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IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF CLARK

**DONALD BENTON, SUSAN RICE, and
CHRISTOPHER CLIFFORD,**

Plaintiffs,

v.

CLARK COUNTY,

Defendant.

Case No. **16 2 02638 2**

COMPLAINT

1. Violation of Public Policy
2. Negligent Supervision/Retention
3. Negligent/Intentional Infliction of Emotional Distress

[JURY TRIAL DEMAND]

Plaintiffs allege:

1.

PARTIES

1.1 Plaintiffs.

1.1.1 At all times material, Clark County (“the County”) employed Donald Benton (“Benton”), Susan Rice (“Rice”) and Christopher Clifford (“Clifford”) in its Department of Environmental Services (“DES”).

1.2 Defendant.

1.2.1 The County is a local governmental entity.

1.2.2 The County was an employer of Benton, Clifford and Rice as that term is

1 defined by RCW 49.60.040.

2 1.2.3 The County operates under State Law, their County Codes and the newly
3 adopted County Charter.

4 **2.**

5 **JURISDICTION AND VENUE**

6 2.1 Personal and subject matter jurisdiction are proper in Clark County Superior Court.

7 **3.**

8 **JURY TRIAL**

9 3.1 Plaintiffs hereby assert their right to present this matter for trial by a jury.

10 **4.**

11 **NOTICES TO CLARK COUNTY**

12 4.1 Weeks before the County terminated Benton, Rice and Clifford, Benton served on
13 behalf of all three a notice to Clark County alleging financial wrongdoing and retaliation for
14 opposing the financial wrongdoing. The County took no action in response to the whistleblower
15 complaint other than to terminate Benton, Rice and Clifford.

16 4.2 Having received inadequate response from the County, Benton, Rice and Clifford
17 served Standard Tort Claim Forms dated October 16, 2016, which were received by the County on
18 October 17, 2016.

19 **5.**

20 **FACTS COMMON TO ALL CLAIMS**

21 **5.1 With regard to all plaintiffs.**

22 5.1.1 The County appointed Mark McCauley (“McCauley”) as its Administrator on
23 or about September 10, 2013.

24 5.1.2 Benton, Rice and Clifford worked for the County at DES beginning in 2013
25 and continuing through May 11, 2015.

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1 5.1.3 On May 27, 2014, the Clark County Board of Freeholders adopted the current
2 Home Rule Charter, which designated all Clark County employees as protected by the Human
3 Resources policy. The only employee to serve “at-will” is the County Manager.

4 5.1.4 Effective January 1, 2016, McCauley was appointed Acting County Manager.

5 5.1.5 Effective January 1, 2016, two new County Councilors, Marc Boldt (“Boldt”)
6 and Julie Olson (“Olson”), assumed their offices.

7 5.1.6 On April 1, 2016, Boldt sent a request to various Clark County employees,
8 who are direct reports to McCauley, requesting their confidential participation in an evaluation of
9 McCauley. Boldt explained that Waldron, an independent consulting firm, would complete the
10 evaluation and help the Board ensure an objective process. Boldt requested participants to complete
11 a “confidential” online survey and talk with Heather Gantz (“Gantz”) from Waldron on the
12 evaluation. Boldt asked that participants be “open and straightforward as possible” in their
13 responses. Gantz personally interviewed Benton, Rice and Clifford.

14 5.1.7 On May 11, 2016, Benton, DES Finance Manager Nick Cimmiyotti, Rice and
15 Clifford were all terminated. The County Human Resources (“HR”) representative in attendance,
16 Ron Zito (“Zito”), told Benton he knew nothing of the reorganization until a few days earlier.

17 **5.2 With regard to Benton.**

18 5.2.1 The County employed Benton as the Director of DES from May 6, 2013 until
19 May 11, 2016. Finding him fully qualified, County Manager Bill Barron offered Benton the job.

20 5.2.2 Benton was elected as the State Senator for Washington’s 17th legislative
21 district in 1996 and has been re-elected continuously since 2012. His term will end in 2017.

22 5.2.3 The letter stating the terms of Benton’s employment with the County stated
23 that while Benton was away from the County on state business, Benton would take a leave of
24 absence from his position as Director of the DES and, subject to his available accrued time off, take
25 his leave on a paid time off basis or not.

