

**SUMMONS
(CITACION JUDICIAL)**

NOTICE TO DEFENDANT: (Aviso a Acusado)

THE CITY OF SAN DIEGO, a Municipal corporation,
CHIEF OF POLICE, WILLIAM KOLANDER, and DOES 1
through 50.

**YOU ARE BEING SUED BY PLAINTIFF:
(A Ud. le está demandando)**

LARRY S. AVRECH

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

You have **30 CALENDAR DAYS** after this summons is served on you to file a typewritten response at this court.

A letter or phone call will not protect you; your typewritten response must be in proper legal form if you want the court to hear your case.

If you do not file your response on time, you may lose the case, 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 call an attorney referral service or a legal aid office (listed in the phone book).

Después de que le entreguen esta citación judicial usted tiene un plazo de **30 DIAS CALENDARIOS** para presentar una respuesta escrita a máquina en esta corte.

Una carta o una llamada telefónica no le ofrecerá protección; su respuesta escrita a máquina tiene que cumplir con las formalidades legales apropiadas si usted quiere que la corte escuche su caso.

Si usted no presenta su respuesta a tiempo, puede perder el caso, y le pueden quitar su salario, su dinero y otras cosas de su propiedad sin aviso adicional por parte de la corte.

Existen otros requisitos legales. Puede que usted quiera llamar a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de referencia de abogados o a una oficina de ayuda legal (vea el directorio telefónico).

The name and address of the court is: *(El nombre y dirección de la corte es)*
SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO

CASE NUMBER: *(Número del Caso)*
580510

220 West Broadway
San Diego, California 92101

325 South Melrose Drive
Vista, California 92083

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)

Larry S. Avrech
3408 Lockwood Drive
San Diego, CA 92123
(619) 278-6045

DATE: **JAN 22 1987**
(Fecha)

ROBERT D. ZUMWALT, Clerk
Clerk, by T. Ganelin, Deputy
(Actuario) *(Delegado)*

(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 (individual)
 other:

4. by personal delivery on *(date)*: **JUN 22nd, 1987**

PROOF OF SERVICE - SUMMONS

(Use separate proof of service for each person served)

1. I served the

- a. summons complaint amended summons amended complaint
- completed and blank Case Questionnaires Other (specify):

b. on defendant (name): THE CITY OF SAN DIEGO, A MUNICIPAL CORPORATION, CHIEF OF POLICE, WILLIAM B. KOLENDER

c. by serving defendant other (name and title or relationship to person served): SGT. JAMES COLLINS SANDIEGO POLICE DEPARTMENT INTERNAL AFFAIRS DIVISION ACCEPTING FOR CHIEF OF POLICE WILLIAM B. KOLENDER.

d. by delivery at home at business

(1) date: JUNE 22nd, 1987

(2) time: 2:25 P.M.

(3) address: 1401 BROADWAY STREET SAN DIEGO, CALIFORNIA

e. by mailing

(1) date:

(2) place:

2. Manner of service (check proper box):

a. Personal service. By personally delivering copies. (CCP 415.10)

b. Substituted service on corporation, unincorporated association (including partnership), or public entity. By leaving, during usual office hours, copies in the office of the person served with the person who apparently was in charge and thereafter mailing (by first-class mail, postage prepaid) copies to the person served at the place where the copies were left. (CCP 415.20(a))

c. Substituted service on natural person, minor, conservatee, or candidate. By leaving copies at the dwelling house, usual place of abode, or usual place of business of the person served in the presence of a competent member of the household or a person apparently in charge of the office or place of business, at least 18 years of age, who was informed of the general nature of the papers, and thereafter mailing (by first-class mail, postage prepaid) copies to the person served at the place where the copies were left. (CCP 415.20(b)) (Attach separate declaration or affidavit stating acts relied on to establish reasonable diligence in first attempting personal service.)

d. Mail and acknowledgment service. By mailing (by first-class mail or airmail, postage prepaid) copies to the person served, together with two copies of the form of notice and acknowledgment and a return envelope, postage prepaid, addressed to the sender. (CCP 415.30) (Attach completed acknowledgment of receipt.)

e. Certified or registered mail service. By mailing to an address outside California (by first-class mail, postage prepaid, requiring a return receipt) copies to the person served. (CCP 415.40) (Attach signed return receipt or other evidence of actual delivery to the person served.)

f. Other (specify code section): additional page is attached.

