

FILED
CIVIL BUSINESS OFFICE
CENTRAL DIVISION

2018 DEC -6 PM 2:10

CLERK-SUPERIOR COURT
SAN DIEGO COUNTY, CA

1 MICHAEL P. SOUSA SBN: 229416
LAW OFFICES OF MICHAEL P. SOUSA, APC
2 3232 Governor Dr., Suite A
San Diego, CA 92122
3 Telephone: (858) 453-6122 (ext. 15)
Fax: (858) 453-2155
4

5 Attorney for Plaintiff, JOHN MICHAEL EVOSEVICH
6
7

8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
9 **IN AND FOR THE COUNTY OF SAN DIEGO**

10 JOHN MICHAEL EVOSEVICH,
11

12 Plaintiff,
13

14 v.
15

16 VOLUNTEERS OF AMERICA,
SOUTHWEST CALIFORNIA, INC.; and
17 DOES I through 100, inclusive,
18

19 Defendants.
20
21
22

Case No.: **37-2018-00061578-CU-WT-CTL**

COMPLAINT FOR:

- 1.) **Wrongful Termination in Violation of Public Policy;**
- 2.) **Retaliation (Lab. Code, §§ 98);**
- 3.) **Retaliation (Lab. Code, §1102.5).**

23 Plaintiff JOHN MICHAEL EVOSEVICH files this Complaint against Defendants
24 VOLUNTEERS OF AMERICA, SOUTHWEST CALIFORNIA, INC.; and DOES 1 through
25 100, inclusive, (collectively, "DEFENDANTS").

26 **PARTIES**

27 1. Plaintiff JOHN MICHAEL EVOSEVICH is, and at all times relevant hereto was,
28 a resident of the State of California, County of San Diego.

COMPLAINT FOR WRONGFUL TERMINATION AND RETALIATION

1 2. Plaintiff is informed and believes and thereby alleges that Defendant,
2 VOLUNTEERS OF AMERICA, SOUTHWEST CALIFORNIA, INC. (hereinafter "Defendant"
3 and "VOASW"), is, and at all times relevant hereto was, a California corporation, with a
4 principal place of business in San Diego County, California.

5 3. The true names and capacities of the Defendants named herein as DOES 1
6 through 100, inclusive, whether individual, corporate, associate, or otherwise, are unknown to
7 Plaintiff, who therefore sues such Defendants by fictitious names pursuant to California Code of
8 Civil Procedure § 474. Plaintiff is informed and believes that DOE Defendants are California
9 residents. Plaintiff will amend this complaint to show such true names and capacities when they
10 have been determined.

11 4. Plaintiff is informed and believes, and thereby alleges, that each of the
12 Defendants herein were at all times relevant hereto the agent, employee, or representative of the
13 remaining Defendants and were acting at least in part within the scope of such relationship.

14 **FACTS COMMON TO ALL CAUSES OF ACTION**

15 5. Plaintiff was hired by Defendant VOASW in or about November of 2017 and
16 last held the position of Divisional Director of Behavior Health Services. Plaintiff was hired
17 by Gerald McFadden (CEO of VOASW) and Marie McKenzie (COO of VOASW), and
18 worked under the supervision of Doreen Mulz, the Administrator of Program Operations.

19 6. During the beginning of 2018, Plaintiff began to notice grant funds were not
20 being correctly allocated. As an example, Plaintiff discovered that Defendant used Supportive
21 Services for Veteran Families ("SSVF") funds that were appropriated only for the United State
22 Department of Veterans Affairs' ("VA") personnel to fund the salaries for employment
23 positions in programs that did not benefit SSVF participants whatsoever. This was a
24 reoccurring situation throughout many departments and many employees' salaries. Another
25 ongoing incident that Plaintiff noticed was Defendant was using several funding sources such
26 as the State Department of Rehab, County of San Diego, private hospitals, VA, and the United
27 States Department of Housing and Urban Development ("HUD") to double and sometimes
28