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1 5.2.4 On or about January 3, 2014, McCauley approved Benton’s telecommuting
2 and flex hours to help accommodate Benton’s legislative service during the legislative session.

3 5.2.5 Benton regularly worked weekends, 15-hour days and telecommuted at all
4 hours throughout the rest of his employment with the County until the new commissioners were
5 sworn in in January 2016.

6 5.2.6 On February 12, 2014, Benton received a performance evaluation from
7 McCauley, who rated Benton “successful” and “exceptional” in all categories.

8 5.2.7 In March of 2014, Benton informed McCauley that Planning Director Oliver
9 Orjiako (“Orjiako”) abused his power during the 2011 comprehensive plan by removing a property
10 owner’s parcel from within the urban growth boundary because the property owner would not sell
11 to a specific developer. McCauley replied, “He shouldn’t have been so greedy.”

12 5.2.8 In May of 2014, Benton submitted a proposed department budget for 2015/16
13 that was \$8 million less than the 2013/14 budget. This was the only County department of any size
14 to reduce its budget.

15 5.2.9 On or about December 18, 2014, at Benton’s invitation McCauley attended
16 the all staff DES holiday meeting. A nasty political attack was voiced by a departing Commissioner
17 that the local paper had used to regularly hurt department morale, so McCauley joined Benton in
18 putting down the public/political rumor that the department would be dissolved. Even though
19 McCauley agreed to the statement there are “no current or future plans at this time to dissolve or
20 consolidate the department of environmental services”, McCauley continued to undermine DES
21 morale.

22 5.2.10 In mid-December of 2014, Benton reported to McCauley that Public Works
23 transferred \$124,000 out of the DES’s Conservation Futures account without permission from or
24 advance notice to DES. McCauley insisted that nothing was wrong with the transfer. Benton told
25 McCauley that the Audit Office ordered the transfer reversed because of a lack of documentation.

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1 5.2.11 Benton informed McCauley that, earlier in the year, the Budget Office
2 approved a supplemental and took it to the Board of County Councilors (“BOCC”), which they
3 approved, for Public Works/Parks that also took \$16,000 from Benton’s budget with no one in DES
4 being aware of or approving it.

5 5.2.12 Benton requested McCauley for better controls on budget transfers and stated
6 that he felt these budget transfers were not appropriate, ethical or transparent. McCauley insisted
7 that Benton was wrong and yelled at Benton to let the matter go.

8 5.2.13 Benton received approval from McCauley and HR for a Forester job
9 announcement for DES. McCauley pulled the announcement from HR and did not notify Benton.
10 Benton found out because employees wanted to apply, and the job posting had been removed
11 without Benton’s knowledge.

12 5.2.14 In January of 2015, Benton and McCauley met prior to the legislative session
13 to discuss Benton’s hours and work plan for managing his department. It was identical to the plan
14 for the previous two years, except that the session would be 45 days longer than in 2014. McCauley
15 again approved the telecommuting plan. Even though the session ran long, Benton and his
16 managers reorganized a division saving the department \$134,000, an amount that would be saved
17 annually into the foreseeable future.

18 5.2.15 In March of 2015, Alissa Page (“Page”) from Accounts Payable emailed
19 Benton and cc’d Rice stating there was a public disclosure request regarding Benton’s employee
20 reimbursements. Page said a citizen asserted and wanted information about a March 2014 trip by
21 Benton to San Diego for a conference that ended on Saturday, but on which trip Benton supposedly
22 stayed till Sunday. Rice replied that Benton did not attend a conference in San Diego and asked
23 twice for Page to send her the request. Page replied stating that it was a *meeting* in San Diego, not a
24 conference, and that “Greg” came to Page and asked for the information due to the citizen’s
25 concern.

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1 5.2.16 Benton emailed Page, McCauley, Rice, Greg Kimsey and Bill Richardson
2 that he had never been to San Diego for the County. Benton requested clarification of the request.
3 Benton stated that, as long as the requested records were provided, he understood he was not
4 required to answer additional questions. Benton explained that he has only attended one conference
5 for the County, which was in Santa Barbara, and Benton would have left when the conference was
6 over, but there were no earlier flights. Finally, Benton wrote this “smells a lot like harassment” and
7 again requested to know who asked for the information.

