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**[Exempt From Filing Fee
Government Code § 6103]**

8 Attorneys for Defendant,
9 CITY OF SANTA ANA

10 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
11 **COUNTY OF ORANGE, NORTH JUSTICE CENTER**

12 RITA RAMIREZ, an Individual,
13 Plaintiff,
14 vs.
15 CITY OF SANTA ANA, an entity of unknown
origin; and DOES 1 - 50, Inclusive,
16 Defendants.
17

Case No. 30-2022-01287702-CU-OE-NJC

[Assigned for All Purposes To:
Hon. Nathan Vu, Dept. N15]

**DEFENDANT CITY OF SANTA ANA'S
MOTION¹ FOR COMPLETE OR
PARTIAL JUDGMENT
NOTWITHSTANDING THE VERDICT;
MEMORANDUM OF POINTS AND
AUTHORITIES (CCP §§ 629, 659)**

*[Filed concurrently with Motion for New Trial;
Declaration of Kevin Hernandez; Declaration
of Irma Garcia; Declaration of Michelle
Rayos; and [Proposed] Order]*

Date: Clerk to set hearing (CCP §§ 629, 660,
661)

Time: Clerk to set hearing (CCP §§ 629, 660,
661)

Dept.: N15

Jurisdictional Deadline to hear Motion:
April 13, 2026 (75 days after the January 27,
2026 service of Notice of Entry of Judgment)
(CCP §§ 629, 660)

27 ¹ Notice of this Motion was already filed and served on February 11, 2026 and is incorporated by
28 reference herein. However, an additional Notice herein will be provided as well.

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Reservation No.: 74769726²

Action Filed: October 21, 2022

TO THE CLERK, COURT, PLAINTIFF AND HER ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE that Defendant City of Santa Ana (“the City”) intends to and hereby does move this Court under Code of Civil Procedure § 629 to set aside the judgment entered on January 22, 2026 against the City following the jury trial in this matter, and to enter judgment in the City’s favor on all (or at least some) causes of action notwithstanding the verdict rendered by the jury. (See *Beavers v. Allstate Ins. Co.* (1990) 225 Cal.App.3d 310, 323-324.)

This Motion will be heard on a date and at a time to be set by the Court under Code of Civil Procedure §§ 629, 660 and 661 in Department N15 of the Superior Court for the State of California, County of Orange, North Justice Center, located at 1275 N. Berkeley Ave., Fullerton, California 92832. (See e.g., Code of Civil Procedure §§ 629 (“A motion for judgment notwithstanding the verdict shall be made within the period specified by Section 659 for the filing and service of a notice of intention to move for a new trial. The moving, opposing, and reply briefs and any accompanying documents shall be filed and served within the periods specified by Section 659a, and the hearing on the motion shall be set in the same manner as the hearing on a motion for new trial under Section 660”) and 660(b) (“The hearing and determination of the motion for a new trial shall have precedence over all other matters except criminal cases, probate matters, and cases actually on trial, and it shall be the duty of the court to determine the motion at the earliest possible moment”).)

This Motion is made on the grounds that the evidence received at trial is insufficient, as a matter of law, to support the jury’s verdict on all, or at least some, causes of action. (See Fairbank & Wegner, Cal. Practice Guide: Civil Trials & Evidence (The Rutter Group 2025) ¶ 18:9.)

This Motion will be based upon this Notice, the evidence and argument presented at trial,

² This Court set a hearing date for this Motion beyond the statutory jurisdictional deadline associated with this Reservation No. and directed Defendant to reference this number. However, the hearing date will need to be set for a date before April 13, 2026 pursuant to CCP §§ 629, 660.

1 both affidavits and declarations and the minutes of the Court, the Memorandum of Points and
2 Authorities, declaration(s), and/or affidavit(s) to be filed and served within the time specified by
3 CCP §§ 629 and 659a, all papers, records, and exhibits in this action, the jury’s verdict, the Final
4 Judgment, and upon further evidence and argument that may properly come before the Court at the
5 hearing on this Motion.

6 This Court’s jurisdiction to grant this Motion expires 75 days after the service of the
7 Notice of Entry of Judgment. (See CCP §§ 629(a), 660(c).) Notice of Entry of Judgment was
8 served on January 27, 2026 by email by Plaintiff’s counsel to the City’s counsel. Accordingly, the
9 last day for this Court to rule on this Motion is **April 13, 2026**. (*Id.*; CCP § 12a.) This Court may
10 not extend the deadline. If this Court fails to rule on this Motion by that date, this Motion will be
11 denied by operation of law. The City respectfully requests that this Court set this matter for
12 hearing sufficiently before April 13, 2026 to allow time for this Court to consider all papers filed
13 in support of this Motion and rule on this Motion before the April 13, 2026 deadline expires.

14 **PLEASE TAKE FURTHER NOTICE** that because the City will concurrently file a
15 Motion for New Trial, this Court must rule on both Motions at the same time. (CCP §§ 629, 660.)
16 This Court should grant all of the City’s post-trial Motions. “If the court grants the motion for
17 judgment notwithstanding the verdict or of its own motion directs the entry of judgment
18 notwithstanding the verdict and likewise grants the motion for a new trial, the order granting the
19 new trial shall be effective only if, on appeal, the judgment notwithstanding the verdict is reversed,
20 and the order granting a new trial is not appealed from or, if appealed from, is affirmed.” (CCP §
21 629(d).)

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DATED: February 23, 2026

Respectfully submitted,

EVERETT DOREY LLP

By: 

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1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I. INTRODUCTION**

3 This Court should enter judgment for the City of Santa Ana on all causes of action
4 notwithstanding the verdict. Ramirez’s entire case—and the resulting jury trial—was erroneously
5 predicated on conduct pertaining to *loyalties and “camps,”* which does not constitute a valid or
6 permissible protected activity under FEHA or a basis for Labor Code § 1102.5. In short,
7 Ramirez’s causes of action were legally defective from the start. But even if her claims are
8 indulged, they lack necessary evidence to support a judgment in her favor. The jury’s finding of
9 retaliation, failure to prevent retaliation, and violations of Labor Code § 1102.5 was not supported
10 by substantial evidence.

11 First, the undisputed facts show that Ramirez’s liability theory was legally defective.
12 Ramirez asserted that her boss’s boss, Chief Valentin, vacillated in terms of whether he liked her,
13 because she would not choose a “camp”—akin to choosing a clique of friends. FEHA does not
14 recognize the choice of camps or factions as protected activity. The alleged existence of these
15 camps and even decisions made as a result of which camp one belonged to does not constitute a
16 violation of law necessary to support a claim under Labor Code § 1102.5. Moreover, Ramirez
17 failed to legally define what a “camp” meant. Based on her theory, simply associating with certain
18 people—such as POA President Gerry Serrano—was a sign of being “disloyal” to the Chief. But
19 that is not a violation of the law and not enough for a claim. Worse still, Ramirez used this
20 baseless premise as a springboard to argue she suffered “retaliation,” claiming people who were
21 not in the Chief’s “camp” would get ostracized, shunned, sent cryptic texts, or their duties eroded.
22 Ramirez’s theory may have *sounded* fascinating, but it was legally improper under controlling
23 precedent.

24 Second, Ramirez’s causes of action were unsupported by substantial evidence. Trial was
25 dominated by irrelevant evidence and anecdotes regarding third-party misconduct. Ramirez’s case
26 focused on the existence of irrelevant camps; a retreat that happened years after Ramirez retired;
27 and disconnected “Me Too” claims by unrelated third parties that had nothing to do with Ramirez
28 or any legitimate protected activity by her.