1 triple bill for beds being used at the Renaissance Treatment Center, a treatment center owned
2 and operated by Defendant. Additionally, grant funds from federal and state agencies were
3 being used to fund other personnel and expenses that were not contracted under its terms. The
4 Renaissance Treatment Center intake staff, for instance, were working on multiple programs
5 via multiple grant sources, including the San Diego County Department of Behavioral Health,
6 but paid for on a Substance Abuse and Mental Health Services Administration (“SAMHSA”)
7 grant, even though these workers only spent a fraction of their time on SAMHSA work. It was
8 brought to Plaintiff’s attention that Defendant was forcing multiple employees to backdate and
9 falsify documents for clients that had not been serviced in order to collect more funds for the
10 Treatment Center and double and triple bill for the bed usage. Plaintiff was informed that
11 Defendant threatened to fire any employee who would not comply with the fraudulent requests.
12 Due to the unethical nature of these requests, some of Defendant’s employees resigned their
13 positions.

14 7. Plaintiff also noted that VOASW used Supportive Services for Veterans Family
15 funds that were appropriated for specific personnel (pursuant to the contract with the VA) to
16 fund positions in other VOASW programs that provide no service to SSVF participants. For
17 instance, the manager of the bridge bed program at Hawley Veterans Services Center had his
18 salary 100% funded by the SSVF grant although he provided no services to SSVF referrals.
19 Likewise, the SSVF supervising case manager was funded by HUD grants. Finally, the
20 manager for the Carlton G. Lohman Center for Supportive Living (which is funded by San
21 Diego County) is paid via a SSVF grant, although the center does not normally serve SSVF
22 referrals. In the reports VOASW made to the VA, they falsely stated that this manager is paid
23 100% via the Homeless Veterans’ Reintegration Program (“HVRP”). Staff at the SSVF as
24 well as other programs were asked by the COO and Administrator of Programs of VOASW to
25 back date and falsify records to show services given to veterans and other clients so that
26 VOASW could “double dip” funding and increase revenue. These misleading practices lead to
27 the SSVF program not being fully staffed and not being able to provide for the services it was
28

1 contracted to perform for the government.

2 8. Upon information and belief, the foregoing activities are violations of Federal,
3 state, and/or local law and regulations, including, but not limited to, the Federal and California
4 False Claims Acts.

5 9. In or about mid January of 2018 Plaintiff had a conversation with Luda Bruce,
6 the Director of Human Resources. Plaintiff informed Ms. Bruce of the fraudulent activities
7 being committed by Defendant. Ms. Bruce advised Plaintiff to notify his superiors about the
8 violations. Plaintiff then e-mailed Nagham Hakeem, the Comptroller, asking her to review the
9 budget in respect to these fraudulent activities. Ms. Hakeem told Plaintiff not to worry about it
10 and that as long as they did an end of the year report, it would not be a problem. Finally, on or
11 about January 18, 2018, Plaintiff went to Doreen Mulz, the Administrator of Program
12 Operations, to explain what he had discovered, and that he opposed such conduct and would
13 not be party to such conduct. Ms. Mulz told Plaintiff to “keep your f---ing mouth shut; we
14 have creative financing” or words to that effect. On January 23, 2018, approximately one
15 week after Plaintiff raised his concerns about the incorrect allocation grant funds, he was
16 terminated. Plaintiff was not terminated for any performance-related reason, but rather for
17 exposing Defendants’ blatant violations of the law.

18 **FIRST CAUSE OF ACTION**

19 **(Wrongful Termination in Violation of Public Policy)**

20 **Plaintiff JOHN MICHAEL EVOSEVICH against all Defendants**

21 10. Plaintiff realleges and incorporates by this reference, as if set forth in full, each
22 and every allegation contained in paragraphs 1 through 9, inclusive, as set forth above.

23 11. The above acts of Defendant constituted a wrongful termination of Plaintiff’s
24 employment and were in violation of California law.

25 12. At all times mentioned, the public policy of the State of California, as codified,
26 expressed, and mandated in California Labor Code Section 1102.5 *et seq.*, is to prohibit
27 employers from retaliating against employees who disclose reasonably based suspicions of
28 violations of state or federal statutes or regulations.

