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18 *Attorneys for Plaintiffs*

19 **UNITED STATES DISTRICT COURT**

20 **CENTRAL DISTRICT OF CALIFORNIA – EASTERN DIVISION**

21 JODI GARNESS, JACQUELINE
22 FERRER, KATHY HANSEN, ROSE
23 REYES RANGEL, REGINA
24 ROGERS, individually and on behalf
25 of all others similarly situated,

26 Plaintiffs,

27 v.

28 COUNTY OF SAN BERNARDINO,
a legal subdivision of the State of
California, and DOES 1–10,
inclusive.

Defendants.

CASE NO.

COLLECTIVE ACTION

[29 U.S.C. § 216(b)]

**COMPLAINT FOR VIOLATION OF
FAIR LABOR STANDARDS ACT**

DEMAND FOR JURY TRIAL

CONSENTS TO SUE

1 **PRELIMINARY STATEMENT**

2 1. Plaintiffs are former or current DEPARTMENT OF AGING AND
3 ADULT SERVICES (“**DAAS**”) non-exempt social worker employees of Defendant
4 COUNTY OF SAN BERNARDINO (“**Defendant**”), and bring this action, on their
5 own behalf and on behalf of all others similarly situated, under the United States
6 Fair Labor Standards Act, 29 U.S.C. § 216(b), for remedies arising out of
7 Defendants’ non-payment of overtime to its DAAS social workers.

8 **JURISDICTION AND VENUE**

9 2. This Court has subject matter jurisdiction over the claims asserted
10 herein pursuant to Article III of the United States Constitution, 28 U.S.C. § 1331,
11 and 29 U.S.C. § 216(b).

12 3. Venue is proper in this Court under 28 U.S.C. § 1391(b). Defendant
13 resides in this District for the purposes of the foregoing venue statute and a
14 substantial part of the events or omissions giving rise to the claims set forth in this
15 Complaint occurred in this District.

16 **PARTIES**

17 4. Plaintiff JODI GARNESS (“**Garness**”) is an individual. Plaintiff
18 Garness is a citizen of the United States of America and the State of California.
19 Plaintiff Garness resides in this District. Plaintiff Garness is employed as a non-
20 exempt DAAS social worker II by Defendant in its Victorville office in this District.

21 5. Plaintiff FACQUELINE FERRER (“**Ferrer**”) is an individual. Plaintiff
22 Ferrer is a citizen of the United States of America and the State of California.
23 Plaintiff Ferrer resides in this District. Plaintiff Ferrer is employed as a non-exempt
24 DAAS social worker II by Defendant in its Victorville office in this District.

25 6. Plaintiff KATHY HANSEN (“**Hansen**”) is an individual. Plaintiff
26 Hansen is a citizen of the United States of America and the State of California.
27 Plaintiff Hansen resides in this District. Plaintiff Hansen is employed as a non-
28 exempt DAAS social worker II by Defendant in its Victorville office in this District.

1 7. Plaintiff ROSE REYES RANGEL (“**Rangel**”) is an individual.
2 Plaintiff Rangel is a citizen of the United States of America and the State of
3 California. Plaintiff Rangel resides in this District. Plaintiff Rangel is employed as
4 a non-exempt DAAS social worker II by Defendant in its Victorville office in this
5 District.

6 8. Plaintiff REGINA ROGERS (“**Rogers**”) is an individual. Plaintiff
7 Rangel is a citizen of the United States of America and the State of California.
8 Plaintiff Rogers resides in this District. Plaintiff Rogers is employed as a non-
9 exempt DAAS social worker II by Defendant in its Victorville office in this District.

10 9. The additional persons who may become plaintiffs herein are also non-
11 exempt DAAS social workers who are or were employed by Defendant in its
12 Victorville office and who worked overtime hours for said Defendant without
13 receiving any or all of the compensation to which they are entitled.

14 10. Defendant is a legal subdivision of the State of California, pursuant to
15 Article 11, Section 1(a) of the California Constitution and Cal. Gov. Code § 23002.

