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18 *Attorneys for Plaintiffs*

19 **UNITED STATES DISTRICT COURT**

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

21 VIOLET MARQUEZ, LONGINA
22 SHAW, and CHANTEIL GUY,
23 individually and on behalf of all
24 others similarly situated,

25 Plaintiffs,

26 v.

27 COUNTY OF SAN BERNARDINO,
28 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

CONSENT TO SUE

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PRELIMINARY STATEMENT

1. Plaintiffs are former or current non-exempt employees of Defendant COUNTY OF SAN BERNARDINO (“**Defendant**”) in the office of the Public Guardian, and bring this action, on their own behalf and on behalf of all others similarly situated, under the United States Fair Labor Standards Act, 29 U.S.C. § 216(b), for remedies arising out of Defendants’ non-payment of overtime to its Public Guardians.

JURISDICTION AND VENUE

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

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

PARTIES

4. Plaintiff VIOLET MARQUEZ is an individual who resides in this District, and is a citizen of the United States and California. Plaintiff MARQUEZ is currently, and was, at some point during the past three years, employed as a non-exempt social worker, known as a Deputy Public Guardian, by Defendant in this District.

5. Plaintiff LONGINA SHAW is an individual who resides in this District, and is a citizen of the United States and California. Plaintiff SHAW is currently, and was, at some point during the past three years, employed as a non-exempt social worker, known as a Deputy Public Guardian, by Defendant in this District.

6. Plaintiff CHANTEIL GUY is an individual who resides in this District, and is a citizen of the United States and California. Plaintiff GUY is currently, and

1 was, at some point during the past three years, employed as a non-exempt social
2 worker, known as a Deputy Public Guardian, by Defendant in this District.

3 7. The additional persons who may become plaintiffs herein are also non-
4 exempt social workers who are or were employed by Defendant in its Public
5 Guardian office and who worked overtime hours for said Defendant without
6 receiving any or all of the compensation to which they are entitled.

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

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

16 **COLLECTIVE ACTION ALLEGATIONS**

17 10. Plaintiffs make the allegations contained herein on their own behalf and
18 on behalf of all others similarly situated. The allegations contained herein are made
19 upon personal knowledge as to Plaintiffs and their own acts and circumstances, and,
20 as to all other matters, upon information and belief.

21 11. During the applicable limitations period, Plaintiffs were employed as
22 non-exempt social workers by Defendant's Public Guardian office.

23 12. The allegations of this Complaint are applicable to all non-exempt
24 Public Guardian social workers employed by Defendant during the limitations
25 period, including both current and former employees of Defendant.

26 13. Plaintiffs bring this action on behalf of themselves and on behalf of all
27 other non-exempt Public Guardian social workers who were employed by Defendant
28 within the applicable limitations period and who worked in excess of the maximum

1 hours prescribed by 29 U.S.C. § 207(a) without payment of all of the overtime
2 compensation required thereunder. Plaintiffs reserve the right to seek certification of
3 this matter as a collective action on behalf of the foregoing current and former
4 employees of Defendant. If discovery so indicates, Plaintiffs also reserve the right
5 to seek certification of this matter as a collective action on behalf of one or more
6 sub-classes of social workers employed at the office of the Public Guardian,
7 including, but not limited to, Deputy Public Guardians, and Senior Public Guardians.

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

12 15. Plaintiff Marquez's consent to be part of this action is attached hereto
13 as Attachment A.

14 16. Plaintiff Shaw's consent to be part of this action is attached hereto as
15 Attachment B.

16 17. Plaintiff Guy's consent to be part of this action is attached hereto as
17 Attachment C.

18
19 **FIRST CLAIM FOR RELIEF**
20 **(Fair Labor Standards Act)**

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

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

1 20. During the applicable limitations period, Plaintiffs were employed by
2 Defendant as non-exempt Public Guardian social workers.

3 21. Pursuant to 29 U.S.C. § 207(a), the Public Guardian social workers
4 employed by Defendant, including Plaintiffs, are entitled to be compensated for all
5 of the hours they worked for Defendant, as well as time and one-half (1½) of their
6 regular pay rate for each hour worked in excess of forty (40) hours per week.

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

13 23. During the applicable limitations period, Defendants failed to
14 accurately record, report, and/or preserve records of hours worked by Public
15 Guardian social workers, including Plaintiffs. To the extent such records exist, they
16 are in the possession of Defendants and discoverable in this action.

17 24. Defendants' unlawful conduct has been repeated and consistent
18 throughout Plaintiffs' entire period of employment as Public Guardian social
19 workers.

20 25. Defendants were aware that the Public Guardian social workers,
21 including Plaintiffs, performed work that could not be completed in forty (40) hours
22 per week and required them to work overtime.

23 26. Upon information and belief, Defendants were aware that the Public
24 Guardian social workers, including Plaintiffs, worked uncompensated overtime.

25 27. Upon information and belief, Defendants' failure to pay overtime to the
26 Public Guardian social workers, including Plaintiffs, was "willful" for the purposes
27 of 29 U.S.C. § 255(a).

28

1 28. By reason of Defendants' foregoing conduct, the Public Guardian social
2 workers, including Plaintiffs, have suffered harm and been damaged.

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

11 30. WHEREFORE, Plaintiffs, on their own behalf and on behalf of all
12 others similarly situated, request the relief set forth in this First Claim for Relief and
13 below.

14 **PRAYER FOR RELIEF**

15 WHEREFORE, Plaintiff Briana Ribota prays for the following, on their own
16 behalf and on behalf of all others similarly situated:

- 17 A. Judgment against Defendants for an amount equal to the overtime
18 Defendants failed to pay at the applicable overtime rate, pursuant to 29
19 U.S.C. § 216(b);
- 20 B. Liquidated damages in an additional amount equal to the overtime
21 Defendants failed to pay at the applicable overtime rate, pursuant to 29
22 U.S.C. § 216(b);
- 23 C. Attorney fees and costs, pursuant to, *inter alia*, 29 U.S.C. § 216(b);
- 24 D. A finding that Defendants' violations of law were willful and providing
25 for a recovery period of three (3) years prior to the filing of this
26 Complaint, pursuant to 29 U.S.C. § 255(a);
- 27 E. An award of prejudgment interest;
- 28

- 1 F. Leave to add additional plaintiffs by motion, the filing of written
- 2 consent forms, or any other method approved by the Court; and
- 3 G. Such further relief as the Court deems just and equitable.

4
5 Dated: April 3, 2020

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

9 Respectfully submitted by,
10
11 /s/ John R. Parker, Jr.
12 C. Brooks Cutter
13 John R. Parker, Jr.
14 Celine E. Cutter
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1 **DEMAND FOR JURY TRIAL**

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

5 Dated: April 3, 2020

6
7 **The filer of this document attests that all other signatories listed, and on**
8 **whose behalf this filing is submitted, concur in the filing’s content and have**
9 **authorized the filing.**

10 Respectfully submitted by,

11 /s/ John R. Parker, Jr.

12 C. Brooks Cutter

13 John R. Parker, Jr.

14 Celine E. Cutter

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