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IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

12 MIKE ABOUMRAD, SHANT
13 BARTEMIAN, GREGORY
14 BERGER, CRAIG CAVANAUGH,
15 STEVEN GONZALEZ, JONATHAN
16 GRANT, RYAN HICKS, JAMES
17 HIGBEE, ARTHUR LIM, MIGUEL
18 MANZANO, KEVIN MILLESON,
19 TREY NELSON, MARK RAMOS,
20 NOLAN REIDEL, RONALD
21 ROMMELFANGER, DEREK
22 SHUBIN, THOMAS TOMKO, on
23 behalf of themselves and all similarly
24 situated individuals,
25
26 Plaintiffs,
27
28 v.
29
30 BORREGO SPRINGS FIRE
31 PROTECTION DISTRICT,
32
33 Defendant.

Case No. '20CV0933 L KSC
**COMPLAINT FOR VIOLATIONS
OF THE FAIR LABOR STANDARDS
ACT**
[29 U.S.C. § 216(b)]

I.

INTRODUCTION

1. This action is brought pursuant to the provisions of the Fair Labor Standards

Act (“FLSA”), 29 U.S.C. sections 201, et seq., to recover from Defendant BORREGO SPRINGS FIRE PROTECTION DISTRICT (hereinafter “Defendant”) unpaid overtime and other compensation, interest thereon, liquidated damages, costs of suit, and reasonable attorney fees.

2. This action arises from Defendant’s failure to include all statutorily required forms of compensation in the “regular rate” used to calculate overtime compensation for Plaintiffs and all similarly situated individuals.

II.

PARTIES

3. MIKE ABOUMRAD, SHANT BARTEMIAN, GREGORY BERGER, CRAIG CAVANAUGH, STEVEN GONZALEZ, JONATHAN GRANT, RYAN HICKS, JAMES HIGBEE, ARTHUR LIM, MIGUEL MANZANO, KEVIN MILLESON, TREY NELSON, MARK RAMOS, NOLAN REIDEL, RONALD ROMMELFANGER, DEREK SHUBIN, and THOMAS TOMKO (“Plaintiffs”) are employed by the Defendant. Plaintiffs bring this action on behalf of themselves and all similarly situated individuals who Defendant failed to properly compensate for overtime hours worked within the three years prior to filing this action.

4. Defendant, BORREGO SPRINGS FIRE PROTECTION DISTRICT, is a political subdivision of the State of California and employed the Plaintiffs. Defendant implemented an illegal compensation computation method which undercounts Plaintiffs’ “regular rate” of pay. Defendant’s method of calculating Plaintiffs’ “regular rate” of pay results, and has resulted, in the under-payment for overtime hours worked. Defendant suffered or permitted Plaintiffs to perform overtime work without proper compensation.

5. Plaintiffs bring this action on behalf of themselves and all other similarly situated individuals. Those individuals constitute a well-defined community of interest in the questions of law and fact at issue in this case. The claims

1 of the represented Plaintiffs are typical of the claims of those similarly
2 situated.

- 3 6. The named Plaintiffs will fairly and adequately reflect and represent the
4 interests of those similarly situated. There is no conflict as to the individually
5 named Plaintiffs and other members of the class with respect to this action
6 or with respect to the claims for relief set forth herein.

7 **III.**

8 **JURISDICTION**

- 9 7. This action is brought pursuant to the provisions of the FLSA, 29 U.S.C.
10 sections 201, et seq., to recover from Defendant unpaid overtime
11 compensation, interest thereon, liquidated damages, costs of suit, and
12 reasonable attorney fees. This Court has jurisdiction over this action
13 pursuant to 28 U.S.C. section 1331 and 29 U.S.C. section 216(b), because
14 this action is based on the FLSA. This Court has subject matter jurisdiction
15 of this action pursuant to 29 U.S.C. sections 207, et seq.
- 16 8. Venue is proper because the acts and omissions giving rise to this action
17 occurred primarily in the Southern District.