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1 These systemic legal errors were not trifling. They had cascading consequences. Based on
2 counsel’s representation that camps were “illegal” during arguments on motions in limine (see
3 e.g., RT³, 8/9/25, at pp. 94-95), this Court agreed, and Ramirez was allowed to introduce heaps of
4 irrelevant evidence about camps at trial. This Court denied the City’s motion in limine on the
5 issue, doubling-down on the erroneous conclusion that camps were “illegal.” (RT, 9/5/25, at p. 29
6 [this Court reasoning that “Here, Ms. Ramirez’s claim is that she was retaliated against because
7 she complained about these *illegal* camps”], italics added.) Trial proceeded on a defective theory,
8 resulting in too many days’ worth of improper and prejudicial evidence.

9 To make matters worse, it was too late when this Court made the following observation:
10 “[T]he camps themselves cannot form the underlying basis for a FEHA claim nor a claim under
11 1102.5 because the law is that it’s not illegal or prohibited to have camps and even to make
12 employment decisions on the basis of camps.” (RT, 11/21/25, at p. 75:10-16.) Cognizant of an
13 error, this Court instructed the jury, at the end of the case, that affiliation with camps does not
14 constitute illegal conduct. (See Special Jury Instruction No. 1 attached as Ex. “2” to Hernandez
15 Decl.) But by that point in time, the bell could not be unrung. Prejudice had already resulted, and
16 as shown more particularly in the City’s motion for new trial, some of the jurors were fooled.
17 Some jurors have declared under oath that they focused on, and considered, the issue of divergent
18 camps and other irrelevant evidence when rendering their verdict.⁴ This Court is therefore
19 requested to grant judgment notwithstanding the verdict.

20 **II. LEGAL STANDARD ON A MOTION FOR JUDGMENT NOTWITHSTANDING**
21 **THE VERDICT**

22 Code of Civil Procedure § 629 provides that a trial court “shall render judgment in favor of
23 the aggrieved party notwithstanding the verdict whenever a motion for a directed verdict for the
24 aggrieved party should have been granted had a previous motion been made.” (Code Civ. Proc., §

25 _____
26 ³ The combined pre-trial, trial and post-trial transcripts (“RT”) are attached to the Hernandez Decl.
at Ex. “1.”

27 ⁴ The City of Santa Ana hereby incorporates by reference its concurrently filed motion for new
28 trial, along with the declarations of jurors Irma Espino Garcia and Michelle Rayos.

1 629.)

2 A JNOV motion is properly granted if it appears from the evidence, viewed in the light
3 most favorable to the party securing the verdict, that there is no substantial evidence to support the
4 verdict. (*Simmons v. Ware* (2013) 213 Cal.App.4th 1035, 1047-1048; *Hansen v. Sunnyside*
5 *Products, Inc.* (1997) 55 Cal.App.4th 1497, 1510.) Substantial evidence is not just *any* evidence.
6 “ ‘Substantial evidence’ is evidence of ponderable legal significance, evidence that is reasonable,
7 credible and of solid value.” (*Roddenberry v. Roddenberry* (1996) 44 Cal.App.4th 634, 651.) The
8 “focus is on the quality, not the quantity of the evidence.” (*Toyota Motor Sales U.S.A., Inc. v.*
9 *Superior Court* (1990) 220 Cal.App.3d 864, 871.)

10 **III. ARGUMENT**

11 **A. Judgment notwithstanding the verdict should be entered in the City’s favor**
12 **because political loyalties and camp affiliations in the workplace are not**
13 **cognizable legal grounds to support any of Ramirez’s causes of action.**

14 “FEHA makes it unlawful to take adverse action toward an employee ‘because of’ his or
15 her membership in a protected classification.” (*McCaskey v. California State Automobile Assn.*
16 (2010) 189 Cal.App.4th 947, 979.) “For protection under the ‘opposition clause,’ an employee
17 must have opposed an employment practice made unlawful by the statute.” (1 Chin et al., Cal.
18 Practice Guide, Employment Litigation (The Rutter Group 2015) § 5:1506, p. 5(II)–8; see *Nealy v.*
19 *City of Santa Monica* (2015) 234 Cal.App.4th 359, 380 [to be protected, employee’s activities
20 must “take[] the form of opposing any practices forbidden by FEHA”].)

21 Additionally, FEHA does “not guarantee employees ‘a stress-free working environment.’ ”
22 (*Arteaga v. Brink’s, Inc.* (2008) 163 Cal.App.4th 327, 344, citing *Wehunt v. R. W. Page*
23 *Corp.* (M.D.Ga.2004) 352 F.Supp.2d 1342, 1354.) “Workplaces can be stressful and relationships
24 between supervisors and their subordinates can often be contentious. But FEHA was not designed
25 to make workplaces more collegial; its purpose is to eliminate more insidious behavior like
26 discrimination and harassment based on *protected characteristics*.” (*Doe v. Department of*
27 *Corrections & Rehabilitation* (2019) 43 Cal.App.5th 721, 737, italics added.)

28 “ ‘Work places are rarely idyllic retreats, and the mere fact that an employee is displeased

1 by an employer’s act or omission does not elevate that act or omission to the level of a materially
2 adverse employment action.’ ” (*Thomas v. Department of Corrections* (2000) 77 Cal.App.4th
3 507, 511; see *Chen v. County of Orange* (2002) 96 Cal.App.4th 926, 944 [holding that plaintiff’s
4 claim of marital status discrimination was baseless because it fell into the “political animus”
5 category of non-actionable claims]; see also *Dinslage v. City and County of San Francisco* (2016)
6 5 Cal.App.5th 368, 383 [stating that “to be protected, an employee’s actions ‘must oppose activity
7 the employee reasonably believes constitutes unlawful discrimination’ ”]; *Kelly v. Howard I.*
8 *Shapiro & Associates Consulting* (2nd Cir. 2013) 716 F.3d 10, 15 [“A plaintiff’s belief on this
9 point is not reasonable simply because he or she complains of something that appears to be
10 discrimination in some form.”].)

11 **B. Ramirez’s counsel openly advertised to the jury that camps were the**
12 **“foundation of [Ramirez’s] lawsuit,” the “heart of this lawsuit,” and**
13 **“integral” to plaintiff’s claims.**

14 At trial, Ramirez’s claims were consistently focused on the issue of camps, as various
15 examples reveal:⁵

16 1. “Ms. Ramirez **cannot prosecute** her case, just bluntly can’t, if we can’t talk about
17 the camps. Her being told, ‘you have to choose,’ at a lunch by commanders, ‘you have to choose
18 which camp you’re in,’ is **the most clear articulation of the foundation of her lawsuit.**” (RT,
19 8/29/25, at p. 60:12-16, emphasis added.)

20 2. “The fact of the matter is that there was and were multiple complaints, not only by
21 Ms. Ramirez but also by Officer Moreno and others that there was – and I’m using them
22 interchangeably – the camp/gang culture. . . . [A]nd it is at the **heart of this lawsuit.**” (RT,
23 9/5/25, at p. 19:2-8, emphasis added.)

24 3. “From the time of the complaint to discovery to the presentation of this case, it is
25 **absolutely integral.** It is a huge part of this case, that **what Ms. Ramirez was complaining**

26
27 ⁵ Based on a review of the trial transcripts, the word "camp" was used in the pre-trial/trial
28 approximately 600 times.