8 5.2.17 Laurie Foster, Page’s supervisor, responded to Benton’s email to apologize
9 for the confusion and stated there was no formal request for the information, but that the person
10 who requested the records was Jack Davis. Rice also let Foster know that if they took a closer
11 review of the invoice from the trip, it showed that Benton had taken one day off from the car rental
12 and hotel room, such that he had paid the extra from his own pocket.

13 5.2.18 On June 1, 2015, Benton received a performance evaluation from McCauley,
14 who reviewed Benton with an overall rating of “exceptional”.

15 5.2.19 In August of 2015, McCauley promised to move Heritage Farms to DES. A
16 press release was prepared, and department management was informed. The press release was
17 pulled when McCauley believed that, due to the election results, they should wait, showing that his
18 policy decisions were more political than on merit.

19 5.2.20 On October 7, 2015, Benton was cc’d on an email from Lou Brancaccio
20 (“Brancaccio”), the editor and a reporter from *The Columbian*, to County Councilor Tom Mielke
21 inquiring whether Mielke was still going to pursue action against *The Columbian* alleging ink
22 pollution that newspapers cause the environment. Brancaccio said that Benton was false when he
23 tried to claim that *Columbian* newspapers were ending up in the storm water system.

24 5.2.21 Benton asked Brancaccio to stop harassing him at work, stating that
25 Brancaccio was wasting taxpayer’s time and money. Benton explained he had made no such claim
26 about *The Columbian*.

1 5.2.22 On October 9, 2015, McCauley emailed Benton and said he was “very
2 concerned” about Benton’s “highly unprofessional” response to Brancaccio, which showed “a
3 complete lack of judgment”. McCauley said it violated County policy and was something
4 McCauley had repeatedly counseled Benton about. McCauley warned Benton about and insisted it
5 stop. McCauley stated he would take time to think about it and decide what action to take.

6 5.2.23 Later on October 9, Benton replied and explained that Brancaccio was
7 harassing Benton after Benton had repeatedly asked Brancaccio not to and that Benton was thinking
8 about getting a restraining order against Brancaccio. Benton told McCauley that his blood pressure
9 went up and he got headaches every time Brancaccio contacted Benton. Benton reiterated his
10 request that McCauley take action to stop Brancaccio’s harassment. Benton promised to never
11 correspond with Brancaccio and reminded McCauley that it is the employer’s responsibility to
12 protect an employee’s health and safety while at work. Benton requested that McCauley cite the
13 policy that McCauley claimed Benton violated and noted that McCauley had never counseled him
14 regarding this matter.

15 5.2.24 In late October of 2015, Orjiako presented a code change to the County
16 Commissioners in a public meeting. Benton was asked in council chambers to address the portion
17 of the proposed code change relating to shorelines. Benton did so, and the item was tabled.

18 5.2.25 Later that day, McCauley and Orjiako attacked Benton for not going along
19 and keeping the truth from the Commissioners. McCauley stormed into a management staff meeting
20 and yelled at Benton about it in front of Benton’s entire management team. Benton emailed
21 McCauley and reiterated he would not lie to the County Commissioners. McCauley was
22 reprimanded by the Chair of the County Commission for his behavior. Benton received a
23 commendation for his honest and thorough research.

24 5.2.26 In late October or early November of 2015, Benton wrote McCauley a letter
25 explaining his concerns about McCauley’s behavior. Benton requested that McCauley’s direction
26 of Benton be done in their one-on-one meetings, not in front of Benton’s staff. Benton noted that

1 McCauley's behavior in front his staff and McCauley's refusal to end the rumors about the
2 consolidation of DES with Public Works was causing morale issues.