18 **IV.**

19 **COLLECTIVE ACTION ALLEGATIONS**

- 20 9. Plaintiffs bring this action on behalf of themselves and all other persons
21 similarly situated who work, or have worked, for the Defendant at any time
22 in the last three years and were deprived of their complete statutory overtime
23 compensation. Those individuals are similarly situated and constitute a well-
24 defined community of interest in their respective questions of law and fact
25 relevant to this action. Plaintiffs' claims are typical of those of other
26 individuals similarly situated. Plaintiffs will fairly and adequately represent
27 the interests of those similarly situated.

1 10. This action is brought by Plaintiffs as a collective action, on their own behalf
2 and on behalf of all others similarly situated, pursuant to 29 U.S.C. section
3 216(b), for unpaid overtime compensation, liquidated damages thereon,
4 based on a three-year statute of limitations, and relief incident and
5 subordinate thereto, including attorney fees and costs.

6 11. Plaintiffs' claims for relief for violations of the FLSA are brought and
7 maintained as an "opt-in" collective action pursuant to 29 U.S.C. section
8 216(b) for all violations of the FLSA.

9 12. Plaintiffs hereby consent to sue for violations of the FLSA, pursuant to 29
10 U.S.C. sections 216(b) and 256.

11 13. On information and belief, the exact number of members similarly situated
12 in the collective group, as herein identified and described, is estimated to
13 consist of well over fifteen individuals.

14 14. A collective action is a superior method for bringing this action in that there
15 is a well-defined community of interest in the questions of law and fact.
16 There are common questions of law and fact in this action relating to and
17 affecting the rights of each member of the collective group, including:
18 whether Defendant failed to fully compensate Plaintiffs and similarly
19 situated individuals for all overtime hours worked by excluding certain
20 remunerations from the "regular rate" of pay used to calculate their overtime
21 compensation, including but not limited to: cash in lieu of health benefits,
22 contributions made towards the purchase of health benefits, holiday in lieu
23 compensation, paramedic certification pay, as well as other payments made
24 pursuant to the applicable collective bargaining agreements. The relief
25 sought is common to the entire class.

26 15. Plaintiffs' claims and the claims of those similarly situated depend on a
27 showing of Defendant's acts and omissions giving rise to Plaintiffs' rights to
28 the relief sought herein. There is no conflict as to the named Plaintiffs and

1 other members of the collective group seeking to opt in, with respect to this
 2 action, or with respect to the claims for relief set forth herein.

3 16. This action is properly maintained as a collective action in that the
 4 prosecution of separate actions by individual members of the collective
 5 group would create a risk of adjudications with respect to individual
 6 members of the class which may, as a practical matter, be dispositive of the
 7 interests of the other members not parties to the adjudications, or may
 8 substantially impair or impede their ability to protect their interests.

9 17. Plaintiffs' counsel is experienced and capable in the field of FLSA and
 10 labor/employment litigation and has successfully represented thousands of
 11 claimants in other litigation of this nature.

12 18. Plaintiffs' counsel will conduct and be responsible for Plaintiffs' case herein.
 13 David E. Mastagni, Isaac Stevens, Tashayla D. Billington, and Joel
 14 Weinstein, who will be primarily responsible for litigating this matter, have
 15 represented thousands of employees pursuing wage and hour claims
 16 throughout the State of California, and have recovered significant sums on
 17 their behalf.

18 19. This action is appropriate for conditional certification as a collective action
 19 because Defendant subjected Plaintiffs, and the class of putative plaintiffs
 20 they seek to represent, to the same uniform practice of excluding certain
 21 remunerations from the "regular rate" of pay used to calculate their overtime
 22 compensation, including but not limited to: cash in lieu of health benefits,
 23 contributions made towards the purchase of health benefits, holiday in lieu
 24 compensation, paramedic certification pay, as well as other payments made
 25 pursuant to the applicable collective bargaining agreements.

26 20. This factual nexus is sufficient to justify the Court to exercise its discretion
 27 to ensure that accurate and timely notice is given to all similarly situated
 28

1 current and former non-exempt employees of Defendant so that they may
 2 make an informed decision about whether or not to join this action.

3 **V.**

4 **FACTUAL ASSERTIONS**

5 21. Plaintiffs are, or were, employed by the Defendant within the last three (3)
 6 years.