1 **about was the insistence that she be a part of a camp** and the fact that this is on its face illegal.”
2 (RT, 11/25/25, at p. 11:17-21, emphasis added.)⁶

3 Even after this Court expressly held the camp issue was not a proper basis for any of
4 Ramirez’s claims, her counsel made the camps the integral part of closing argument. Specifically,
5 counsel argued that: (1) “the last witness [] pulled everything together,” being Deputy Chief Julian
6 Rodriguez who only talked about the camps and the mischaracterized retreat; (2) “the existence of
7 camps was acknowledged”; (3) Chief Rodriguez “denied that the participants discussed camp
8 culture. He even denied that there were camps”; (4) Deputy Chief Jose Gonzalez “insisted that he
9 did not admit to a camp culture”; (5) “a heated exchange about camps”; (6) “Deputy Chief Julian
10 Rodriguez told you that, yes, camps were acknowledged”; and (7) “what Rita has shown through
11 this trial is that the chief and his command staff perceived her as an enemy because she didn’t
12 exhibit blind loyalty. **The decision on her part to refuse to join a camp lead Chief Valentin
13 and his command staff to ostracize and shun her and then eventually take responsibilities
14 away.**” (RT, 12/2/25, at pp. 11:6-18:10, emphasis added.) But these were nothing more than
15 alleged factions and divisions in loyalty within the workplace, not illegal activity. (See *Dinslage*,
16 *supra*, 5 Cal.App.5th at 382–383 [“That Dinslage opposed what he viewed as unwise or even
17 improper actions by the Department is not enough to make his opposition a protected activity”].)
18 In short, Ramirez’s entire basis for liability was not actionable as a matter of law.

19 **C. Ramirez confirmed her claims were based on camps, not illegal conduct.**

20 At trial, Ramirez admitted her claims were not based on illegal conduct. (RT, 10/31/25, at
21 pp. 113:2-115:8 [“Q. Isn’t it true that you have no knowledge of Chief Valentin doing anything
22 illegal? . . . Plaintiff: No, I don’t. I would hope no.”].) Instead, her claims were solely based on
23 the existence of camps.

24 Specifically, at various points noted below, Ramirez confirmed the basis for her legal
25 claims at trial was due to not joining a camp (see RT, 10/29/25, at pp. 38:12-65:8):

26
27 _____
28 ⁶ "Integral" is defined as "necessary to make a whole complete; essential or fundamental." (See Oxford Languages Dictionary.)

1 1. “[T]hey came into my office they were basically saying: You know, you need to
2 choose a camp. . . . You need to choose a – pick a side. Choose a camp type thing. And I told
3 them at this time that I’m not in a camp. . . . I told them to get out of my office and stop talking
4 about this. . . . So it was very clear that there was this divide within the organization. And when
5 they were in my office telling me that I needed to choose a camp, if I didn’t do this, I would end
6 up at the bottom of the hill . . . And I felt that the pressure of having to choose a side, choose a
7 camp, was unappreciated. . . .” (See RT, 10/29/25, at pp. 40:10-42:4.)

8 2. “At a later time, a few months later, . . . [w]e’re going to this place in Brea called
9 Chacha’s kitchen. . . . And so we went, and they again approached me about picking a camp and
10 that – that I needed to do that. . . . And I ended up leaving. I ended up leaving some cash and
11 saying: I don’t want to have this discussion. But they did say: You know, you need – I felt
12 pressured, like: You need to choose a – choose a camp. And I felt like – that they were probably
13 going to go back and report to the Chief that I did not say the words: I choose you.” (See RT,
14 10/29/25, at pp. 42:15-44:18.)

15 3. “It didn’t only affect my work environment, it also affected me personally because
16 I would think about this. You know, when you go home, you think about it. You’re like: Oh, my
17 goodness. Am I going to be – you know, when you’re an employee who works hard . . . like you
18 hope to make your bosses – which would be the Deputy Chief and the Chief – proud of you and –
19 because of your work, not because of who you choose as a camp. . . . And so it affected me. When
20 I would go home, I would think about it. It affected me professionally when I would go to work. . .
21 . And here’s this – everybody talking about camps and this.” (See RT, 10/29/25, at pp. 45:9-24.)

22 4. “I was leaving work one day and Andy Alvarez was in the watch commander’s
23 office . . . [a]nd he’s like: Hey, have you heard all this stuff about camps and, you know, having to
24 . . . pick a camp? And poor Andy, I said: Oh, my gosh. I am so sick and tired of this conversation.
25 And if one more person asks me about camps, I think I’m going to lose my mind.” (See RT,
26 10/29/25, at pp. 46:17-47:6.)

27 5. “I got a text message from the Chief the next day and he said: I heard you had an
28 interesting meeting. And I responded back with: It had to be done. . . . It was like – for me, like:

1 Oh, he knows everything just like he knows about the retirement party. . . . I didn't understand
2 why they all of a sudden would stop going to lunch with me Anthony told me that I broke his
3 heart. And I didn't understand what that meant. . . . I didn't understand where that was coming
4 from . . . [H]e had heard that I orchestrated this meeting and that I was egging on Manny Moreno
5 It made me really sad because that is not who I am." (See RT, 10/29/25, at pp. 55:14-59:16.)

6 6. "I wanted to explain to [the Chief] my position in this. . . . So I explained my
7 position and I explained to him that I, you know, didn't orchestrate a meeting. . . . He was like:
8 Okay. Okay. And then he asked me – he asked me: I hear – He said: I hear you go to lunch with
9 Gerry Serrano often. . . . Well, you need to be careful who you associate with. . . . I felt it was a
10 warning and I felt like it was very intimidating. . . . He didn't really communicate with me after
11 that very often. He would see me in the hallways but we – he wouldn't acknowledge me. He did
12 send – he did see me one time when I was in my office, and he sent me a text and he said: No
13 lunch today? . . . I realized that he was referring to my lunches that I all the time would go with
14 my friends." (See RT, 10/29/25, at pp. 61:21-64:5.)

15 7. "Q. And after that, did you have – continue with your Tritech meetings with Chief
16 Valentin? A. No. . . . I didn't get any notification other than the cancellations on the calendar. . .
17 . Q. How did that and now your new experience with Chief Valentin, how did that affect you at
18 work? A. You know, it was clear that the Chief no longer approved of me but not because of my
19 work. **It was more of because I didn't choose a camp and I didn't say the words: I choose**
20 **Dave Valentin's camp.**" (See RT, 10/29/25, at pp. 64:6-65:8.)

21 Even if this Court believed the camps issue was "for context only," Ramirez made it an
22 integral part of her liability and damages theories. (See Special Jury Instruction No. 1 attached as
23 Ex. "2" to Hernandez Decl.; see also RT, 11/21/25, at p. 75:17-26.) Indeed, she admitted her
24 emotional distress damage claim was because of the camps: "Q. Did your employment at Santa
25 Ana PD cause you emotional damage? A. Yes. [Plaintiff continues with the complete description
26 of her emotional distress claim.] Q. Can you sum up for us as we conclude what was your biggest
27 disappointment with regard to what you experienced at your job? A. That a leader of an
28 organization that's supposed to be respected, not only throughout the community but throughout

1 the department, is allowed to treat people the way that they treated them because you didn't
2 pick a camp or just because they assumed that you spoke to their archenemy. You know, it
3 disgusts me.” (RT, 10/31/25, at pp. 42:3-44:5.)

4 According to Ramirez, she submitted her April 2022 formal complaint “because I felt as if
5 nothing was being done on all the other complaints that were already filed. So I felt if I needed to
6 file it myself in my words that I had written, that I could submit that.” (RT, 10/29/25, at p.
7 152:17-22.) This was the culmination of “one, two, three, four – several – several complaints that
8 I had made” (RT, 10/29/25, at pp. 152:23-153:6.) And when specifically asked: “Tell us
9 what you were complaining about” in this culminating, all-encompassing complaint, she
10 responded: “So I was making a complaint that I was being treated unfairly because of the
11 camps.” (RT, 10/29/25, at p. 155:5-9, emphasis added.)