3 5.2.27 On or about December 1, 2015, during Benton's regular one-on-one meeting
4 with McCauley, McCauley screamed at Benton, and nearly became physical, over an audit issue
5 that Benton felt was improper and would not endorse. Once McCauley discovered he did not have
6 all of the facts straight, the meeting ended. Benton was upset over this and discussed what to do
7 about it and how to handle it with Cimmiyoti, DES Division Manager Kevin Tyler, Rice, Clifford
8 and two of his Director peers, Marty Snell and Mark Wilsdon.

9 5.2.28 McCauley cancelled their next two one-on-one meetings.

10 5.2.29 In January of 2016, Benton finally had another one-on-one meeting with
11 McCauley. Benton told McCauley he wanted to avoid McCauley's verbal abuse and asked
12 McCauley to assure him McCauley would not scream like that again. McCauley denied having lost
13 his cool in their previous meeting.

14 5.2.30 The conversation moved on, and Benton presented him with his work
15 schedule for the legislative session, as he had the previous two years. McCauley asked about the
16 telecommuting, said "Okay" and put the schedule in his folder. The meeting ended amicably.

17 5.2.31 On January 11, 2016, the Legislative Session started. Benton began the
18 "partial leave of absence" referred to in his employment offer letter/agreement and started the work
19 schedule approved the previous week by McCauley.

20 5.2.32 On January 13, 2016, McCauley emailed Benton a letter demanding that
21 Benton, as a County employee, work during the County's regular business hours: Monday through
22 Friday, 8 a.m. to 5 p.m. During the Legislative Session, Benton was allowed to use accrued paid
23 time off or take unpaid leave. Benton was no longer allowed to report work time on his timesheet
24 unless he was in the County offices and that time was during regular business hours. McCauley
25 noted he might approve Benton to work remotely, but Benton would need to obtain prior written
26 approval to do so. Also, while Benton was in Legislative Session, all of Benton's Division

1 Directors were told to report to McCauley. Benton was informed that going forward, McCauley
2 would manage Benton's management team.

3 5.2.33 McCauley put the January 13 letter in Benton's personnel file. McCauley
4 then released the letter to the local press without Benton's approval. *The Columbian* published an
5 article referencing the letter.

6 5.2.34 Benton attempted to gain clarification since McCauley had just agreed to the
7 historical way Benton had been paid a couple of days before he sent Benton the January 13 letter.
8 Benton pointed out that McCauley's proposed pay arrangements conflicted with Bill Barron's
9 original pay arrangement. Benton said he did not mind doing the extra work, but he did not
10 understand the reason for the unilateral change when DES had run smoothly during the two
11 previous legislative sessions. Benton explained further there was no reason for his managers to
12 report to McCauley, as Benton would be in the office three days per week. Although McCauley
13 told Benton his three managers were to report to McCauley, McCauley never told Benton's
14 manager to do so. Benton's managers read the letter in the paper, having received no
15 communication from McCauley.

16 5.2.35 On January 14, 2016, after being distraught over the degrading work
17 environment, Benton sought medical treatment for his stress, mental health counseling and legal
18 advice. He completed the paperwork for an FMLA leave in case his health worsened and he ran out
19 of sick leave.

20 5.2.36 Over the next few days, McCauley continued to deny Benton's requests to
21 reconsider the pay plan that had been in place for the prior two years. Rice went into Benton's
22 office soon after Benton read McCauley's email that threatened termination if Benton did not
23 follow his directives. Rice noticed Benton was near tears. Rice became increasingly concerned as
24 Benton became paler and paler, put his hand to his heart and said his heart was palpitating so hard
25 that he was having difficulty concentrating and focusing.

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1 5.2.37 McCauley flatly denied Benton’s requests to telecommute, work on the
2 weekends or work outside the County’s normal business working hours, which inhibited Benton
3 from attending evening meetings of the divisions within his department or meeting with his staff
4 early in the morning before they headed to the field. Benton finished up the legislative session
5 doing what he has always done. He managed his department from Olympia and went into the office
6 on Tuesdays, Fridays and Saturdays. He worked for free for over 200 hours to keep the department
7 functioning.

8 5.2.38 On or about January 30, 2016, Benton released a statement announcing, that
9 after 30 years of elective public service, the 2016 legislative session would be his last. In it, he
10 noted that his current employer decided that it was no longer desirable for him to serve in the
11 legislature while doing his job at the County. Benton said he would continue to take unpaid leave
12 during the session, as he always had.

