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18 **UNITED STATES DISTRICT COURT**

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

20 BRIANA RIBOTA; NICOALE
21 SYLVESTRE; LASHA DALTON; and
22 YOLANDA SALAZAR, individually
23 and on behalf of all others similarly
24 situated,

25 **Plaintiffs,**

26 vs.

27 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

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3 **PRELIMINARY STATEMENT**

4 1. Plaintiffs, Employment Service Specialist workers, Eligibility workers and
5 employees of Defendant COUNTY OF SAN BERNARDINO, bring this action, on
6 their own behalf and on behalf of all others similarly situated, under the United
7 States Fair Labor Standards Act, 29 U.S.C. § 216(b), for remedies arising out of
8 Defendant’s non-payment of overtime.

9 **JURISDICTION AND VENUE**

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

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

17 **PARTIES**

18 4. Plaintiff BRIANA RIBOTA is an individual who resides in this District, and
19 is a citizen of the United States and California. Plaintiff RIBOTA was, at some
20 point during the past three years, employed as a non-exempt Employment Service
21 Specialist worker (an “ESS”) by Defendant in the Transitional Assistance
22 Department (“TAD”) in this District.

23 5. Plaintiff NICOALE SYLVESTRE is an individual who resides in this
24 District, and is a citizen of the United States and California. Plaintiff SYLVESTRE
25 was, at some point during the last three years, employed as a non-exempt ESS in
26 this District.
27

1 6. Plaintiff LASHA DALTON is an individual who resides in this District, and
2 is a citizen of the United States and California. Plaintiff DALTON was, at some
3 point during the last three years, employed as a non-exempt ESS in this District.
4 Plaintiff DALTON was also, at some point during the last three years, employed as
5 a non-exempt Eligibility Worker (an “EW”) by Defendant at TAD.

6 7. Plaintiff YOLANDA SALAZAR is an individual who resides in this
7 District, and is a citizen of the United States and California. Plaintiff SALAZAR
8 was, at some point during the last three years, employed as a non-exempt ESS in
9 this District.

10 8. The additional persons who have or may become parties plaintiffs to this
11 collective action are also non-exempt ESS and EW workers who are or were
12 employed by Defendant COUNTY OF SAN BERNARDINO and who worked
13 overtime hours for said Defendant during the limitations period without receiving
14 any or all of the compensation to which they are entitled.

15 9. Defendant COUNTY OF SAN BERNARDINO (hereinafter “Defendant”) is
16 a legal subdivision of the State of California, pursuant to Article 11, Section 1(a) of
17 the California Constitution and Ca. Gov. Code § 23002.

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

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1 **COLLECTIVE ACTION ALLEGATIONS**

2 11. Plaintiffs make the allegations contained herein individually and as
3 representatives of all those similarly situated, on behalf of the below-defined
4 Classes:

5 a. **ESS Class:** Every ESS employee of San Bernardino County TAD.

6 b. **EW Class:** Every EW employee of San Bernardino County TAD.

7 12. The allegations contained herein are made upon personal knowledge as to
8 Plaintiffs and their own acts and circumstances, and, as to all other matters, upon
9 information and belief.

10 13. During the applicable limitations period, Plaintiffs were employed as
11 non-exempt workers by Defendant in the TRANSITIONAL ASSISTANCE
12 DEPARTMENT of Defendant’s DEPARTMENT OF HUMAN SERVICES
13 (“TAD Workers”).

14 14. The allegations of this Complaint are applicable to all TAD Workers
15 employed by Defendant during the limitations period, including both current and
16 former employees of Defendant. The allegations of this Complaint are applicable
17 to all of Defendant’s offices at which TAD Workers were employed during the
18 limitations period.