16 11. Defendants DOES 1-10, inclusive, are sued herein under fictitious
17 names. Their true names and capacities are unknown to Plaintiffs. When their true
18 names and capacities are ascertained, Plaintiffs will amend this Complaint by
19 inserting their true names and capacities herein. Plaintiffs are informed and believe,
20 and thereon allege, that each of these fictitiously named defendants is responsible in
21 some manner for the occurrences alleged herein and that the damages alleged herein
22 were caused by such defendants.

23 **COLLECTIVE ACTION ALLEGATIONS**

24 12. Plaintiffs make the allegations contained herein on their own behalf and
25 on behalf of all others similarly situated. The allegations contained herein are made
26 upon personal knowledge as to Plaintiffs and their own acts and circumstances, and,
27 as to all other matters, upon information and belief.

1 13. During the applicable limitations period, Plaintiffs were employed as
2 non-exempt social workers by Defendant's DAAS in its Victorville office.

3 14. The allegations of this Complaint are applicable to all non-exempt
4 DAAS social workers employed by Defendant in its Victorville office during the
5 limitations period, including both current and former employees of Defendant.

6 15. Plaintiffs bring this action on behalf of themselves and on behalf of all
7 other non-exempt DAAS social workers who were employed by Defendant within
8 the applicable limitations period and who worked in excess of the maximum hours
9 prescribed by 29 U.S.C. § 207(a) without payment of all of the overtime
10 compensation required thereunder. Plaintiffs reserve the right to seek certification of
11 this matter as a collective action on behalf of the foregoing current and former
12 employees of Defendant. If discovery so indicates, Plaintiffs also reserve the right
13 to seek certification of this matter as a collective action on behalf of one or more
14 sub-classes of social workers employed by Defendants' DAAS, including, but not
15 limited to, subclasses of DAAS social workers employed at other offices.

16 16. Plaintiffs' position and situation is in all respects similar to, if not
17 identical to, the other persons on whose behalf Plaintiffs bring this action. Plaintiffs
18 reserve the right to seek to certify this action as a collective action with one or more
19 sub-classes.

20 17. Plaintiff Garness's consent to be part of this action is attached hereto as
21 Attachment A.

22 18. Plaintiff Ferrer's consent to be part of this action is attached hereto as
23 Attachment B.

24 19. Plaintiff Hansen's consent to be part of this action is attached hereto as
25 Attachment C.

26 20. Plaintiff Rangel's consent to be part of this action is attached hereto as
27 Attachment D.

28

1 21. Plaintiff Rogers's consent to be part of this action is attached hereto as
2 Attachment E.

3 **FIRST CLAIM FOR RELIEF**
4 **(Fair Labor Standards Act)**

5 22. Plaintiffs incorporate by reference the allegations of Paragraphs 1
6 through 16 of this Complaint as though fully set forth in this First Claim for Relief.

7 23. At all times relevant to this Complaint, Defendant was an enterprise
8 engaged in interstate commerce or in the production of goods for commerce as
9 defined by 29 U.S.C. §§ 203(r) and 203(s). At all times relevant to this Complaint,
10 Defendant was an employer within the meaning of 29 U.S.C. § 203(d) and has
11 employed and continued to employ social workers, including Plaintiffs, within the
12 meaning of 29 U.S.C. § 203(g).

13 24. During the applicable limitations period, Plaintiffs were employed by
14 Defendant as non-exempt DAAS social workers.

15 25. Pursuant to 29 U.S.C. § 207(a), the DAAS social workers employed by
16 Defendant, including Plaintiffs, are entitled to be compensated for all of the hours
17 they worked for Defendant, as well as time and one-half (1½) of their regular pay
18 rate for each hour worked in excess of forty (40) hours per week.

19 26. During the applicable limitations period, Defendants frequently
20 required, suffered, and/or permitted the DAAS social workers, including Plaintiffs,
21 to work more than forty (40) hours per week without paying them all of the overtime
22 compensation required by 29 U.S.C. § 207(a). This overtime was worked, **without**
23 **limitation**, during uncompensated break and meal periods, traveling and in the field,
24 and/or outside of the office.

