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 15 *JEM Farms LP, et al.; and Mary's Gone Crackers, Inc., et al.*

16 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

17 **IN AND FOR THE COUNTY OF SACRAMENTO**

BY FAX

18 Coordinated Proceeding
 Special Title (Rule 3.550)

JCCP NO. 4974

Assigned to: James E. McFetridge, Dept. 30

19 **OROVILLE DAM CASES**

DECLARATION OF AMY LAZARUS

Date: February 15, 2019
 Time: 10:00 a.m.

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1 I, Amy Lazarus, declare:

2 1. I am the Founder and CEO of InclusionVentures, LLC. I have personal knowledge
3 of the matters set forth below and, if called as a witness, I could and would testify competently to
4 the statements herein.

5 **I. ASSIGNMENT**

6 2. I was asked to provide an independent opinion about the allegations contained in
7 various complaints filed in Case No. JCCP4947, the Oroville Dam Cases, as they pertain to the
8 failure of the Oroville Dam. These allegations were identified in the California Department of
9 Water Resources' ("DWR") Motion to Strike. As described below, it is my opinion that, if proven,
10 the conduct and acts described in those allegations would create a toxic and hostile workplace
11 culture which would impact the Department of Water Resources' ability to accomplish tasks and
12 contribute to the causation of the failure of the Oroville Dam.

13 **II. BACKGROUND AND QUALIFICATIONS**

14 3. I bring over 20 years of experience in the diversity and inclusion field to enable
15 people and organizations to contribute, thrive, and grow. Today, I am the Founder and CEO of
16 InclusionVentures. InclusionVentures helps organizations bring out the best in their people by
17 creating best in-class learning experiences to help organizations take an inclusive approach to
18 diversity, inclusion, and leadership in the workforce, work culture, and work product. I consult on
19 strategy, unconscious bias, productive workplace culture, employee engagement, Millennial
20 leadership, inclusive interview practices, and implementing theory-to-practice.

21 4. Prior to launching InclusionVentures, I served as Executive Director of the
22 International Institute for Sustained Dialogue, increasing earned revenue from 6% to 33% and
23 quadrupling the number of organizations served. There, I founded PULSE, a neuroscience-based
24 leadership retreat to catalyze inclusive talent and establish an employer-ready pipeline to infuse the
25 same principles into organization culture. Prior to Sustained Dialogue, as part of ICF's Diversity
26 and Leadership Practice, I developed and delivered leadership and inclusion strategies and
27 trainings for large organizations. I participated as a Coro Fellow in Public Affairs and received the
28 Dean's Diversity Leadership Scholarship, a full merit-based scholarship, to earn an M.S. in Public

1 Policy and Management at Carnegie Mellon’s Heinz School with a focus on organizational
2 change. At Duke University majoring in psychology with a certificate in human development, I
3 founded the Center for Race Relations and Common Ground, a leadership training and “life-
4 changing” program to prepare students to navigate in a diverse, inclusive global world. I have
5 been honored to receive awards such as the USA Network’s Characters Unite Award, Facing
6 History’s Upstander Award, and the American Express NGen Leadership Fellowship. I’m cited in
7 Bloomberg Businessweek, The Washington Post, and books including: Barrett Seaman’s *Binge:*
8 *What Your College Student Won’t Tell You*, and Robert Thompson’s *Beyond Reason and*
9 *Tolerance: The Promise and Practice of Higher Education*. I wrote a chapter on Dr. Hal Saunders,
10 founder of Sustained Dialogue, in *Dialogue Theories Volume II*.

11 5. In addition to the theory and study, I have applied knowledge working with a
12 number of small, large, public, private, and nonprofit organizations. Over the years, select clients
13 (that we can name) include: Deloitte, Hewlett Packard, Hewlett Packard Enterprise, Twitter,
14 Salesforce, eBay, OpenTable, the International Masonry Institute, Arabella Advisors, the World
15 Economic Forum Global Shapers, Business Executive Education, Stanford’s Design School,
16 Emerging Practitioners in Philanthropy, the Fetzer Institute, the James Irvine Foundation, the
17 David and Lucille Packard Foundation, Bulger Partners, the Pittsburgh Police Academy, the Coro
18 Center for Civic Leadership, Community College of Allegheny College President’s Council,
19 Teach for America, Year Up, Substance Abuse and Mental Health Agency, and the Office of the
20 Director of National Intelligence. Other speaking engagements include The White House, Clinton
21 Global Initiative University, the World Economic Forum in Davos, and a TEDx talk entitled
22 *Design for Worldview* combining unconscious bias with design thinking.

