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22 *Attorneys for Plaintiffs*

23
24 **UNITED STATES DISTRICT COURT**
25
26 **CENTRAL DISTRICT OF CALIFORNIA – EASTERN DIVISION**

27 PENNY PIKE and DAVID DENKIN,
28 individually and on behalf of all
others similarly situated,

Plaintiffs,

v.

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

Defendants.

CASE NO. 5:17-cv-01680

COLLECTIVE ACTION
[29 U.S.C. § 216(b)]

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

DEMAND FOR JURY TRIAL

CONSENTS TO SUE

COMPLAINT; DEMAND FOR JURY TRIAL; CONSENTS TO SUE

1 worker by Defendant in this District. Plaintiff Pike was not a plaintiff or opt-in
2 plaintiff in the Denkin Collective Action and did not release any claims or remedies
3 against Defendant in the Denkin Settlement.

4 6. Plaintiff DAVID DENKIN (“**Denkin**”) is an individual. Plaintiff
5 Denkin is a citizen of the United States of America and the State of California.
6 Plaintiff Denkin resides in this District. Plaintiff Denkin is employed as a non-
7 exempt DAAS social worker by Defendant in this District. Plaintiff Denkin was a
8 plaintiff in the Denkin Collective Action, and brings claims herein arising out of
9 uncompensated overtime he worked as a DAAS social worker that are not Released
10 Claims, including, but not necessarily limited to: (a) claims related to
11 uncompensated overtime worked at offices other than Rancho Cucamonga; and (b)
12 claims related to uncompensated overtime worked on or after August 16, 2017.

13 7. The additional persons who may become plaintiffs herein are also non-
14 exempt DAAS social workers who are or were employed by Defendant and who
15 worked overtime hours for said Defendant without receiving any or all of the
16 compensation to which they are entitled.

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

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

26 **COLLECTIVE ACTION ALLEGATIONS**

27 10. Plaintiffs make the allegations contained herein on their own behalf and
28 on behalf of all others similarly situated. The allegations contained herein are made

1 upon personal knowledge as to Plaintiffs and their own acts and circumstances, and,
2 as to all other matters, upon information and belief.

3 11. During the applicable limitations period, Plaintiffs were employed as
4 non-exempt social workers by Defendant's DAAS.

5 12. The allegations of this Complaint are applicable to all DAAS social
6 workers employed by Defendant during the limitations period, including both
7 current and former employees of Defendant, to the extent that the social workers did
8 not release any claims in the Denkin Settlement.

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

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

24 15. Plaintiff Pike's consent to be part of this action is attached hereto as
25 Attachment A.

26 16. Plaintiff Denkin's consent to be part of this action is attached hereto as
27 Attachment B.

FIRST CLAIM FOR RELIEF
(Fair Labor Standards Act)

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

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

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

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

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

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

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

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

4 25. Upon information and belief, Defendants were aware that the DAAS
5 social workers, including Plaintiffs, worked uncompensated overtime.

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

9 27. By reason of Defendants' foregoing conduct, the DAAS social workers,
10 including Plaintiffs, have suffered harm and been damaged.

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

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

22 **PRAYER FOR RELIEF**

23 WHEREFORE, Plaintiffs PENNY PIKE and DAVID DENKIN pray for the
24 following, on their own behalf and on behalf of all others similarly situated:

- 25 A. Judgment against Defendants for an amount equal to the overtime
26 Defendants failed to pay at the applicable overtime rate, pursuant to 29
27 U.S.C. § 216(b);
28

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

12 Dated: August 18, 2017
13

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

17 Respectfully submitted by,

18 MEGAN A. RICHMOND, APC

19 /s/ Megan A. Richmond
20 Megan A. Richmond (SBN 170753)

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26 /s/ Gregory M. Garrison
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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: August 18, 2017

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,

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ATTACHMENT A

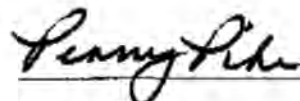
I, PENNY PIKE, hereby state that, during at least some of the time after August 18, 2014, I was employed as a social worker by the County of San Bernardino's Department of Aging and Adult Services (a "DAAS Social Worker"). I am currently employed as a DAAS Social Worker at the DAAS San Bernardino office.

For at least one or more of the weeks that I worked subsequent to August 18, 2015 as a DAAS Social Worker at the San Bernardino office, I worked more than forty (40) hours without receiving either: (a) additional pay calculated at one and one-half (1½) times my regular hourly rate for each hour in excess of forty (40) in the workweek; or (b) one and one-half (1½) hours compensatory time off for each hour I worked in excess for forty (40) in the workweek; or (c) a combination of both.

I hereby consent to becoming a party plaintiff in that certain civil action styled *Pike v. County of San Bernardino* in the United States District Court for the Central District of California, which is brought under the Fair Labor Standards Act and seeks, among other things, recovery of unpaid overtime compensation, liquidated damages, attorneys' fees and costs (the "FLSA Action").

I hereby consent to and designate the law offices of MEGAN A. RICHMOND APC, Alexander E. Papaefthimiou, and GREGORY M. GARRISON APC to represent me in the FLSA Action.

Dated: August 18, 2017



Penny Pike

ATTACHMENT B

I, DAVID DENKIN, hereby state that, during at least some of the time after August 18, 2014, I was employed as a social worker by the County of San Bernardino's Department of Aging and Adult Services (a "DAAS Social Worker"). During this period of time, I worked at both the San Bernardino and Rancho Cucamonga DAAS offices. I am currently employed as a DAAS Social Worker at the DAAS Rancho Cucamonga office.

For at least one or more of the weeks that I worked at the San Bernardino Office subsequent to August 18, 2014 as a DAAS Social Worker, I worked more than forty (40) hours without receiving either: (a) additional pay calculated at one and one-half ($1\frac{1}{2}$) times my regular hourly rate for each hour in excess of forty (40) in the workweek; or (b) one and one-half ($1\frac{1}{2}$) hours compensatory time off for each hour I worked in excess for forty (40) in the workweek; or (c) a combination of both.

For at least one or more of the weeks that I worked at the Rancho Cucamonga office subsequent to August 18, 2015 as a DAAS Social Worker, I worked more than forty (40) hours without receiving either: (a) additional pay calculated at one and one-half ($1\frac{1}{2}$) times my regular hourly rate for each hour in excess of forty (40) in the workweek; or (b) one and one-half ($1\frac{1}{2}$) hours compensatory time off for each hour I worked in excess for forty (40) in the workweek; or (c) a combination of both.

I hereby consent to becoming a party plaintiff in that certain civil action styled *Pike v. County of San Bernardino* in the United States District Court for the Central District of California, which is brought under the Fair Labor Standards Act and seeks, among other things, recovery of unpaid overtime compensation, liquidated damages, attorneys' fees and costs (the "FLSA Action").

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1 I hereby consent to and designate the law offices of MEGAN A. RICHMOND
2 APC, Alexander E. Papaefthimiou, and GREGORY M. GARRISON APC to
3 represent me in the FLSA Action.

4 Dated: August 18, 2017



6 David Denkin