3. The "Notice to the Person Served" (on the summons) was completed as follows (CCP 412.30, 415.10, and 474):

a. as an individual defendant.

b. as the person sued under the fictitious name of (specify):

c. on behalf of (specify):
under: CCP 416.10 (corporation) CCP 416.60 (minor) other:
 CCP 416.20 (defunct corporation) CCP 416.70 (conservatee)
 CCP 416.40 (association or partnership) CCP 416.90 (individual)

d. by personal delivery on (date): JUNE 22nd, 1987

4. At the time of service I was at least 18 years of age, and not a party to this action.

5. Fee for service: \$ 30.00

6. Person serving:

- a. California sheriff, marshal, or constable.
- b. Registered California process server.
- c. Employee or independent contractor of a registered California process server.
- d. Not a registered California process server.
- e. Exempt from registration under Bus. & Prof. Code 22350(b).

f. Name, address and telephone number and, if applicable, county of registration and number:

WAYNE HARVEY & ASSOCIATES
P.O. Box 6857
BUENA PARK, CALIFORNIA.

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

(For California sheriff, marshal, or constable use only) I certify that the foregoing is true and correct.

Date: JUNE 22nd, 1987

Date:

(SIGNATURE)

(SIGNATURE)

COPY

ATTORNEY OR PARTY WITHOUT ATTORNEY (NAME AND ADDRESS): LARRY AVRECH 3408 Lockwood Drive San Diego, CA 92123		TELEPHONE (619) 278-6045	FOR COURT USE ONLY
ATTORNEY FOR (NAME) In Pro Per			
Insert name of court, judicial district or branch court, if any, and post office and street address: SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO San Diego Judicial District 220 W. Broadway San Diego, CA 92101-3877			
PLAINTIFF: LARRY S. AVRECH		ORIGINAL FILED BY T. GABELIN, DEPUTY JAN 22 1987 ROBERT D. ZUMWALT CLERK, SAN DIEGO COUNTY	
DEFENDANT: THE CITY OF SAN DIEGO, a Municipal corporation, CHIEF OF POLICE, WILLIAM KOLANDER,			
<input checked="" type="checkbox"/> DOES 1 TO 50			
CONTRACT		CASE NUMBER: 580510	
<input checked="" type="checkbox"/> COMPLAINT <input type="checkbox"/> CROSS-COMPLAINT			

1. This pleading, including attachments and exhibits, consists of the following number of pages: 7

2. a. Each plaintiff named above is a competent adult

Except plaintiff (name):

a corporation qualified to do business in California

an unincorporated entity (describe):

other (specify):

b. Plaintiff (name):

has complied with the fictitious business name laws and is doing business under the fictitious name of (specify):

has complied with all licensing requirements as a licensed (specify):

c. Information about additional plaintiffs who are not competent adults is shown in Complaint—Attachment 2c.

3. a. Each defendant named above is a natural person

Except defendant (name):

CITY OF SAN DIEGO

a business organization, form unknown

a corporation

an unincorporated entity (describe):

a public entity (describe):

Municipal corporation

other (specify):

Except defendant (name):

a business organization, form unknown

a corporation

an unincorporated entity (describe):

a public entity (describe):

other (specify):

b. The true names and capacities of defendants sued as Does are unknown to plaintiff.

c. Information about additional defendants who are not natural persons is contained in Complaint—Attachment 3c.

d. Defendants who are joined pursuant to Code of Civil Procedure section 382 are (names):

(Continued)

If this form is used as a cross-complaint, plaintiff means cross-complainant and defendant means cross-defendant.

Form Approved by the
Judicial Council of California
Effective January 1, 1982

LP 1-83 Rule 982.1(20)

COMPLAINT—Contract

CCP 425 12

SHORT TITLE:

AVRECH V. CITY OF SAN DIEGO, et al.