25 27. During the applicable limitations period, Defendants failed to
26 accurately record, report, and/or preserve records of hours worked by DAAS social
27 workers, including Plaintiffs. To the extent such records exist, they are in the
28 possession of Defendants and discoverable in this action.

1 28. Defendants' unlawful conduct has been repeated and consistent
2 throughout Plaintiffs' entire period of employment as DAAS social workers.

3 29. Defendants were aware that the DAAS social workers, including
4 Plaintiffs, performed work that could not be completed in forty (40) hours per week
5 and required them to work overtime.

6 30. Upon information and belief, Defendants were aware that the DAAS
7 social workers, including Plaintiffs, worked uncompensated overtime.

8 31. Upon information and belief, Defendants' failure to pay overtime to the
9 DAAS social workers, including Plaintiffs, was "willful" for the purposes of 29
10 U.S.C. § 255(a).

11 32. By reason of Defendants' foregoing conduct, the DAAS social workers,
12 including Plaintiffs, have suffered harm and been damaged.

13 33. Plaintiffs and all others similarly situated are entitled to damages in the
14 amount of all unpaid overtime from three (3) years immediately preceding the filing
15 of this action, pursuant to 29 U.S.C. § 255(a). They are also entitled to liquidated
16 damages, plus interest and costs as allowed by law, pursuant to 29 U.S.C. § 216(b),
17 and such other legal and equitable relief as the Court deems just and proper. They
18 are also entitled to recover attorney fees and costs, pursuant to 29 U.S.C. § 216(b).
19 Plaintiffs hereby seek all of the foregoing remedies for themselves and all others
20 similarly situated.

21 34. WHEREFORE, Plaintiffs, on their own behalf and on behalf of all
22 others similarly situated, request the relief set forth in this First Claim for Relief and
23 below.

24 **PRAYER FOR RELIEF**

25 WHEREFORE, Plaintiffs JODI GARNES, JACQUELINE FERRER,
26 KATHY HANSEN, ROSE REYES-RANGEL and REGINA ROGERS pray for the
27 following, on their own behalf and on behalf of all others similarly situated:
28

- 1 A. Judgment against Defendants for an amount equal to the overtime
- 2 Defendants failed to pay at the applicable overtime rate, pursuant to 29
- 3 U.S.C. § 216(b);
- 4 B. Liquidated damages in an additional amount equal to the overtime
- 5 Defendants failed to pay at the applicable overtime rate, pursuant to 29
- 6 U.S.C. § 216(b);
- 7 C. Attorney fees and costs, pursuant to, *inter alia*, 29 U.S.C. § 216(b);
- 8 D. A finding that Defendants' violations of law were willful and providing
- 9 for a recovery period of three (3) years prior to the filing of this
- 10 Complaint, pursuant to 29 U.S.C. § 255(a);
- 11 E. An award of prejudgment interest;
- 12 F. Leave to add additional plaintiffs by motion, the filing of written
- 13 consent forms, or any other method approved by the Court; and
- 14 G. Such further relief as the Court deems just and equitable.

15 Dated: March 20, 2020

16
17 **The filer of this document attests that all other signatories listed, and on**
18 **whose behalf this filing is submitted, concur in the filing's content and have**
19 **authorized the filing.**

20 Respectfully submitted by,
21 /s/ John R. Parker, Jr.
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23 John R. Parker, Jr.
24 Celine E. Cutter
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DEMAND FOR JURY TRIAL

Pursuant to, *inter alia*, Amendment VII to the United States Constitution and Federal Rule of Civil Procedure 38(b), Plaintiffs demand a trial by jury of any and all issues in this action triable by a jury.

Dated: March 20, 2020

The filer of this document attests that all other signatories listed, and on whose behalf this filing is submitted, concur in the filing’s content and have authorized the filing.

Respectfully submitted by,

/s/ John R. Parker, Jr.

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