7 22. At all times relevant hereto, Defendant suffered or permitted Plaintiffs and
 8 other similarly situated individuals to work hours beyond statutory
 9 thresholds for overtime compensation required by the FLSA.

10 23. At all times relevant hereto, Defendant impermissibly excluded certain
 11 remunerations or undervalued the “regular rate” of pay, upon which all forms
 12 of Plaintiffs’ overtime compensation are based.

13 24. Pursuant to 29 U.S.C. section 207(e), the “regular rate” must include all
 14 remuneration received by an employee unless it is explicitly excluded. The
 15 burden is on an employer to demonstrate that a payment is excludable from
 16 the regular rate. (*Madison v. Resources for Human Development* 233 F.3d
 17 175, 187 (3rd. Cir. 2000).)

18 25. Defendant’s past and current practice of computing Plaintiffs’ overtime has
 19 impermissibly reduced the amount being paid to them by failing to include
 20 all statutorily required amounts into the calculation of their “regular rate” of
 21 pay as defined by 29 U.S.C. section 207(e).

22 26. Defendant failed to include monetary compensation paid to Plaintiffs and
 23 other similarly situated individuals in lieu of Defendant-provided health
 24 insurance in the “regular rate” used to calculate overtime compensation.

25 27. For example, as part of the compensation Defendant offered to Plaintiffs and
 26 other similarly situated individuals, it paid monetary compensation to
 27 individuals who opted out of Defendant-provided health benefits coverage.
 28

1 28. At all times relevant hereto, Defendant placed no condition on use of these
2 in-lieu payments.

3 29. Also, as part of the compensation it provided Plaintiffs, Defendant made
4 contributions on behalf of Plaintiffs and other similarly situated individuals
5 towards the purchase of health benefits.

6 30. In calculating the “regular rate” for the purposes of overtime compensation,
7 Defendant excluded certain remunerations it paid Plaintiffs and similarly
8 situated individuals, including but not limited to: cash payments in lieu of
9 health benefits, contributions made towards the purchase of health benefits,
10 holiday in lieu compensation, paramedic certification pay, as well as other
11 payments made pursuant to applicable collective bargaining agreements.
12 Plaintiffs are informed and believe Defendant treated such payments made
13 to similarly situated individuals in the same manner.

14 31. At all times relevant hereto, Defendant treated payments made to Plaintiffs
15 in lieu of health benefits as wages for the purposes of applicable tax
16 withholdings. Plaintiffs are informed and believe Defendant treated such
17 payments made to similarly situated individuals in the same manner.

18 32. Pursuant to 29 U.S.C. section 207(e), Defendant is statutorily required to
19 include all forms of remuneration in Plaintiffs’ “regular rate” of pay.

20 33. 29 U.S.C. section 207(e)(2) does not allow Defendant to exclude from the
21 “regular rate” monetary compensation paid to Plaintiffs and similarly
22 situated individuals in lieu of contributions for health benefits or spending
23 less than the allowance provided.

24 34. Similarly, 29 U.S.C. section 207(e)(4) only allows employers to exclude
25 from the “regular rate” contributions they irrevocably make to a trustee or
26 third person when made pursuant to a “bona fide plan” for providing health
27 insurance benefits.

28

1 35. The Department of Labor’s interpretation of the term “bona fide plan” is set
2 forth in 29 C.F.R. section 778.215(a)(5), which states in part:

3 36. The plan must not give an employee the right to assign his benefits under the
4 plan nor the option to receive any part of the employer's contributions in cash
5 instead of the benefits under the plan: Provided, however, That if a plan
6 otherwise qualified as a bona fide benefit plan under section 7(e)(4) of the
7 Act, it will still be regarded as a bona fide plan even though it provides, as
8 an incidental part thereof, for the payment to an employee in cash of all or a
9 part of the amount standing to his credit.