13 5.2.39 On February 19, 2016, Benton received a performance evaluation from
14 McCauley, who rated Benton as “successful” and “exceptional” in all categories. McCauley
15 commended Benton for bringing in new hires and saving the County about \$130,000 annually in
16 salary costs. McCauley noted the County is better for DES’s efforts and that he looked forward to
17 more success from Benton and his department in 2016.

18 5.2.40 When Benton returned to work full time in March of 2016, even while the
19 legislature was in special session, he learned that McCauley had no contact with Benton’s
20 managers, except for one who had to talk McCauley out of making a bad decision.

21 5.2.41 On April 18, 2016, McCauley appeared in Benton’s office unannounced and
22 told Benton to prepare a staff report to the BOCC that would reverse a previous public vote of the
23 board selling a piece of property. Benton explained the awkwardness of fulfilling such a request
24 without Board action. McCauley replied, “The Board wants to stop the sale.” Benton emailed
25 Patrick Lee in the Legacy Lands Division, Rice and Clifford to notify them of McCauley’s request,
26 explain Benton’s concern and request they prepare the report per McCauley’s directive.

1 5.2.42 Benton reiterated his concerns to McCauley about a department returning to
2 the BOCC after it had given direction and say they would be following that direction. Benton said
3 that, based on McCauley’s direction, they had prepared a report for the board asking for further
4 direction before they proceeded to the final step. McCauley approved the proposed approach.

5 5.2.43 When Benton presented the report at the BOCC meeting on April 26, 2016,
6 Benton corrected Olson when she asserted that selling or converting the property would cause
7 unfair bias from the state when applying for a grant for the Parks Department. Assistant County
8 Manager Bob Stevens told Benton to quit lobbying the board.

9 5.2.44 On April 28, 2016, Benton turned in his whistleblower complaint to HR
10 Director Francine Reis (“Reis”). He told Reis the only purpose in filing the complaint was to
11 protect his job from retaliation. Benton explained that he felt his being honest was becoming a
12 liability.

13 5.2.45 In his complaint, Benton blew the whistle on McCauley’s policy violations,
14 including McCauley’s instruction that Benton prepare a staff report in direct violation of a Board
15 resolution and action, McCauley’s targeting Benton to gain favor with the new majority of the
16 current council member to retain his position, and McCauley’s chastising Clifford after Clifford
17 sent a supportive email to County Councilor David Madore (“Madore”) after Madore was accused
18 of racial discrimination.

19 5.2.46 Benton also accused McCauley of retaliation through McCauley’s approving
20 then rescinding Pete Dubois’ promotion and McCauley’s direction of Benton in contradiction of
21 standing County policy and direction voted on by the BOCC. Benton pointed out that nothing had
22 been done to resolve the improper and illegal acts Benton brought to McCauley’s attention. Benton
23 explained how McCauley altered the conditions of Benton’s employment as a fulfillment of a
24 campaign promise made by Boldt.

25 5.2.47 Overall, Benton accused McCauley of: multiple violations of the new County
26 Charter in hiring and failing to open jobs to the public as called for in the charter; arbitrary and

1 disparate treatment of County employees; financial improprieties, and misuse of enterprise funds;
2 improper acts of county employees that have substantially harmed private property owners;
3 violations of the Open Public Meetings Act; improperly interfering with the operations of the
4 Department of Environmental Services in contradiction to the County Charter. Benton noted his
5 fear of greater hostility and retaliation, even noting that the next level of retaliation might take the
6 form of “reorganizing the department” Benton directs and terminating his position, which Benton
7 felt as though was already occurring at the request of Boldt. Finally, Benton said that his complaint
8 has already been forwarded to the Washington State’s Auditor’s Office and the Washington State
9 Attorney General’s Office.

10 5.2.48 On April 30, 2016, Benton cancelled a vacation due to his medical condition
11 being exacerbated by the stress of feeling as though he had no other options to protect his job than
12 filing the complaint. He was worried Reis would tell McCauley, and Benton would lose his job.