23 **III. MATERIALS REVIEWED AND ASSUMPTIONS**

24 6. In preparing this report, I have reviewed the following documents and been asked to
25 make the following assumptions:

26 A. Documents

- 27 1. City of Oroville’s First Amended Complaint (“City Complaint”)
- 28 2. The Department of Water Resources Notice of Motion and Motion to Strike

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3. The Department of Water Resources’ Memorandum of Points & Authorities in support of its Motion to Strike

4. January 2018 Summary Report of Dr. Robert Bea.

B. Assumptions

I am assuming the allegations in the City Complaint are true and have been informed that the allegations in the other complaints filed that are subject to DWR’s motion are identical to those in the City Complaint. This assumption applies to the complaints as a whole, and includes allegations not identified in DWR’s Motion to Strike. Specifically, I am assuming as true that the crisis was caused by decades of mismanagement and intentional lack of maintenance by DWR, and that DWR’s management of the dam was hampered by a culture of corruption and harassment, that workers who voiced concerns were silenced by DWR management in various deliberate ways, and that the culture permeated to the upper levels of the organization as described in paragraphs 2 and 4 of the City of Oroville’s First Amended Complaint.

IV. OPINION

7. Assuming the substance of the allegations in the City Complaint are true, it is my opinion that the harassment and discrimination described within DWR’s workplace is sufficient to create a toxic work environment. Such an environment is more likely than not to cause decreased productivity and increased risk that DWR would be unable to adequately perform its obligations.

A. Academic Research and other Experiences Demonstrate a Direct Link between Toxic Work Environments and Lack of Productivity

8. The incident with the noose (1) being present and (2) not being addressed or taken down for six weeks would more likely than not heighten racial anxiety, exclusion, and a sense of not belonging. The fact that management and leadership did not address this explicitly sends the message that hatred and bias are accepted in the organization. While their inaction may have been because of racial anxiety or not knowing how to address the situation, it can also appear as condoning the behavior. **This type of culture is associated with lower performance and valuing opinions and ideas less.** When people don’t trust each other or work across lines of difference,

1 they have greater difficulty solving problems.

2 9. The comments said to African American employees (e.g., “This job is not like
3 picking cotton”) is at best a microaggression and could be classified as worse, referencing the
4 racist history in the United States. Coined by researcher Derald Wing Sue Ph.D,
5 *"Microaggressions are brief, everyday exchanges that send denigrating messages to certain*
6 *individuals because of their group membership. They are the verbal, nonverbal, and*
7 *environmental slights, snubs, or insults, whether intentional or unintentional, which communicate*
8 *hostile, derogatory, or negative messages to target persons based solely upon their marginalized*
9 *group membership."* These have been described as “death by a thousand paper cuts.” Oftentimes,
10 the microaggressor does not mean ill-intent, but the impact and outcome outweigh the intention. In
11 the examples cited, it is hard to believe the speaker had positive intent. Here, this statement
12 becomes a *macroaggression*: a large-scale or overt aggression toward those of a different race,
13 culture, gender, etc. **Both microaggressions and macroaggressions have impacts on the health,**
14 **focus, productivity, and performance of the person being microaggressed or**
15 **macroaggressed.** As McKinsey found, “women who experience microaggressions view their
16 workplaces as less fair and are three times more likely to regularly think about leaving their jobs
17 than women who don’t.”¹ Intent to leave is correlated with disengagement and lower performance.

18 10. The use of the “N-word” is unacceptable and has been grounds for firing senior
19 leaders in other organizations. Recently, a top Netflix executive left the company after he used the
20 N-word in front of colleagues on more than one occasion.² As Netflix founder wrote to employees:
21 There is "not a way to neutralize the emotion and history behind the word in any context."
22 Assuming it is true that no action was taken at DWR for any of these offenses, the inaction
23 contributes to a toxic, unsafe culture that condones and encourages hatred and explicit bias.
24 Functioning in these environments is challenging at best, and performing to one’s fullest ability

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26 ¹ Krivkovich A., Nadeau M, Robinson K., Robinson N., Starikova I, and Yee L. *Women in the*
Workplace 2018 (retrieved from [https://www.mckinsey.com/featured-insights/gender-](https://www.mckinsey.com/featured-insights/gender-equality/women-in-the-workplace-2018)
[equality/women-in-the-workplace-2018](https://www.mckinsey.com/featured-insights/gender-equality/women-in-the-workplace-2018))

27 ² Wattles, J. A., “A top Netflix executive is out after using the N-word” *CNN Business* 6/22/18
28 (retrieved from [https://money.cnn.com/2018/06/22/news/companies/netflix-spokesperson-n-](https://money.cnn.com/2018/06/22/news/companies/netflix-spokesperson-n-word/index.html)
[word/index.html](https://money.cnn.com/2018/06/22/news/companies/netflix-spokesperson-n-word/index.html))

1 takes tremendous emotional resources that no employee should be expected to bear and that few
2 can.