CASE NUMBER:

COMPLAINT—Contract

Page two

- 4. Plaintiff is required to comply with a claims statute, and
 - a. plaintiff has complied with applicable claims statutes, or
 - b. plaintiff is excused from complying because (specify):

- 5. This action is subject to Civil Code section 1812.10 Civil Code section 2984.4.

- 6. This action is filed in this county judicial district because
 - a. a defendant entered into the contract here.
 - b. a defendant lived here when the contract was entered into.
 - c. a defendant lives here now.
 - d. the contract was to be performed here.
 - e. a defendant is a corporation or unincorporated association and its principal place of business is here.
 - f. real property that is the subject of this action is located here.
 - g. other (specify):

- 7. The following paragraphs of this pleading are alleged on information and belief (specify paragraph numbers):

- 8. Other:

- 9. The following causes of action are attached and the statements above apply to each: (Each complaint must have one or more causes of action attached.)
 - Breach of Contract (Intentional Common Counts)
 - Other (specify): Interference w/business relationship and/or inducing breach of employment contract.
 - Fraud, Tortious Discharge - Breach of implied covenant of good faith and breach of employment contract.

10. PLAINTIFF PRAYS

For judgment for costs of suit; for such relief as is fair, just, and equitable; and for

- damages of \$ According to proof
- interest on the damages according to proof at the rate of _____ percent per year from (date):
- attorney fees of \$ _____ according to proof.
- other (specify):

Exemplary damage, according to proof

LARRY S. AVRECH
(Type or print name)

Larry S. Avrech
(Signature of plaintiff or attorney)

(If you wish to verify this pleading, affix a verification.)

SHORT TITLE:

AVRECH V. CITY OF SAN DIEGO, et al.

CASE NUMBER:

FIRST

(number)

CAUSE OF ACTION—Breach of Contract

Page 3

ATTACHMENT TO Complaint Cross-Complaint

(Use a separate cause of action form for each cause of action.)

BC-1. Plaintiff (name): LARRY S. AVRECH

alleges that on or about (date): 11/13/79

a written oral other (specify):

agreement was made between (name parties to agreement): Larry S. Avrech and the City of San Diego, to be employed as a police officer.

A copy of the agreement is attached as Exhibit A, or

The essential terms of the agreement are stated in Attachment BC-1 are as follows (specify):

That plaintiff would be employed by the City of San Diego, as a Police Officer, entitled to all the benefits and rights pertaining thereto in the California Government Code, the Charter of the City of San Diego and Civil Services Commission Rules and Regulations.

BC-2. On or about (dates): 01/22/85

defendant breached the agreement by the acts specified in Attachment BC-2 the following acts (specify):

By terminating plaintiff from employment without legal cause.

BC-3. Plaintiff has performed all obligations to defendant except those obligations plaintiff was prevented or excused from performing.

BC-4. Plaintiff suffered damages legally (proximately) caused by defendant's breach of the agreement

as stated in Attachment BC-4 as follows (specify):

Loss of long term retirement benefits and future employment in law enforcement, and by defendant's intentional interfering in said occupation and in plaintiff's personal contractual relations and business.

BC-5. Plaintiff is entitled to attorney fees by an agreement or a statute

of \$

according to proof.

BC-6. Other:

SHORT TITLE: AVRECH V. CITY OF SAN DIEGO, et al.	CASE NUMBER:
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SECOND

(number)

CAUSE OF ACTION—Fraud

Page 4

ATTACHMENT TO Complaint Cross-Complaint

(Use a separate cause of action form for each cause of action.)