12 In response to this issue, this Court stated: “I do think that a later Motion for Judgment
13 Notwithstanding the Verdict is probably a better way to approach these issues. *The Court reserves*
14 *its right to correct or amend its rulings and it's reasoning. The Court always has the ability to do*
15 *that until Judgment is issued.* A Motion for Judgment Notwithstanding the Verdict would allow
16 both parties more time to review the evidence that's presented and that has been presented at trial
17 and for the Court to give due consideration to that.” (RT, 11/21/25, at p. 77:8-17, italics added.)
18 This is a situation that mandates a judgment notwithstanding the verdict. The City's motion
19 should be granted in full.

20 **D. Ramirez's Labor Code § 1102.5 and FEHA retaliation claims were not**
21 **supported by substantial evidence, and the claims fail as a matter of law.**

22 Causation is a hallmark requirement to state a claim. Under Labor Code § 1102.5, a
23 plaintiff needs to prove that the reporting was a “contributing factor,” and under FEHA, a plaintiff
24 needs to prove it was a “substantial motivating reason.” (See CACI 4603 and 2505, respectively.)

25 Here, there was no substantial evidence that the WLLE memo regarding alleged gender
26 discrimination, or alleged subsequent reports, were a cause of alleged retaliation. Ramirez did not
27 testify as to any nexus between the two. In fact, she testified the opposite—the entire basis for the
28 perceived retaliation was because she would not choose a “camp.” As noted above, choosing a

1 camp was the central basis for her claims, yet when she had her final meeting to discuss her
2 grievances, the evidence revealed the following: “Q. **Did you talk with him about the complaint**
3 **that you had made on behalf of the female employees? A. I did not talk to him about that.**”
4 (RT, 10/29/25, at p. 162:3-18, emphasis added.) In fact, no witnesses testified that Ramirez’s
5 alleged retaliatory treatment was due to the WLLE memo or subsequent reports. There was zero
6 evidentiary connection for the jury to rely upon.

7 At best, Ramirez claimed the WLLE memo occurred between 2019 and when she left in
8 2022. But, as a matter of law, temporal proximity only is not enough. (See e.g., *Serri v. Santa*
9 *Clara Univ.* (2014) 226 Cal.App.4th 830, 868 [upholding summary judgment as to retaliation
10 claim under FEHA because temporal proximity was not enough to overcome the articulated non-
11 actionable basis].)

12 Indeed, temporal proximity is further rendered insufficient when the alleged retaliatory
13 conduct is already occurring prior to the report. As the United States Supreme Court held:
14 “Employers need not suspend previously planned [conduct] upon discovering that a Title VII suit
15 has been filed [i.e., an actionable basis], and their proceeding along lines previously contemplated,
16 though not yet definitively determined, is no evidence whatever of causality.” (*Clark Cty. Sch.*
17 *Dist. v. Breeden* (2001) 532 U.S. 268, 272, 121 S. Ct. 1508, 1511.) Continuing the same conduct
18 that has already been going on including proceeding further in conduct “not yet definitively
19 determined” to be done, even when some actionable report just happens to occur in the middle, “is
20 no evidence whatever of causality.”

21 The court in *Slattery v. Swiss Reinsurance Am. Corp.* (2d Cir. 2001) 248 F.3d 87, 95,
22 explained the concept: “But in this case the adverse employment actions were both part, and the
23 ultimate product, of ‘an extensive period of progressive discipline’ which began when Swiss Re
24 diminished Slattery’s job responsibilities a full five months prior to his filing of the EEOC
25 charges. **Where timing is the only basis for a claim of retaliation, and gradual adverse job**
26 **actions began well before the plaintiff had ever engaged in any protected activity, an**
27 **inference of retaliation does not arise.**” (*Id.*, emphasis added.)

28 During trial, this Court made reference to disregarding federal court case law because it

1 was not state court binding precedent and “particularly with respect to employment law, the
2 federal courts are probably less solicitous of employees than our state courts” (See RT,
3 11/25/25, at p. 21:15-25.) That assertion is wrong as a matter of law. The California Supreme
4 Court held: “Because of the similarity between state and federal employment discrimination laws,
5 California courts look to pertinent federal precedent when applying our own statutes.” (*Guz v.*
6 *Bechtel Nat’l, Inc.* (2000) 24 Cal.4th 317, 354 [citing “e.g.” *Mixon v. Fair Employment &*
7 *Housing Com.* (1987) 192 Cal. App. 3d 1306, 1316].) Regardless, in California state courts, the
8 concept is encompassed in the idea that performance issues noted and addressed by the employer,
9 before notice of some actionable conduct (i.e., some report), that continue to lead to subsequent
10 termination, are not pretext and in such situations, “temporal proximity does not amount to more
11 than a scintilla of evidence” (See *Arteaga, supra*, 163 Cal.App.4th at 353 [citing multiple
12 cases in support].)

13 Here, the mere fact Ramirez happened to produce a WLLE memo about other parties’
14 *perceived* gender discrimination during the midst of what Plaintiff herself describes as an ongoing
15 series of alleged retaliatory actions against her because of camps that began at least a year earlier
16 and continued for several years after **because of** camps constitutes “no evidence whatever of
17 causality” and at most “a scintilla of evidence.” This is not the required substantial evidence to
18 state her claims. Therefore, her claims fail as a matter of law, and judgment should be granted for
19 the City notwithstanding the verdict.

20 **E. Ramirez’s Labor Code § 1102.5 and FEHA retaliation claims were not**
21 **supported by evidence of subjective intent.**

22 Both Government Code § 12940(h) and Labor Code § 1102.5 require subjective intent by
23 the plaintiff to believe the employer’s conduct was illegal. There was no such evidence at trial.

24 Government Code § 12940(h) is comprised of the “opposition clause” and “participation
25 clause” and states: “(h) For any employer, labor organization, employment agency, or person to
26 discharge, expel, or otherwise discriminate against any person because the person has opposed any
27 practices forbidden under this part or because the person has filed a complaint, testified, or
28 assisted in any proceeding under this part.” (Gov. Code, § 12940(h).) Internal investigations are

1 not “proceedings under this part” and only formal complaints to the FEHC or DFEH qualify under
2 the “because the person has filed a complaint, testified, or assisted in any proceeding under this
3 part” prong. (*McGrory v. Applied Signal Tech., Inc.* (2013) 212 Cal.App.4th 1510, 1526.)

4 Thus, only the “opposed any practices” prong remains. “The term ‘oppose,’ being left
5 undefined by the statute, carries its ordinary meaning, *Perrin v. United States* (1979) 444 U.S. 37,
6 42, 100 S. Ct. 311, 62 L. Ed. 2d 199: ‘[t]o resist or antagonize . . . ; to contend against; to confront;
7 resist; withstand,’ Webster’s New International Dictionary 1710 (2d ed. 1957).” (*Crawford v.*
8 *Metro. Gov’t of Nashville & Davidson Cty.* (2009) 555 U.S. 271, 276, 129 S. Ct. 846, 850.)

9 To maintain a FEHA retaliation claim under the opposition clause, a plaintiff must
10 subjectively believe they are opposing actual unlawful practices by the employer. (*Dinslage,*
11 *supra*, 5 Cal.App.5th at pp. 381-82 [“The federal courts hold that the reasonableness of the
12 employee’s belief ‘has both a subjective and an objective component.’ ”]; *Little v. United*
13 *Technologies* (11th Cir. 1997) 103 F.3d 956, 960; accord, *Hammer v. St. Vincent Hospital &*
14 *Health Care Center* (7th Cir. 2000) 224 F.3d 701, 707 [“The plaintiff must not only have a
15 subjective (sincere, good faith) belief that he opposed an unlawful practice; his belief must also be
16 objectively reasonable, which means that the [conduct] must involve discrimination that is
17 prohibited by Title VII”]; *Moyo v. Gomez* (9th Cir. 1994) 40 F.3d 982, 985 [“The reasonableness
18 of [the plaintiff’s] belief that an unlawful employment practice occurred must be assessed
19 according to an objective standard”].) To meet his burden on this issue, “[a] plaintiff must not
20 only show that he *subjectively* (that is, in good faith) believed that his employer was engaged
21 in unlawful employment practices, but also that his belief was *objectively* reasonable in light of the
22 facts and record presented.” (*Little, supra*, 103 F.3d at p. 960.)