13 5.2.49 When Benton returned to work on May 9, 2016, he was informed that a
14 workplace investigator wanted to investigate his whistleblower complaint.

15 5.2.50 On May 10, 2016, Benton met with Trish Murphy of Northwest Workplace
16 Law and explained everything he knew to her.

17 5.2.51 On May 11, 2016, under the facade of a code enforcement briefing,
18 McCauley called Benton into a meeting in the conference room on Benton’s floor and gave Benton
19 his layoff notice, which stated that the position was being eliminated as part of the reorganization of
20 DES and because of budget shortfalls anticipated for 2017-2018. Benton was placed on
21 administrative leave until June 30, 2016, and was told to be available from 8:00 a.m. to 5:00 p.m.
22 during this period unless he received pre-approval for leave. It then became clear to Benton that
23 McCauley would also terminate all involved in discovering and uncovering the wrong doing.
24 Benton, Rice, Cimmiyotti were all escorted from the building.

25 5.2.52 The following day, Benton called Andrew Loescher, the Public Information
26 and Outreach Representative for DES, to request a copy of the 2015 Annual Report. Benton

1 received an email from HR telling him to not contact staff directly and that if he needed anything,
2 he needed to contact HR. Benton was told that if he contacted staff, his severance pay would end.

3 **5.3 With regard to Susan Rice.**

4 5.3.1 The County hired Rice as an Office Assistant in 1997.

5 5.3.2 On November 8, 2013, Benton announced Rice as his new Administrative
6 Assistant.

7 5.3.3 In November of 2015, McCauley met with Rice to discuss a conversation he
8 said he had with one of the County councilors, who said that a woman called him at home from
9 DES and was crying about DES being reorganized/dissolved. McCauley told Rice he wanted to
10 speak with whoever made the call and reassure her that everything would be okay. Because the
11 caller was a woman, McCauley told Rice he thought it was her. She told him it was not her that
12 called, but that hearing the rumors that she, Benton and Cimmiyoti may lose their jobs had been
13 stressful. Rice asked McCauley if he could send out an email or meet with the staff to let them
14 know their department will be fine, but he did not respond.

15 5.3.4 In the same meeting, Rice let McCauley know that she did not appreciate him
16 sending emails to Benton that were contentious in nature. She told him that the emails are public
17 records, and the newspaper could get them. McCauley told her this was his intention. McCauley
18 also let Rice know that he did not like Benton and that there were other employees in the Clean
19 Water Division who did not like Benton either.

20 5.3.5 During February of 2016, Rice asked to meet with Boldt. She let him know
21 she had a problem with how McCauley yelled at Benton and did not follow through with Benton.
22 Rice also told Boldt about her conversation regarding the dissolution of DES with McCauley. Boldt
23 told Rice he would ask McCauley to talk to the department to help morale.

24 5.3.6 Rice told Boldt that McCauley told her he sent nasty emails to Benton
25 knowing they would become public record. Boldt told Rice that DES would be going nowhere.

26 5.3.7 Boldt also told Rice he did not like Benton working for both the Senate and

1 the County, and he wanted it to be one or the other. At the end of their conversation, Boldt told
2 Rice that their conversation would not be shared with anyone.

3 5.3.8 On May 11, 2016, after being terminated, Zito allowed Rice to get her purse
4 and told her she would have to come back on an evening or on a Saturday to obtain the remainder of
5 her belongings. Zito reiterated a recommendation he made in his earlier meeting with her that she
6 contact HR to learn about other positions available within the County for which she may be
7 qualified. Rice told him she believed she would be blackballed. Rice felt betrayed, humiliated and
8 could not sleep that night, as she was concerned about all of the open-ended projects she left behind.

9 5.3.9 On May 12, 2016, Rice noticed that an article describing the terminations and
10 reorganization of the DES from *The Columbian* was published *while* Rice was being terminated.
11 This article contained quotes from Clifford, McCauley and Boldt.

12 5.3.10 On May 14, 2016, Rice met with Zito at the County offices to retrieve her
13 belongings. The drawers she left locked were now all unlocked, and the documents within the
14 drawers were missing. She explained to Zito she was concerned it would look like she stole them.
15 He told her he was her witness to her leaving the documents there when she left a few days ago.