3 11. Offensive language and behavior referencing gender and sexual orientation (e.g.,
4 referencing “Dyke conferences”) has similar effects to those of race. Showing women sexually
5 suggestive images breeds a culture of harassment, and impedes people from doing their jobs. The
6 anxiety and distraction and worry that come from what might seem like a brief interaction can
7 have long lasting effects on the victim, affecting their productivity, quality of performance, and
8 ability to be heard and valued for their views. To physically threaten those who spoke up as allies
9 would discourage others from speaking up, and further enforce a toxic culture that encourages and
10 condones harassment.

11 12. Connecting the dots and assuming the truth of the allegations, **these incidents show**
12 **an undergirding culture that empowers a white, heterosexual, cis-gender male over and**
13 **above other identities within DWR.** Doing so not only affects morale and interactions; but
14 performance and effectiveness as well. If Colleague A harasses Colleague B who happens to have
15 critical knowledge of how to address a leak or a damage in the dam, yet Colleague B isn’t valued
16 or trusted because of one or more aspects of their identity, the entire organization suffers. The lack
17 of intervention by leadership when such severe incidents occur indicates these are not incidents
18 only between colleagues.

19 13. Research has shown that incivility in the workplace leads to lower engagement and
20 performance. As demonstrated by Georgetown Professor C. Porath, victims of incivility in the
21 workplace decrease their effort and time spent at work, lose time worrying about the incident and
22 avoiding the offender, perform worse and collaborate less. Even witnessing incivility can harm
23 performance: in one experiment, people who’d observed poor behavior performed 20% worse on
24 word puzzles. Being treated poorly also takes a toll on a worker’s creativity, leading to a
25 measurable decrease in the number and quality of ideas they generate to solve a problem.³

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28 ³ Porath, C., Pearson, C. (2013) The Price of Incivility. *Harvard Business Review* (retrieved from
<https://hbr.org/2013/01/the-price-of-incivility>)

1 B. The public record demonstrates that condoning a culture of harassment can lead to
2 a breakdown in performance. Left unaddressed, systemic discrimination breeds
3 mistrust of management and hinders employees' ability to perform their jobs.

4 14. In high-functioning organizations, there are consequences to discriminatory
5 behavior. Conversely, when harassment is not addressed, it can result in crisis. In 2017, ride-
6 sharing platform Uber became the subject of intense scrutiny when a former engineer went public
7 with her claims of sexual harassment in the workplace. After months of working within the system
8 - appealing to Human Resources, reporting harassment to her manager and senior leadership - with
9 no results, she left the company and brought the public's attention to her case.⁴ Susan Fowler's
10 disclosures paved the way for dozens more allegations, leading to an independent investigation and
11 eventual departure of Uber's CEO and the firing of 20 employees.⁵ The company lost market share
12 to its competitor Lyft as consumers' view of Uber dropped.⁶ After years of toxic culture, Uber is
13 now grappling with its dire effects and high costs.

14 15. Google has faced similar backlash and scrutiny after a New York Times report
15 revealed that a senior male executive accused of sexual harassment was let go quietly and received
16 a \$90M compensation package. After the story broke, 20,000 employees, most of them women,
17 staged a walkout to demand better treatment from the company. A female Google engineer told the
18 New York Times, "When Google covers up harassment and passes the trash, it contributes to an
19 environment where people don't feel safe reporting misconduct."⁷ In response to the protest,
20 Google vowed to overhaul its reporting process for harassment and assault, signaling that existing
21 protections and processes had been inadequate and contributed to a culture of discrimination.

22 16. InclusionVentures has encountered similarly offensive conduct in our work.

23 ⁴ Isaac, M. "Inside Uber's Aggressive, Unrestrained Workplace Culture" *New York Times* 2/22/17
24 (retrieved from <https://www.nytimes.com/2017/02/22/technology/uber-workplace-culture.html>)

25 ⁵ Isaac, M. "Uber Fires 20 Amid Investigation Into Workplace" *New York Times* 6/6/17 (retrieved
26 from [Culturehttps://www.nytimes.com/2017/06/06/technology/uber-fired.html](https://www.nytimes.com/2017/06/06/technology/uber-fired.html))

27 ⁶ della Cava M. "Uber has lost market share to Lyft during crisis" *USA Today* 6/13/17 (retrieved from
28 <https://www.usatoday.com/story/tech/news/2017/06/13/uber-market-share-customer-image-hit-string-scandals/102795024/>)