1 13. As a direct, legal, and proximate result of Plaintiff complaining about and
2 refusing to participate in Defendant's violations of law, and/or as a result of Plaintiff discussing
3 his concerns about misuse of grant funds and other fraudulent activity as outlined *supra*.
4 Defendant unlawfully retaliated against Plaintiff and wrongfully terminated his employment.

5 14. Accordingly, the actions of Defendant, as described herein, were wrongful and
6 in contravention of the express public policies of the State of California and the laws and
7 regulations promulgated thereunder.

8 15. As a proximate result of the aforesaid acts of Defendant, Plaintiff has suffered
9 actual, consequential, and incidental financial losses, including, without limitation, loss of
10 salary and benefits, and the intangible loss of employment-related opportunities in his field,
11 and damage to his professional reputation, all in an amount subject to proof at the time of trial.

12 16. Plaintiff is also informed and believes, and thereon alleges that the
13 aforementioned conduct was extreme, outrageous, undertaken with conscious disregard for
14 Plaintiff's rights, and was malicious, oppressive, and fraudulent as set forth in detail above.
15 Plaintiff is therefore entitled to an award of punitive damages.

16 Wherefore, Plaintiff requests relief as described below.

17 **SECOND CAUSE OF ACTION**

18 **(Retaliation (Lab. Code, §98.6))**

19 **Plaintiff JOHN MICHAEL EVOSEVICH against all Defendants**

20 17. Plaintiff realleges and incorporates by this reference, as if set forth in full, each
21 and every allegation contained in paragraphs 1 through 16, inclusive, as set forth above.

22 18. Plaintiff was retaliated against Plaintiff complaining about Defendant's
23 violations of law, and/or as a result of Plaintiff discussing his concerns about misuse of grant
24 funds.

25 19. As a direct, legal result of the named Defendant's conduct, Plaintiff has
26 sustained and continues to sustain substantial losses in earnings, employment benefits,
27 employment opportunities, and Plaintiff has suffered other economic losses in an amount to be
28 determined at time of trial.

1 Federal rule or regulation.

2 25. As alleged above, Defendant violated Labor Code §1102.5, subdivisions (a) and
3 (b) because Defendant retaliated against Plaintiff because he complained of, opposed, and/or
4 refused to participate in what he reasonably believed to be unlawful conduct and practices by
5 Plaintiff's employers.

6 26. Defendant acted for the purpose of causing Plaintiff to suffer financial loss and
7 Defendant is guilty of oppression and malice, justifying an award of exemplary and punitive
8 damages.

9 Wherefore, Plaintiff requests relief as described below.

10 **PRAYER FOR RELIEF**

11 **Wherefore, Plaintiff prays judgment against Defendants as follows:**

- 12 1. Special damages in an amount according to proof at the time of trial;
- 13 2. For interest accrued to date;
- 14 3. For general damages and pain and suffering, where applicable;
- 15 4. For compensatory damages for losses resulting from humiliation, mental anguish,
16 harm to reputation, and emotional distress according to proof;
- 17 5. For reinstatement of Plaintiff to the position from which he was wrongfully
18 terminated, or a comparable position, in Defendant's organization and all benefits attendant
19 thereto that would have been afforded Plaintiff but for said unlawful termination, and with
20 reasonable accommodation of his disabilities;
- 21 6. That Defendant, their agents, successors, employees and those acting in concert,
22 be enjoined permanently from engaging in each of the unlawful practices, policies, usages and
23 customs set forth herein;
- 24 7. For an award of attorneys' fees, expert witness fees, and other litigation expenses
25 as allowed by law;
- 26 8. For punitive damages for Defendant's malicious and despicable conduct;
- 27 9. For costs of suit herein; and

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

10. For such other and further relied as the Court may deem just and proper.

LAW OFFICES OF MICHAEL P. SOUSA, APC



Dated: December 5, 2018

By: _____

Michael P. Sousa
Attorney for Plaintiff
JOHN MICHAEL EVOSEVICH