10 37. In *Flores v. City of San Gabriel*, 824 F.3d 890 (9th Cir. 2016); cert. denied
11 (2017) 137 S.Ct. 2117., the Ninth Circuit Court of Appeals held that
12 payments to employees in lieu of health benefits were not excludable from
13 the “regular rate” of pay under either 29 U.S.C. sections 207(e)(2) or (e)(4).
14 With respect to the exclusion codified in 207(e)(2) and its companion federal
15 regulation, the court noted “[u]nder § 778.224(a), a payment may not be
16 excluded from the “regular rate” of pay pursuant to § 207(e)(2) if it is
17 generally understood as compensation for work, even though the payment is
18 not directly tied to specific hours worked by an employee.” (*Id.*) Further, the
19 court held that cash payments in lieu of health benefits are not excludable
20 from the “regular rate” under 207(e)(4) because those payments were not
21 made to a trustee or third party.

22 38. The court in *Flores, supra*, also held that when the total cash payments made
23 directly to employees pursuant to a benefit plan are more than “incidental,”
24 the plan is not bona fide for the purposes of 29 U.S.C. section 207(e)(4) and
25 29 C.F.R. section 778.215. (*Id.* at 903.) Therefore, any contributions made
26 on behalf of an employee towards the purchase of health benefits that are not
27 made pursuant to a bona fide plan are required to be included in the
28 calculation of the “regular rate”.

1 39. On information and belief, Defendant's total cash payments made directly to
2 employees in lieu of health insurance or benefits were more than "incidental"
3 in each of the three (3) years preceding this action.

4 40. Defendant's health benefits plan is not bona fide for the purposes of 29
5 U.S.C. section 207(e)(4) and 29 C.F.R. section 778.215.

6 41. Defendant's payments made on behalf of Plaintiffs and other similarly
7 situated individuals towards the purchase of health benefits were not made
8 pursuant to a bona fide plan within the meaning of 29 U.S.C. section
9 207(e)(4) and 29 C.F.R. section 778.215.

10 42. Payments made on behalf of Plaintiffs and other similarly situated
11 individuals towards the purchase of health benefits are required to be
12 included in the calculation of their overtime compensation.

13 43. Defendant's payments made on behalf of Plaintiffs and other similarly
14 situated individuals towards the purchase of health benefits were not
15 included in any employees' regular rate for the purposes of determining
16 overtime compensation.

17 44. Because the remunerations paid to Plaintiffs and similarly situated
18 individuals in lieu of health benefits were not made for hours of non-work,
19 or made pursuant to a bona fide benefit plan, they must be included in the
20 "regular rate" of pay for determining overtime compensation as required by
21 the FLSA.

22 45. At all times relevant hereto, Defendant, through pattern and practice on a
23 district-wide basis, did not include the monetary compensation it provided
24 directly to Plaintiffs and similarly situated individuals, in lieu of health
25 benefits as well as for spending less than the monthly allowance provided,
26 towards Defendant-provided health benefits coverage into the "regular rate"
27 of pay for the purposes of determining overtime compensation as required
28 by the FLSA.

1 46. Likewise, Plaintiffs are informed and believe, and based thereon allege,
 2 Defendant failed to include contributions it made on their behalf and on
 3 behalf of other similarly situated individuals toward the purchase of health
 4 benefits in the “regular rate” used to calculate their overtime compensation.

5 47. Plaintiffs and similarly situated individuals are not entitled to paid idle
 6 holidays. Rather, Defendant requires Plaintiffs and, on information and
 7 belief, similarly situated individuals to work their regularly assigned
 8 scheduled regardless of holidays. Under the MOU governing the
 9 employment of firefighters, engineers, and fire captains, Plaintiffs and
 10 similarly situated individuals are paid compensation in lieu of observing
 11 holidays. Plaintiffs and, on information and belief, similarly situated
 12 individuals are not allowed to use this holiday in lieu compensation as leave.
 13 These holiday in lieu payments did not fluctuate with the working hours of
 14 Plaintiffs and, on information and belief, similarly situated individuals.

15 48. Defendant excluded Plaintiffs’ holiday in lieu pay from their respective
 16 “regular rate” used to calculated their overtime. On information and belief,
 17 Defendant excluded holiday in lieu pay from the “regular rate” used to
 18 calculate overtime for all similarly situated individuals.