16 5.3.11 Rice applied for at least three positions at the County, but received only one
17 interview and no offer.

18 5.3.12 On or about September 24, 2016, Clark County Human Resources listed a
19 new job opening in DES – Clean Water Program with an hourly wage that was more than what Rice
20 made.

21 **5.4 With regard to Christopher Clifford.**

22 5.4.1 On July 22, 2013, Clifford began work for DES as the Program Coordinator
23 in the Clean Water Division.

24 5.4.2 During December of 2013, McCauley yelled at Clifford at a Christmas silent
25 auction in front of the public and other employees due to an article by Benton.

26 /////

1 5.4.3 During January of 2016, Clifford assisted Benton in developing and
2 researching Benton’s whistleblower complaint against McCauley and the practices of the County.
3 Specifically, Clifford researched several “gifts of public funds” by McCauley and Bob Stevens,
4 Assistant County Manager/former Budget Director.

5 5.4.4 On March 23, 2016, Orjiako filed whistleblower and harassment complaints
6 against Madore alleging racial discrimination. When Clifford learned of this, he emailed Madore
7 saying the allegations are “patently false”, which became public. Boldt found out about Clifford’s
8 email and emailed McCauley stating that something should be done. McCauley verbally chastised
9 Clifford, which directly violated the separation of powers outlined in the County Charter.

10 5.4.5 Clifford learned of his termination from Zito and Marlia Jenkins, the
11 Management Analyst for McCauley. The County did not provide Clifford any of the notice
12 material for several weeks. Clifford was not allowed to collect his belongings; they were mailed to
13 him.

14 5.4.6 The County told Clifford his termination was due to potential general budget
15 shortfall. However, none of his salary was paid for from the General Fund. He worked in the Clean
16 Water Division, and the salaries were covered by the Clean Water fee revenue, an enterprise fund.

17 **FIRST CAUSE OF ACTION**

18 **[Termination in violation of public policy]**

19 6.1 Plaintiff realleges paragraphs 1 through 5.4.6.

20 6.2 The State of Washington has clearly articulated policy of protecting employees who
21 attempt to put a stop to government waste and actions in violation of the public’s interest.

22 6.3 Clark County Human Resources Policy Manual articulates the County’s “protection
23 of employees who, in good faith, report improper governmental actions” and states, “It is the policy
24 of the County to affirm and extend the protection of the act to all Clark County employees who
25 report wrong doing as specified herein.”

26 /////

1 6.4 The clearly articulated policy is jeopardized if an employee can be fired for making a
2 complaint about financial impropriety. It is further jeopardized when an employee is fired soon after
3 filing a complaint about government mismanagement.

4 6.5 The County has no overriding justification for interfering with plaintiffs' efforts to
5 hold local government accountable, denying them the opportunity to retain their jobs and then
6 terminating them.

7 6.6 The County's actions toward and regarding plaintiffs would tend to deter a
8 reasonable person from endeavoring to hold it accountable for its financial wrong dealings.

9 6.6 Plaintiffs' efforts to hold the County accountable for its financial wrong dealings
10 were a substantial factor in the County's termination of Benton's, Rice's and Clifford's
11 employment.

12 6.7 As a direct and proximate result of defendant's conduct, plaintiffs have suffered
13 economic and noneconomic damages to be proven at the time of trial and are to be compensated
14 with all available remedies at law.

15 **SECOND CAUSE OF ACTION**

16 **[Negligence: Supervision, Retention]**

17 7.1 Plaintiffs reallege paragraphs 1 through 5.4.6.

18 7.2 Defendant breached its duties to plaintiffs including, but not limited to:

19 7.2.1 Failing to maintain a safe work environment;

20 7.2.2 Failing to adequately supervise their managerial employees, and Mark
21 McCauley in particular;

22 7.2.3 Failing to protect Mr. Benton, Ms. Rice and Mr. Clifford from threatening,
23 intimidating, or retaliating against them for opposing a hostile, intimidating and abusive
24 environment;

25 7.2.4 Tolerating, ratifying or otherwise condoning the wrongful behavior of Mark
26 McCauley; and,