23 Likewise, for Labor Code §1102.5, a plaintiff must subjectively believe they are
24 whistleblowing actual illegal conduct and not just reporting an internal personnel matter. (See
25 e.g., *Conn v. W. Placer Unified Sch. Dist.* (2010) 186 Cal.App.4th 1163, 1182 [holding that
26 “Conn’s complaints were akin to internal personnel or administrative disclosures that were, at their
27 core, disagreements about the provision of special education services to several children, including
28 her own. Such complaints do not rise to the level of protected disclosures under the Act.”]; *Carter*

1 v. *Escondido Union High Sch. Dist.* (2007) 148 Cal.App.4th 922, 933-34 [holding that a section
2 1102.5 was unsupported because “Carter’s conversation with Poist was not motivated by his belief
3 that a law had been broken” and even so, “the record is devoid of anything that would support a
4 conclusion that his belief was ‘reasonable.’ ”]; *Patten v. Grant Joint Union High Sch. Dist.* (2005)
5 134 Cal.App.4th 1378, 1384-85 [“The disclosures involving the two teachers do not amount to
6 whistleblowing as a matter of law because, although the disclosures were made by a government
7 employee (Patten) to a government agency (Grant), the disclosures indisputably encompassed only
8 the context of internal personnel matters involving a supervisor and her employee, rather than the
9 disclosure of a legal violation. . . .”].) “To exalt these exclusively internal personnel disclosures
10 with whistleblower status would create all sorts of mischief. Most damagingly, it would thrust the
11 judiciary into micromanaging employment practices and create a legion of undeserving protected
12 ‘whistleblowers’ arising from the routine workings and communications of the job site.” (*Patten*,
13 *supra*, 134 Cal.App.4th at 1385.)

14 Here, Ramirez admitted she had no subjective belief that Chief Valentin had done anything
15 illegal. (RT, 10/31/25, at pp. 113:2-115:8 [“Q. Isn’t it true that you have no knowledge of Chief
16 Valentin doing anything illegal? . . . Plaintiff: No, I don’t. I would hope no.”].) In short, there
17 was no evidence she was “opposing” actual discriminatory conduct that she subjectively believed
18 had actually occurred. Instead, when she heard the WLLE comments, she “was trying to defend
19 the Chief” and “defend his honor” because “it could be different” and suggested the “brilliant”
20 idea to clear up the misunderstanding internally. (See RT, 10/29/25, at pp. 73:23-75:14.) By
21 admitting she never thought Chief Valentin did anything illegal, Ramirez demonstrated through
22 her own testimony there was no substantial evidence of a subjective belief of actual illegal
23 behavior sufficient to support her claims. Thus, both retaliation claims fail as a matter of law.

24 **F. Because Ramirez’s retaliation claims fail, so too must the failure to prevent**
25 **claim.**

26 “[T]he absence of actionable harassment[, retaliation, etc.] . . . preclude[s a] cause of action
27 for failure to take reasonable steps necessary to prevent” (*Dickinson v. Burke Williams, Inc.*
28 (2015) 234 Cal.App.4th 1307, 1315; *Trujillo v. No. County Transit Dist.* (1998) 63 Cal.App.4th

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1 280, 287, 289; *Carter v. Cal. Dept. of Veterans Affairs* (2006) 38 Cal.4th 914, 925 fn. 4 [“courts
2 have required a finding of actual discrimination or harassment under FEHA before a plaintiff may
3 prevail under section 12940(k)”]; Gov. Code, § 12940(k); *Thompson v. City of Monrovia* (2010)
4 186 Cal.App.4th 860, 880.) Ramirez’s failure to prevent retaliation claim fails with the rest.

5 **IV. CONCLUSION**

6 For the foregoing reasons, judgment should be entered in the City’s favor, notwithstanding
7 the verdict.

9 DATED: February 23, 2026

Respectfully submitted,

10 EVERETT DOREY LLP

11
12 By:



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PROOF OF SERVICE

Ramirez v. City of Santa Ana
Case No. 30-2022-01287702-CU-OE-NJC

STATE OF CALIFORNIA, COUNTY OF ORANGE

At the time of service, I was over 18 years of age and not a party to this action. I am employed in the County of Orange, State of California. My business address is 2030 Main Street, Suite 1200, Irvine, CA 92614.

On February 23, 2026, I served true copies of the following document(s) described as

DEFENDANT CITY OF SANTA ANA'S MOTION FOR COMPLETE OR PARTIAL JUDGMENT NOTWITHSTANDING THE VERDICT; MEMORANDUM OF POINTS AND AUTHORITIES (CCP §§ 629, 659)

I served the documents on the interested parties in this action as follows:

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BY E-MAIL OR ELECTRONIC TRANSMISSION: I caused a copy of the document(s) to be sent from e-mail address nshannon@everettdorey.com to the persons at the e-mail addresses listed in the Service List. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful.

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

Executed on February 23, 2026, at Irvine, California.



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8 Attorneys for Defendant,
9 CITY OF SANTA ANA

10 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
11 **COUNTY OF ORANGE, NORTH JUSTICE CENTER**

12 RITA RAMIREZ, an Individual,
13 Plaintiff,
14 vs.
15 CITY OF SANTA ANA, an entity of unknown
origin; and DOES 1 - 50, Inclusive,
16 Defendants.
17

Case No. 30-2022-01287702-CU-OE-NJC

[Assigned for All Purposes To:
Hon. Nathan Vu, Dept. N15]

**DEFENDANT CITY OF SANTA ANA'S
REPLY TO PLAINTIFF'S OPPOSITION
TO MOTION FOR COMPLETE OR
PARTIAL JUDGMENT
NOTWITHSTANDING THE VERDICT**

[Filed concurrently with Reply for Motion for
New Trial; Declaration of Seymour Everett]

Date: March 30, 2026
Time: 2:30 p.m.
Dept.: N15

Jurisdictional Deadline to rule on Motion:
April 13, 2026 (75 days after the January 27,
2026 service of Notice of Entry of Judgment)
(CCP §§ 629, 660)

Reservation No.: 74769726

Action Filed: October 21, 2022

1 **I. INTRODUCTION**

2 This case presents a straightforward question: can a \$2.9 million jury verdict stand when
3 the plaintiff’s own testimony, her counsel’s opening and closing statements, and her Opposition
4 brief all confirm the verdict rests on a legally non-cognizable liability theory? *The answer is no.*

5 Throughout trial, Ramirez premised every cause of action on the existence of workplace
6 “camps” and political factions. This Court ultimately acknowledged that “camps” were not
7 prohibited. Ramirez’s complaints about camps is not protected activity under FEHA or the Labor
8 Code. Having sold the jury on a defective theory of liability, Ramirez now attempts to offer a
9 post-hoc recharacterization, reframing her claims as retaliation for gender discrimination
10 complaints generally, and ignoring the systemic legal error that infected the proceedings. But the
11 trial record forecloses that maneuver: her own counsel called the camps the “foundation,” “heart,”
12 and “integral” part of the lawsuit, and Ramirez testified she was treated unfairly “because of the
13 camps.” Her belated pivot to her WLE memo also fails because, even assuming her memo was a
14 protected activity, she presented no evidence that any adverse action was causally connected to
15 that disclosure—a fatal gap she cannot paper over with a timeline of events that, by her own
16 account, *commenced years before* any protected complaint.