19 49. 29 C.F.R. 778.218(b) prohibits an employer from using 29 U.S.C. section
 20 207(e)(2) to exclude payments from the “regular rate” that are made for
 21 regularly scheduled days of rest or in addition to compensation for working
 22 on other days or not due to holidays.

23 50. Defendant also provided additional incentive payments to Plaintiffs pursuant
 24 to the applicable collective bargaining agreement, including, but not limited
 25 to paramedic certification pay.

26 51. Defendant, through pattern and practice, did not include these additional
 27 incentive payments it made pursuant to the applicable collective bargaining
 28 agreement into the calculation of Plaintiffs’ respective “regular rate” of pay

1 for the purposes of determining overtime compensation as required by the
 2 FLSA. Further, on information and belief, Defendant did not include
 3 incentive payments provided by the applicable collective bargaining
 4 agreements into the “regular rate” of pay of similarly situated individuals for
 5 the purposes of determining overtime compensation as required by the
 6 FLSA.

7 52. By excluding certain items of remuneration from the “regular rate” of pay
 8 used to calculate the overtime compensation paid to Plaintiffs and other
 9 similarly situated individuals, including but not limited to cash in-lieu of
 10 health benefits, contributions towards the purchase of health benefits,
 11 holiday in lieu compensation, paramedic certification pay, as well as other
 12 payments provided by the applicable collective bargaining agreements,
 13 Defendant failed to pay them one and one-half times their “regular rate” of
 14 pay for all hours of overtime they worked.

15 53. At all times relevant hereto, Defendant and its agents and representatives
 16 were aware of their obligations to properly compute and use the correct
 17 “regular rate” of pay in calculating overtime compensation owed to Plaintiffs
 18 and similarly situated individuals.

19 54. Plaintiffs are informed and believe, and based thereon allege, Defendant and
 20 its agents and/or representatives willfully and knowingly violated the FLSA
 21 by continuing to exclude remunerations from the calculation of Plaintiffs’
 22 and similarly situated individuals’ “regular rate” of pay.

23 55. Defendant’s failure to properly compensate Plaintiffs and similarly situated
 24 individuals was not in good faith and is a willful violation of the FLSA as it
 25 applies to employees of local governments.

26 56. As a result of the foregoing violations of the FLSA alleged herein, Plaintiffs
 27 seek damages for lost overtime compensation as well as liquidated damages
 28 thereon. Plaintiffs seek these damages for the entire period of time

Defendant engaged in said unlawful and willful conduct, beginning three years prior to the filing of this complaint as prescribed by the FLSA.

57. Plaintiffs also seek reasonable attorney fees and costs pursuant to 29 U.S.C. section 216(b).

VI.

FIRST COUNT

(Fair Labor Standards Act - Failure to Pay All Overtime Compensation Earned)

63. Plaintiffs incorporate by reference each and every paragraph above inclusive as though set forth fully herein.

64. Defendant suffered or permitted Plaintiffs and, on information and belief, other similarly situated individuals to work overtime but failed to include all required forms of compensation into the “regular rate” of pay used to calculate their overtime compensation.

65. By failing to include all requisite forms of compensation in the “regular rate” of pay used to calculate overtime compensation, Defendant failed to compensate Plaintiffs and similarly situated individuals at one and one-half times the “regular rate” of pay for all overtime hours as required by the FLSA.

66. At all times relevant hereto, Defendant and its agents and representatives were aware of their obligations to pay Plaintiffs and similarly situated individuals for all hours worked at one and half times the “regular rate” of pay as required by the FLSA.

67. At all times relevant hereto, Defendant and its agents and representatives knew or should have known of their obligations to pay Plaintiffs and similarly situated individuals overtime compensation at one and one-half of their “regular rate” of pay for all hours worked in excess of the applicable maximum weekly hours established by section 207 of the FLSA.

68. At all times relevant hereto, Defendant's failure to fully compensate Plaintiffs for all hours worked was not in good faith, and was a willful violation of the FLSA.

