 progress through salary steps and create a right to deny what were
17 previously automatic step increases on the grounds of “average”
18 performance; and
- 19 e. Increase Executive Management Employees’ contributions toward
20 retirement, and decrease HANFORD’s contributions toward
21 retirement, for Executive Management Employees, including the
22 individual Plaintiffs herein.

23 108. Such a declaration is necessary and appropriate at this time in order that
24 Plaintiffs may ascertain their rights with respect to the matters giving rise to this action.

25 109. WHEREFORE, Plaintiffs pray for the relief set forth below.
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27
28

XVI

PRAYER

WHEREFORE, Plaintiffs EMEA, CAIN, CAMARA, DIBBLE, IERONIMO, LINDSAY, MESTAS, and YEAGER, pray that judgment be entered against Defendants, and each of them, as follows:

1. For a preliminary injunction, and a permanent injunction, against the individually named Defendants predicated on the federal claims presented herein, enjoining Defendants and their agents, servants, and employees, and all persons acting under, in concert with, or for them, from:

(1) Denying permanent employment status of Plaintiffs CAIN, CAMARA, DIBBLE, IERONIMO, LINDSAY, MESTAS, and YEAGER;

(2) Continuing to deny the right to freedom of association and protected union activity to Plaintiffs CAIN, CAMARA, DIBBLE, IERONIMO, LINDSAY, MESTAS, YEAGER, and EMEA;

(3) Retaliating or otherwise discriminating against Plaintiffs CAIN, CAMARA, DIBBLE, IERONIMO, LINDSAY, MESTAS, and YEAGER, and EMEA, for engaging in protected activity; and

(4) Prohibiting Defendants from denying annual step increases for any reasons not set forth in the prior Policy of Administration for Executive Management Employees.

2. Alternatively, and to the extent injunctive relief is not issued under the federal claims, for a preliminary injunction, and a permanent injunction, against all Defendants predicated on the state law claims presented herein, enjoining Defendants and their agents, servants, and employees, and all persons acting under, in concert with, or for them, from:

- 1 (1) Denying permanent employment status of Plaintiffs CAIN,
2 CAMARA, DIBBLE, IERONIMO, LINDSAY, MESTAS, and
3 YEAGER;
- 4 (2) Continuing to deny the right to freedom of association and
5 protected union activity to Plaintiffs CAIN, CAMARA, DIBBLE,
6 IERONIMO, LINDSAY, MESTAS, YEAGER, and EMEA.
- 7 (3) Retaliating or otherwise discriminating against Plaintiffs
8 CAIN, CAMARA, DIBBLE, IERONIMO, LINDSAY, MESTAS,
9 and YEAGER, and EMEA for engaging in protected activity; and
- 10 (4) Prohibiting Defendants from denying annual step increases for
11 any reasons not set forth in the prior Policy of Administration for
12 Executive Management Employees.
- 13 3. For any and all actual, consequential, and incidental damages
14 according to proof against the individual named Defendants under
15 both the federal and state law claims;
- 16 4. For punitive damages against: Defendants STRAUS, CHIN,
17 SORENSEN, IRWIN, MARTINEZ, and JAMESON in an amount
18 according to proof;
- 19 5. For attorneys' fees pursuant to 42 U.S.C. §§ 1983 and 1988, and
20 pursuant to California Code of Civil Procedure § 1021.5, California
21 Civil Code § 52.1, California Government Code § 800, or as
22 otherwise provided by law;
- 23 6. For statutory penalties and attorney's fees under California
24 Government Code § 3309.5, with respect to the claims of Plaintiff
25 MESTAS;
- 26 7. For statutory penalties and attorney's fees under California
27 Government Code § 3260, with respect to the claims of Plaintiff
28 IERONIMO;

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- 8. For declaratory relief;
- 9. For costs of suit incurred herein; and,
- 10. For such costs and further relief as the Court deems just and proper.

DEMAND FOR JURY TRIAL

Plaintiffs hereby demand a jury trial as provided by Rule 38(a) of the Federal Rules of Civil Procedure.

Dated: May 19, 2011

CARROLL, BURDICK & McDONOUGH LLP

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