17 In sum, Ramirez’s Opposition fails to confront the City’s core arguments. Judgment
18 notwithstanding the verdict is therefore required.

19 **II. ARGUMENT**

20 **A. Ramirez’s Opposition to the City’s JNOV relies upon an incorrect legal**
21 **standard.**

22 “[T]he purpose of a JNOV is ‘to prevent the moving defendant from the necessity of
23 undergoing any further exposure to legal liability when there is insufficient evidence for an
24 adverse verdict.’ ” (*Collins v. County of San Diego* (2021) 60 Cal.App.5th 1035, 1048, citing
25 *Grail Semiconductor, Inc. v. Mitsubishi Electric & Electronics USA, Inc.* (2014) 225 Cal.App.4th
26 786, 794.) “A motion for judgment notwithstanding the verdict essentially asks the trial court to
27 vacate the judgment entered on the verdict and to enter a new judgment despite the verdict.”
28 (*Beavers v. Allstate Ins. Co.* (1990) 225 Cal.App.3d 310, 330.)

1 At page 4 of her Opposition, Ramirez argues that “even evidence which the moving party
2 claims to have been improperly admitted during trial constitutes ‘substantial evidence’ on a JNOV
3 motion.” (Opp., at p. 4, citing *Donahue v. Ziv* (1966) 245 Cal.App.2d 593, 609.) But that is not
4 the proper legal standard, nor is it a proper read of *Donahue*. *Donahue* addresses evidentiary
5 *weight*, not the legal sufficiency, or viability, of a legal theory. (*Id.*)

6 The City’s Motion argues that even accepting all evidence as true, Ramirez’s *legal theory*
7 was defective from the start—“camp” affiliation and political animus are *not* unlawful activity.
8 Indeed, such freedom of association is constitutionally protected. (U.S. Const., 1st Amend; Cal.
9 Const., art. 1, § 3(a).) And neither the whistleblower statute nor FEHA classifies political
10 allegiances, camps, or factions as illegal. It follows that complaints about these lawful
11 associations are not protected activity as a matter of law. (Mot., at pp. 15–17.) This Court itself
12 said so, but nonetheless gave the case to the jury by generously rebranding the issue as “reporting
13 gender discrimination.” But the theory of Ramirez’s case was a bell the court could not un-ring.
14 Because the case was tried on a legally unsupported ground, it produced a fatally erroneous
15 judgment. (RT, 11/21/25, at p. 75.)

16 When Ramirez’s theory of liability is legally non-cognizable—that is, when the
17 complained-of actions do not constitute protected activity as recognized by the jurisprudence of
18 the anti-discrimination and retaliation statutes—there can be no substantial evidence supporting
19 the verdict. (*Dinslage v. City & County of San Francisco* (2016) 5 Cal.App.5th 368, 382–383
20 [court affirming grant of summary judgment where the employee’s conduct in opposing
21 employer’s “unwise or even improper actions” was “not protected activity under the FEHA” as a
22 matter of law]; *Conservatorship of O.B.* (2020) 9 Cal.5th 989, 1006 [“ Substantial evidence is
23 evidence that is “of ponderable legal significance,” “reasonable in nature, credible, and of solid
24 value,” and “ ‘substantial’ proof of the essentials *which the law requires in a particular case*”].)
25 Ramirez’s reliance on *Donahue* does not save a verdict built on a legally invalid predicate.
26 Ramirez’s claim was defective *ab initio*, devoid of substantial evidence, and therefore JNOV is
27 required.

28

1 **B. None of Ramirez’s claims were supported by substantial evidence.**

2 **1. Ramirez failed to prove causation because her liability theory was**
3 **tethered to the non-actionable theory that the existence of “camps” was**
4 **somehow “illegal.”**

5 “Past California cases hold that in order to establish a prima facie case of retaliation under
6 the FEHA, a plaintiff must show (1) he or she engaged in a ‘protected activity,’ (2) the employer
7 subjected the employee to an adverse employment action, and (3) a causal link existed between the
8 protected activity and the employer’s action.” (*Yanowitz v. L’Oreal USA, Inc.* (2005) 36 Cal.4th
9 1028, 1042, citing *Iwekaogwu v. City of Los Angeles* (1999) 75 Cal.App.4th 803, 814–815; *Flait v.*
10 *North American Watch Corp.* (1992) 3 Cal.App.4th 467, 476.)

11 “If every minor change in working conditions or trivial action were a materially adverse
12 action then any ‘action that an irritable, chip-on-the-shoulder employee did not like would form
13 the basis of a discrimination suit.’ [Citation.]” (*McRae v. Department of Corrections &*
14 *Rehabilitation* (2006) 142 Cal.App.4th 377, 386, citing *Thomas v. Department of Corrections*
15 (2000) 77 Cal.App.4th 507, 511.) “The plaintiff must show the employer’s retaliatory actions had
16 a detrimental and substantial effect on the plaintiff’s employment.” (*McRae, supra*, 142
17 Cal.App.4th at p. 386, citing *Akers v. County of San Diego* (2002) 95 Cal.App.4th 1441, 1455.)

18 In *Chen*, the court highlighted the stark difference between activity that is statutorily
19 “protected” (and thus redressable) under FEHA, and conduct that amounts to nothing more than
20 political animus. (*Chen v. County of Orange* (2002) 96 Cal.App.4th 926, 943, citing *State*
21 *Division of Human Rights v. Village of Spencerport* (1980) 434 N.Y.S.2d 52, 54 (*State Division*).)
22 As the *Chen* court explained in reference to *State Division*, plaintiff’s theory of liability in *State*
23 *Division* “was ‘political retaliation,’ and in the absence of some other reason to make the political
24 retaliation unlawful, discharging her for the unpopularity of her husband did not contravene the
25 marital status discrimination statutes.” (*Chen, supra*, 96 Cal.App.4th at 943.) The court in *Chen*
26 affirmed the trial court’s grant of defendant’s motion for nonsuit on the marital status
27 discrimination claim, as the foundation for plaintiff’s claim was that “unfavorable assignments
28 were allegedly a manifestation of the Capizzi faction’s lack of approval of her relationship with,

1 and marriage to, Rutledge.” (*Id.* at 930.) This was not a cognizable, nor actionable, basis to
2 support FEHA liability.

3 Indeed, cases routinely confirm that FEHA claims fail as a matter of law if the plaintiff
4 fails to proffer cognizable evidence of activity that is protected under FEHA. (*Moore v. Regents*
5 *of University of California* (2016) 248 Cal.App.4th 216, 248–249 [plaintiff “offered no authority
6 to support her contention that an employee’s notifying his or her employer of a medical issue that
7 may be a disability under the statute constitutes “protected activity” on which a FEHA retaliation
8 claim may rest”]; *Nealy v. City of Santa Monica* (2015) 234 Cal.App.4th 359, 381 [“But protected
9 activity does not include a mere request for reasonable accommodation”]; *Gardner v. City of*
10 *Berkeley* (N.D.Cal..2012) 838 F.Supp.2d 910, 925 [mere “act of receiving a medical retirement is
11 not a ‘protected activity’ ” under FEHA].)

12 **2. Ramirez’s testimony and arguments compelled the jury to award**
13 **damages based upon a defective liability theory.**

14 Ramirez’s causes of action were inextricably based on the existence of allegedly “illegal”
15 factions, camps, and political animus that existed at the police department. Ramirez drummed on
16 this theme repeatedly throughout the course of trial. (See RT, 10/29/25, at pp. 38:12-65:8; RT,
17 10/29/25, at pp. 40:10-42:4; RT, 10/29/25, at pp. 42:15-44:18; RT, 10/29/25, at pp. 45:9-24; RT,
18 10/29/25, at pp. 46:17-47:6; RT, 10/29/25, at pp. 55:14-59:16; RT, 10/29/25, at pp. 61:21-64:5;
19 RT, 10/29/25, at pp. 64:6-65:8.) Even the Opposition references this same theory of liability to
20 demonstrate that she allegedly adduced substantial evidence at trial: “Plaintiff – as one perceived
21 to be in the wrong ‘camp’ – was confronted, criticized, admonished and warned regarding with
22 whom she associated and that she was confronted, questioned and intimidated by and about ‘gang-
23 like’ loyalty to Valentin.” (Opp., at p. 10.)