69. As a result of the foregoing violations of the FLSA as enumerated herein, Plaintiffs seek back pay of overtime compensation that was earned but unpaid, as well as an equal amount in liquidated damages for the period beginning three (3) years prior to the filing of this action.

70. Plaintiffs also seek reasonable attorney fees and costs pursuant to 29 U.S.C. section 216(b).

VII.

PRAYER

WHEREFORE, Plaintiffs pray for judgment as follows:

1. For recovery of unpaid overtime compensation and interest thereon plus an equal amount of liquidated damages for Plaintiffs and all similarly situated individuals pursuant to 29 U.S.C. section 216(b);
2. For a determination that Defendant's conduct was reckless and/or an intentional, knowing, and a willful violation of the FLSA, and therefore Plaintiffs and similarly situated individuals are entitled to recover damages under a three (3) year statute of limitations;
3. For reasonable attorney fees pursuant to 29 U.S.C. section 216(b);
4. For costs incurred as a result of this proceeding;
5. For injunctive relief ordering the Defendant to cease and desist from engaging in said unlawful conduct, including but not limited to, revisions to applicable compensation policies to clearly indicate that the above-referenced remuneration will be included in the "regular rate" of pay for the purposes of overtime compensation;
6. For conditional certification of the collective class as pled;

1 7. For an order to timely notify all potential collective class members of
2 this action;

3 8. For such other and further relief as the court deems just and proper.

4 Respectfully submitted,

5 Dated: May 18, 2020

MASTAGNI HOLSTEDT, A.P.C.

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7

By: /s/ David E. Mastagni
DAVID E. MASTAGNI, Esq.
ISAAC S. STEVENS, Esq.
TASHAYLA D. BILLINGTON, Esq.
JOEL M. WEINSTEIN, Esq.

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JS 44 (Rev. 06/17)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

MIKE ABOUMRAD et al.,

(b) County of Residence of First Listed Plaintiff Riverside

(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

David E. Mastagni, Mastagni Holstedt, A.P.C.
1912 "I" Street, Sacramento, CA 95811 - (916) 446-4692

DEFENDANTS

BORREGO SPRINGS FIRE PROTECTION DISTRICT

County of Residence of First Listed Defendant San Diego

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

'20CV0933 L KSC**II. BASIS OF JURISDICTION** (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant
- ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Click here for: Nature of Suit Code Descriptions.

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input checked="" type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	PRISONER PETITIONS Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

V. ORIGIN (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from Another District (specify) ☐ 6 Multidistrict Litigation - Transfer ☐ 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTIONCite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
29 U.S.C. §§ 201, et seq.

Brief description of cause:

Collective action for unpaid overtime and other compensation, interest thereon and liquidated damages.**VII. REQUESTED IN COMPLAINT:**☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.**DEMAND \$**

To be proven

CHECK YES only if demanded in complaint:

JURY DEMAND:☐ Yes ☒ No**VIII. RELATED CASE(S) IF ANY**

(See instructions):

JUDGE _____

DOCKET NUMBER _____

DATE 5/18/20

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT # _____

AMOUNT _____

APPLYING IFP _____

JUDGE _____

MAG. JUDGE _____

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44**Authority For Civil Cover Sheet**

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I.(a) **Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
 - (b) **County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
 - (c) **Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- II. **Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.
- United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here. United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.
- Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.
- Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)
- III. **Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. **Nature of Suit.** Place an "X" in the appropriate box. If there are multiple nature of suit codes associated with the case, pick the nature of suit code that is most applicable. Click here for: [Nature of Suit Code Descriptions](#).
- V. **Origin.** Place an "X" in one of the seven boxes.
- Original Proceedings. (1) Cases which originate in the United States district courts.
- Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.
- Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
- Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
- Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
- Multidistrict Litigation – Transfer. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407.
- Multidistrict Litigation – Direct File. (8) Check this box when a multidistrict case is filed in the same district as the Master MDL docket.
- PLEASE NOTE THAT THERE IS NOT AN ORIGIN CODE 7.** Origin Code 7 was used for historical records and is no longer relevant due to changes in statute.
- VI. **Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service
- VII. **Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.
- Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.
- Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. **Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

Date and Attorney Signature. Date and sign the civil cover sheet.