FR-1. Plaintiff (name): LARRY S. AVRECH

alleges that defendant (name): CITY OF SAN DIEGO, WILLIAM KOLANDER, and DOES 1 - 50,
 on or about (date): 01/22/85 defrauded plaintiff as follows:

FR-2. **Intentional or Negligent Misrepresentation**

a. Defendant made representations of material fact as stated in Attachment FR-2.a as follows:
 That plaintiff had violated numerous policies of the City of San Diego Police Department

b. These representations were in fact false. The truth was as stated in Attachment FR-2.b as follows:
 That plaintiff's conduct was not in violation of the policies of the City of San Diego Police Department, and plaintiff's conduct was normal and customary for police officers working for the San Diego Police Department.

c. When defendant made the representations,
 defendant knew they were false, or
 defendant had no reasonable ground for believing the representations were true.

d. Defendant made the representations with the intent to defraud and induce plaintiff to act as described in item FR-5. At the time plaintiff acted, plaintiff did not know the representations were false and believed they were true. Plaintiff acted in justifiable reliance upon the truth of the representations.

FR-3. **Concealment**

a. Defendant concealed or suppressed material facts as stated in Attachment FR-3.a as follows:

b. Defendant concealed or suppressed material facts
 defendant was bound to disclose.
 by telling plaintiff other facts to mislead plaintiff and prevent plaintiff from discovering the concealed or suppressed facts.

c. Defendant concealed or suppressed these facts with the intent to defraud and induce plaintiff to act as described in item FR-5. At the time plaintiff acted, plaintiff was unaware of the concealed or suppressed facts and would not have taken the action if plaintiff had known the facts.

(Continued)

23)

SHORT TITLE:

AVRECH V. CITY OF SAN DIEGO, et al.

CASE NUMBER:

SECOND

(number)

CAUSE OF ACTION—Fraud (Continued)

Page 5

FR-4. **Promise Without Intent to Perform**

a. Defendant made a promise about a material matter without any intention of performing it as stated in Attachment FR-4.a as follows:

b. Defendant's promise without any intention of performance was made with the intent to defraud and induce plaintiff to rely upon it and to act as described in item FR-5. At the time plaintiff acted, plaintiff was unaware of defendant's intention not to perform the promise. Plaintiff acted in justifiable reliance upon the promise.

FR-5. In justifiable reliance upon defendant's conduct, plaintiff was induced to act as stated in Attachment FR-5 as follows:

FR-6. Because of plaintiff's reliance upon defendant's conduct, plaintiff has been damaged as stated in Attachment FR-6 as follows: According to proof

FR-7. Other:

SHORT TITLE:

AVRECH V. CITY OF SAN DIEGO, et al.

CASE NUMBER:

THIRD

(number)

CAUSE OF ACTION—Intentional Tort

Page 6

ATTACHMENT TO Complaint Cross-Complaint

(Use a separate cause of action form for each cause of action.)

IT-1. Plaintiff (name): LARRY S. AVRECH

alleges that defendant (name): CITY OF SAN DIEGO and WILLIAM KOLANDER and

Does 1 to 50

was the legal (proximate) cause of damages to plaintiff. By the following acts or omissions to act, defendant intentionally caused the damage to plaintiff

on (date): 01/22/85 and continuing to present.

at (place): San Diego, CA

(description of reasons for liability):

Defendants, and each of them, accused plaintiff falsely of dishonesty, subjected him to an interrogation, and then spread rumors that plaintiff is a dishonest person, according to the information and belief of plaintiff.

When defendants committed the above-said acts, they did so deliberately and intentionally to injure and defame the good name of plaintiff.

SHORT TITLE: AVRECH V. CITY OF SAN DIEGO, et al.	CASE NUMBER:
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Exemplary Damages Attachment

ATTACHMENT TO Complaint Cross-Complaint

EX-1. As additional damages against defendant (name): CITY OF SAN DIEGO, WILLIAM KOLANDER, and DOES 1 through 50

Plaintiff alleges defendant was guilty of

- malice
- fraud
- oppression

as defined in Civil Code section 3294, and plaintiff should recover, in addition to actual damages, damages to make an example of and to punish defendant.

EX-2. The facts supporting plaintiff's claim are as follows:

Plaintiff was terminated from his employment with the City of San Diego Police Department without justifiable cause, based on misleading facts and misrepresentations presented, compiled and condoned by defendants herein, and each of them, in conscious disregard of plaintiff's rights and vested interest in his employment.

EX-3. The amount of exemplary damages sought is

- a. not shown, pursuant to Code of Civil Procedure section 425.10
- b. \$

572