

# CPM client former city attorney files legal claim against Milpitas alleging he was fired out of retaliation

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Former Milpitas City Attorney Michael Ogaz announced through his attorney Tuesday that he plans to sue Milpitas for wrongfully terminating him in a retaliatory move for investigating complaints against the city manager.

In filing a California Tort Claim and receiving a "right to sue" letter from the California Department of Fair Employment and Housing, Ogaz has begun the process for filing a multimillion-dollar lawsuit against the city, according to his attorney Adam J. Zapala.

"Mr. Ogaz will be seeking a finding that he was unlawfully terminated, along with all compensatory and other damages that are available under the various legal theories we are pursuing," Zapala said.

Zapala, with Burlingame law firm of Cotchett, Pitre & McCarthy LLP, said the precise dollar figure will be the subject of expert testimony.

"But (it) will be based on back wages, future wages and any effects on his CalPERs retirement amounts arising from the termination," he added.

In July, Milpitas City Council sacked Ogaz in what it described as a cost-cutting move. In the weeks prior to the firing, Councilwoman Debbie Indihar Giordano successfully urged the council to replace the city's staff attorneys with an outside law firm to save money.

Ogaz was hired as Milpitas' city attorney in 2007 to replace an Oakland-based law firm it had contracted since the late 1990s. In April 2007, Milpitas City Council fired that firm, Meyers Nave Riback Silver & Wilson. Ten years earlier, when it fired a four-person city attorney staff, the council said an outside firm would be less expensive.

## Attorneys

Adam J. Zapala

## Practice Areas

Employment Law

Retaliation and Whistleblower Protection

## CPM CLIENT FORMER CITY ATTORNEY FILES LEGAL CLAIM AGAINST MILPITAS ALLEGING HE WAS FIRED OUT OF RETALIATION

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Ogaz was replaced in September by Walnut Creek law firm Best, Best & Krieger LLP. The city hired the firm for a two-year, 10-month term totaling about \$1.5 million.

According to Zapala, Ogaz was retaliated against for his participation in an investigation into "potentially discriminatory and unethical conduct" by Milpitas City Manager Tom Williams.

"As alleged in our filings, we strongly believe that the City of Milpitas' firing of our client was unjust and motivated by the city's desire to shut the door on any investigation into Mr. Williams' workplace conduct," Zapala said. "The extraordinarily coincidental timing of Mr. Ogaz's firing raises serious questions by itself, but the explicit statements by Councilwoman Giordano make clear that the purported fiscal reasons for the firing were purely pretextual. We intend to vigorously litigate this case to ensure that courageous public servants, like Michael Ogaz, are protected from workplace bullies. It is critical that employees are free to oppose unlawful workplace conduct and participate in investigations without fear of retaliation."

The pre-litigation filings allege that in the spring, Steve McHarris, the city's former planning director, filed a workplace complaint against Williams for allegedly using racial slurs, age discrimination, defamation and unethical conduct with developers, according to Zapala.

"As several news outlets reported, Mr. Ogaz alerted the City Council and sought to begin an investigation into the serious allegations," Zapala said. "As the pre-litigation filings allege, almost immediately Mr. Williams began enlisting the support of his allies on the City Council to head-off any serious investigation into his conduct."... *(To read the entire article, please click [HERE](#))*