24 Moreover, at footnote 11 of the Opposition, Ramirez states: “There can be no dispute
25 based on the days of trial testimony that Plaintiff most certainly had ‘reasonable cause to believe’
26 that Defendant’s clearly illegal conduct was, in fact, illegal.” (Opp., at p. 14, citing *Vatalaro v.*
27 *County of Sacramento* (2022) 79 Cal.App.5th 367, 380, 383.) Ramirez’s attempt to repackage this
28 defective trial into something that should be rubber stamped is alarming. Ramirez sold the jury on

1 a defective premise of liability; this Court advised the jury (too late) in Special Instruction No. 1
2 that camps were not illegal and that the evidence was just for “context”; and this Court
3 erroneously permitted the case to proceed to a jury.

4 While a plaintiff’s complaint about activity that the plaintiff *reasonably* but incorrectly
5 believed was illegal may be protect against retaliation (*see Contreras v. Green Thumb Produce*
6 (2025) 116 Cal.App.5th 1251, 1261; but see Chin et al., Cal. Practice Guide: Employment
7 Litigation (The Rutter Group 2026) ¶ 5:1754.2, citing *Nejadian v. County of Los Angeles* (2019)
8 40 Cal. App.5th 703, 719 [“An employee’s reasonable but incorrect suspicion of illegality is not
9 sufficient”]), “[t]o have a reasonably based suspicion of illegal activity, the employee must be able
10 to point to some legal foundation for his suspicion—some statute, rule or regulation which may
11 have been violated by the conduct he disclosed.” (*Ross v. County of Riverside* (2019) 36
12 Cal.App.5th 580, 592.) Here, there is no legal basis for Ramirez’s *unreasonable* belief that the
13 existence of political camps within the police department was illegal. This Court should therefore
14 grant judgment notwithstanding the verdict.

15 **3. The “camps as pretext” argument is a *post-hoc* recharacterization that**
16 **contradicts the trial record.**

17 “A motion for judgment notwithstanding the verdict of a jury may properly be granted
18 only if *it appears from the evidence*, viewed in the light most favorable to the party securing the
19 verdict, that there is no substantial evidence to support the verdict.” (*Hauter v. Zogarts* (1975) 14
20 Cal.3d 104, 110, italics added.)

21 Here, Ramirez is materially altering the nature and basis of her trial theory. For example,
22 she argues that she “presented substantial evidence of retaliation for her protected complaints
23 related to the treatment of female employees.” (Opp., at 2:3-6.) That is inaccurate. Ramirez
24 cannot switch theories post-verdict to save a legally defective claim. (*See Border Business Park,*
25 *Inc. v. City of San Diego* (2006) 142 Cal.App.4th 1538, 1560 [judgment cannot be upheld based
26 on “a legal theory which was not submitted to the jury”]; *Richmond v. Dart Industries, Inc.* (1987)
27 196 Cal.App.3d 869, 878 [plaintiffs could not raise a new theory of liability on appeal post-verdict
28 where they made no mention of it in their opening statement, the theory was not asserted during

1 the trial and the theory was not “argued with reasonable clarity in plaintiffs’ closing argument”].)

2 Similarly, Ramirez now in the midst of post-trial motions, reframes her claims as being
3 about the WLE memo and gender discrimination complaints—not camps. But her own counsel
4 told the jury camps were the “foundation,” “heart,” and “integral” part of the lawsuit. (RT,
5 8/29/25, at p. 60:12-16; RT, 9/5/25, at p. 19:2-8; RT, 11/25/25, at p. 11:17-21.) Furthermore, her
6 own testimony confirmed she was asking the jury to impose liability because she was “being
7 treated unfairly because of the camps.” (RT, 10/29/25, at p. 155:5-9.) The jury verdict was
8 necessarily infected by the camp evidence because Ramirez never separated them—they were one
9 theory. And that theory was erroneous.

10 **4. The Opposition conflates the WLE memo’s content with Ramirez’s**
11 **purpose in submitting it. There is no evidence of retaliation based on**
12 **any protected activity.**

13 Ramirez catalogs the WLE memo’s content (i.e., gender disparities, condescending
14 language, etc.) to argue the *disclosure itself* was protected, relying on the jury instruction that “it is
15 not Rita Ramirez’s motivation for her disclosure, but only the content of that disclosure, that
16 determines whether the disclosure is protected.” (Opp., at p. 6.) She then marshals extensive
17 testimony about what the WLE memo contained and what various witnesses said about the
18 department’s treatment of female officers. (Opp., at pp. 8-9.)

19 But the City’s causation argument is distinct: even if the memo’s content was protected,
20 there is zero evidence that any retaliation was caused by the memo. Ramirez’s own brief catalogs
21 the alleged adverse events—i.e., cancelled meetings, duty reassignments, shunning—*without once*
22 *connecting any of them to the WLE disclosure*. (Opp. at pp. 10-11.) The Opposition instead
23 attributes those events to Valentin’s general conduct toward Ramirez, *without identifying any*
24 *witness* who testified that a specific adverse action followed because of the memo. Ramirez
25 herself admitted she never discussed the complaint with Valentin, which itself renders all of
26 Ramirez’s arguments baseless. (RT 10/29/25 at p. 162, cited in City’s Motion at p. 16.)

27 Moreover, the requisite “adverse employment action” needed to support a FEHA claim
28 must have “materially affect[ed]the terms, conditions, or privileges of [their] employment.”

1 (*Yanowitz, supra*, 36 Cal.4th at p. 1052.) “Minor or relatively trivial adverse actions or conduct by
2 employers or fellow employees that, from an objective perspective, are reasonably likely to do no
3 more than anger or upset an employee cannot properly be viewed as materially affecting the terms,
4 conditions, or privileges of employment and are not actionable.” (*Id.* at p. 1054; see *Brown v. Los*
5 *Angeles Unified School District* (2021) 60 Cal.App.5th 1092, 1106–1107 (*Brown*); *Arnold, supra*,
6 53 Cal.App.5th at 427–428; *Mackey v. Board of Trustees of California State University* (2019) 31
7 Cal.App.5th 640, 663–664 (*Mackey*); *Kelley v. The Conco Companies* (2011) 196 Cal.App.4th
8 191, 212 (*Kelley*) [“Mere ostracism in the workplace is insufficient to establish an adverse
9 employment decision”].) “ ‘[W]orkplaces are rarely idyllic retreats, and the mere fact that an
10 employee is displeased by an employer’s act or omission does not elevate that act or omission to
11 the level of a materially adverse employment action.’ ” (*McRae v. Department of Corrections &*
12 *Rehabilitation* (2006) 142 Cal.App.4th 377, 386; see also *Thompson v. City of Monrovia* (2010)
13 186 Cal.App.4th 860, 879 [employment actions such as hiring and firing, performance
14 evaluations, “*deciding who will and who will not attend meetings, [and] deciding who will be laid*
15 *off*” do not qualify as harassment].) Because Ramirez’s evidence was insufficient to establish an
16 adverse employment action, JNOV is necessary.