⁷ Vuleta, C. "The \$90M Women's Walkout At Google: Is Real Change Coming?" *Forbes* 10/30/2018
(retrieved from <https://www.forbes.com/sites/christinavuleta/2018/10/30/the-90m-womens-walkout-at-google-is-real-change-coming/#25b5644d1d62>)

1 Consistently, the highest functioning organizations take action and display accountability. The
2 organizations and leadership that do not have issues of cohesion, collaboration, trust, and quality
3 of work. Well-run organizations hold people accountable and take action to solve these problems
4 right away. Leaders acknowledge when they misstep and apologize. We consistently advise
5 organizations to address discrimination swiftly because not doing so threatens not only employees'
6 well-being but the ability of an organization to fulfill its objectives.

7 17. I have reviewed Professor Bea's January 2018 Summary Report. As Professor Bea
8 wrote,

9 Results from this investigation of the Root Causes of the failures of the
10 Gated Spillway, Emergency Spillway have been consistent with those
11 from a large number of previous forensic investigations of failures and
12 disasters associated with engineered infrastructure systems: **it is the**
13 ***Human and Organizational Factors that are the primary challenge***
14 **to being able to develop Safe and Reliable engineered infrastructure**
15 **systems. This is the reason for emphasizing in this report the need to**
16 **develop high-reliability organizations with high-reliability**
17 **management that can and will deliver High Reliability Systems that**
18 **have As Low As Reasonably Practicable Risks and are Safe,**
19 **Durable, Serviceable, and Compatible.**

20 18. By condoning a culture of harassment in the workplace, DWR undermined the
21 "human factors" necessary to maintain the infrastructure of the dam effectively.

22 C. Organizations that are able to communicate cohesively, foster diversity and
23 inclusion, build trust and community dynamics among the employees and
24 managers, have demonstrably better productivity results.

25 19. As demonstrated by Google's analysis of its high-performing teams, the best
26 predictor of a team's ability to solve problems is psychological safety. Harvard Business School
27 professor Amy Edmondson defines psychological safety as a "shared belief held by members of a
28 team that the team is safe for interpersonal risk-taking." When members of a team are able to
share their ideas and feelings without fear of recrimination or shame, the team as a whole performs
better than an equivalent team with a hostile culture.⁸ Conversely, when team members are
discouraged from speaking, the team overall performs worse, **regardless of the competencies of**

⁸ Duhigg, C. What Google Learned From Its Quest to Build the Perfect Team. *New York Times Magazine* (2/27/2016)

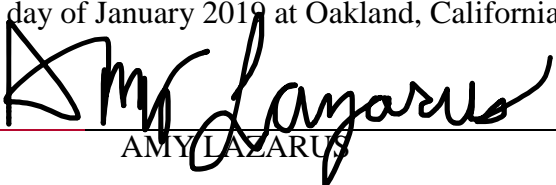
1 **individual team members.** By failing to correct a culture of harassment, the management at
2 Oroville Dam more likely than not harmed the organization's ability to solve problems.

3 20. We know from research that diverse teams produce demonstrably better results.
4 Companies with more women in senior roles report +35% return on equity.⁹ Ethnically diverse
5 companies are 35% more likely to have financial returns above their peers. For every 10% increase
6 in racial and ethnic diversity on the senior executive team, earnings before interest and taxes rise
7 0.8%.¹⁰

8 21. Well-managed diverse teams produce better solutions and decisions than
9 homogenous teams. They are three times as likely as homogenous teams to be high performing and
10 8 times as likely to produce better business outcomes.¹¹

11 22. **The fact that the toxic culture at Oroville Dam was allowed to persist leads me**
12 **to believe that the management at DWR jeopardized the performance of the safety team.**

13 I declare under penalty of perjury under the laws of the State of California that the foregoing
14 is true and correct. Executed this 31st day of January 2019 at Oakland, California.

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16 AMY LAZARUS

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⁹ Catalyst Study Reveals Financial Performance is Higher For Companies with More Women at the Top, retrieved from <https://www.catalyst.org/media/catalyst-study-reveals-financial-performance-higher-companies-more-women-top>

¹⁰ Hunt., V, Layton, D. & Prince, S. *Why Diversity Matters* McKinsey and Company January 2015. Retrieved from <https://www.mckinsey.com/business-functions/organization/our-insights/why-diversity-matters>

¹¹ Bourke, J. *Which Two Heads Are Better Than One?: How diverse teams create breakthrough ideas and make smarter decisions* (Australian Institute of Company Directors, 2016)