17 **5. The Opposition’s own evidence of “retaliation” is temporally and**
18 **causally unmoored.**

19 “The cases that accept mere temporal proximity between an employer’s knowledge of
20 protected activity and an adverse employment action as sufficient evidence of causality to
21 establish a prima facie case uniformly hold that the temporal proximity must be ‘very close.’ ”
22 (*Clark County School Dist. v. Breeden* (2001) 532 U.S. 268, 273, citing *O’Neal v. Ferguson*
23 *Constr. Co.* (10th Cir. 2001) 237 F.3d 1248, 1253.) “Standing alone against Defendant’s strongly
24 supported legitimate reason for terminating [Plaintiff], temporal proximity does not amount to
25 more than a scintilla of evidence of [discrimination].” (*Arteaga v. Brink’s, Inc.* (2008) 163
26 Cal.App.4th 327, 353, citing *Padron v. BellSouth Telecommunications, Inc.* (S.D.Fla.2002) 196
27 F.Supp.2d 1250, 1257, affd. Mem. (11th Cir. 2003) 62 Fed.Appx. 317.)

28 Here, the Opposition presents—what might appear to be—an impressive-looking timeline

1 of adverse events.¹ (Opp., at pp. 10–12 .) But close scrutiny reveals major problems. First, as
2 shown above, most of Ramirez’s “retaliation” evidence concerns non-actionable events. (E.g.,
3 *Yanowitz, supra*, 36 Cal.4th at 1054; *Brown, supra*, 60 Cal.App.5th at pp. 1106–1107; *Kelley,*
4 *supra*, 196 Cal.App.4th at 212; *McRae, supra*, 142 Cal.App.4th at 386.) Moreover, the alleged
5 shunning, lunch exclusions, and cancelled TriTech meetings began—by Ramirez’s own account—
6 occurred in 2020, well before her April 2022 formal complaint and before the August 2021
7 investigative interview. (*Id.* at 9–10.) Additionally, Ramirez’s testimony established the adverse
8 treatment began because she would not choose a “camp”—events that predated, not followed, any
9 WLLC-related disclosure. The post-August 2021 events she catalogs (duty reassignments,
10 January 2022 meeting, April 2022 reassignments) are simply continuations of a course of conduct
11 that was already underway and that Ramirez herself attributed to camp dynamics.

12 Next, Ramirez cites to the same evidence the City relied on – the April 2022 written
13 complaint. (Opp., at 10:1-5.) But this evidence concerns conduct that is unactionable. The April
14 2022 complaint was the culmination of “one, two, three, four – several – several complaints that I
15 had made” (RT, 10/29/25, at pp. 152:23-153:6.) And when specifically asked: “Tell us what
16 you were complaining about” in this culminating, all-encompassing complaint, she responded: “*So*
17 *I was making a complaint that I was being treated unfairly because of the camps.*” (RT, 10/29/25,
18 at p. 155:5-9, italics added.)

19 All of Ramirez’s causes of action were based on the same defective premise. As a result,
20 Ramirez failed to present substantial evidence establishing a causal connection between any
21 protected activity and actionable retaliation. Accordingly, this Court should grant JNOV.

22 **6. The Opposition fails to adequately address the lack of subjective belief**
23 **and intent.**

24 The City’s case law and arguments in the Motion were conclusive that subjective belief
25 and intent is required to state a Government Code § 12940(h) and Labor Code § 1102.5 retaliation
26 claim, of which there was no evidence. (JNOV Motion at 17:20-19:23.) Ramirez’s counsel
27

28 ¹ The Opposition impermissibly used single-spaced text to avoid violating the page limitations.

1 misrepresents the *Vatalaro* case to this Court to try to argue that subjective belief was not
2 necessary.

3 In *Vatalaro, supra*, 79 Cal.App.5th at 380-383, the court express “hesitat[ion]” and
4 “doubts” about how to interpret the requirements of Labor Code § 1102.5, and “stop short of
5 rejecting” either interpretation and conclude “we need not pursue this issue further.” The *Vatalaro*
6 court’s treatment of the issue is pure dicta. However, even more telling, the *Vatalaro* court cites
7 what it refers to as “many cases” that support the City’s position here, including six California
8 state court cases and especially the California Supreme Court in *People v. Gonzales* (2013) 56
9 Cal.4th 353, 380, fn. 12, which holds that “[a]lthough the statute, by its terms, only requires the
10 [plaintiff] to have ‘reasonable cause to believe’ . . . the drafters intended the exception to come
11 into play only when the [plaintiff] has reasonable cause to believe **and actually believes**”
12 (*See Vatalaro, supra*, 79 Cal.App.5th at 380-383, emphasis added.) The only authority that the
13 *Vatalaro* court relies on for the opposite conclusion are one 5th Circuit and one 7th Circuit federal
14 court case. (*See id.*) The *Vatalaro* court went on to uphold summary judgment for the County
15 against the plaintiff’s § 1102.5 claim. (*Id.* at 388.)

16 The City cited controlling California case law that subjective belief and intent are required
17 to support a claim. Instead of actually addressing those cases, Ramirez’s counsel resorts to the
18 single irrelevant *Vatalaro* case setting forth dicta based solely on two federal cases that the
19 *Vatalaro* court itself contradicted with six California state cases. The law is that subjective belief
20 of illegality and subjective intent to oppose an unlawful act are required. Ramirez testified that
21 she had none.

22 **C. Ramirez misrepresents the evidence in the Opposition.**

23 In order to rehabilitate a clearly defective verdict and resulting judgment, Ramirez claims
24 that it was supported by substantial evidence. However, a careful read of the Opposition
25 demonstrates that it is permeated by misstatements of fact and evidence. A summary of
26 misrepresentations is attached as Exhibit “1” to the Declaration of Seymour B. Everett, III.

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28

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D. Because Ramirez’s retaliation claims fail, so too must the failure to prevent claim.

Ramirez fails to address and concedes, as she must, that if her FEHA and Labor Code retaliations claims fail, so too does her failure to prevent claim as a matter of law. (*Dickinson v. Burke Williams, Inc.* (2015) 234 Cal.App.4th 1307, 1315; *Trujillo v. No. County Transit Dist.* (1998) 63 Cal.App.4th 280, 287, 289; *Carter v. Cal. Dept. of Veterans Affairs* (2006) 38 Cal.4th 914, 925 fn. 4 [“courts have required a finding of actual discrimination or harassment under FEHA before a plaintiff may prevail under section 12940(k)”]; Gov. Code, § 12940(k); *Thompson v. City of Monrovia* (2010) 186 Cal.App.4th 860, 880.) Ramirez’s failure to prevent retaliation claim fails with the rest.

III. CONCLUSION

For the foregoing reasons, judgment should be entered in the City’s favor, notwithstanding the verdict.

DATED: March 23, 2026

Respectfully submitted,

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PROOF OF SERVICE

**Ramirez v. City of Santa Ana
Case No. 30-2022-01287702-CU-OE-NJC**

STATE OF CALIFORNIA, COUNTY OF ORANGE

At the time of service, I was over 18 years of age and not a party to this action. I am employed in the County of Orange, State of California. My business address is 2030 Main Street, Suite 1200, Irvine, CA 92614.

On March 23, 2026, I served true copies of the following document(s) described as

DEFENDANT CITY OF SANTA ANA'S REPLY TO PLAINTIFF'S OPPOSITION TO MOTION FOR COMPLETE OR PARTIAL JUDGMENT NOTWITHSTANDING THE VERDICT

I served the documents on the interested parties in this action as follows:

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<p>Hon. Nathan Vu N15@occourts.org</p>	<p><i>Judge of the Superior Court</i></p>

BY E-MAIL OR ELECTRONIC TRANSMISSION: I caused a copy of the document(s) to be sent from e-mail address nshannon@everettdorey.com to the persons at the e-mail addresses listed in the Service List. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful.

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

Executed on March 23, 2026, at Irvine, California.



Nydia Shannon