19 15. Plaintiffs bring this action on behalf of themselves and on behalf of all
20 other TAD Workers who were employed by Defendant within the applicable
21 limitations period and who worked in excess of the maximum hours prescribed by
22 29 U.S.C. § 207(a) without payment of all of the overtime compensation required
23 thereunder. If discovery so indicates, Plaintiffs reserve the right to amend this
24 Complaint to assert a collective action on behalf of one or more sub-classes of
25 workers employed by Defendant’s TRANSITIONAL ASSISTANCE
26 DEPARTMENT.

27 16. Plaintiffs’ position and situation is in all respects similar to, if not

1 identical to, the other persons on whose behalf Plaintiffs bring this action.

2 Plaintiffs reserve the right to seek to certify this action as a collective action with
3 one or more sub-classes.

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

10 18. During the applicable limitations period, Plaintiffs were employed by
11 Defendant as TAD Workers.

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

16 20. During the applicable limitations period, Defendant frequently required,
17 suffered, and/or permitted TAD Workers, including Plaintiffs, to work more than
18 forty (40) hours per week without paying them all of the overtime compensation
19 required by 29 U.S.C. § 207(a).

20 21. Defendant's unlawful conduct has been repeated and consistent throughout
21 the limitations period and during Plaintiffs' employment as TAD Workers.

22 22. Defendant was aware that TAD Workers, including Plaintiffs, performed
23 and completed work that could not have been completed in forty (40) hours per
24 week and, therefore, required them to work overtime.

25 23. The job requirements and workloads of TAD Workers, including
26 Plaintiffs, imposed upon them by Defendant could not be completed in a forty (40)
27

1 hour workweek, and Defendant was aware of this fact. Yet, Defendant accepted
2 the benefit of the work without paying TAD Workers overtime.

3 24. Defendant discouraged and prevented TAD Workers, including Plaintiffs,
4 from reporting overtime that had not previously been approved and/or authorized.

5 25. Defendant's practice of requiring TAD Workers, including Plaintiffs, to
6 complete more work than could be completed in a forty (40) hour workweek
7 hampered the ability of TAD Workers, including Plaintiffs, to administer
8 employment and welfare benefits in compliance with state and federal mandates
9 and regulations.

10 26. Upon information and belief, Defendant was aware that TAD Workers
11 were working uncompensated overtime so that the TAD Workers could fulfill
12 Defendant's obligation to provide employment and welfare benefits in compliance
13 with state and federal mandates and regulations.

14 27. During the applicable limitations period, Defendant failed to accurately
15 record, report, and/or preserve records of hours worked by TAD Workers, because
16 Defendant instructed TAD Workers not to enter overtime in their timesheets unless
17 it was pre-approved overtime. On information and belief, TAD Workers logged
18 into a computer system every workday to perform their jobs and to which
19 Defendant had access and of which Defendant had knowledge. On information and
20 belief, the computer system that TAD workers logged into daily demonstrates that
21 TAD Workers, including Plaintiffs, were frequently working outside of regular
22 hours and accruing unpaid overtime. To the extent such records exist, they are in
23 the possession of Defendant and discoverable in this action.

24 28. Plaintiff RIBOTA consents to be a party plaintiff in this collective action.
25 The written consent of Plaintiff RIBOTA is attached to the Complaint as
26 Attachment A and is incorporated herein by this reference.
27

1 29. Plaintiff SYLVESTRE consents to be a party plaintiff in this collective
2 action. The written consent of Plaintiff SYLVESTRE is attached to the Complaint
3 as Attachment B and is incorporated herein by this reference.

4 30. Plaintiff DALTON consents to be a party plaintiff in this collective action.
5 The written consent of Plaintiff DALTON is attached to the Complaint as
6 Attachment C and is incorporated herein by this reference.

7 31. Plaintiff SALAZAR consents to be a party plaintiff in this collective action.
8 The written consent of Plaintiff SALAZAR is attached to the Complaint as
9 Attachment D and is incorporated herein by this reference.

10 **FIRST CLAIM FOR RELIEF**

11 **(Fair Labor Standards Act)**

12 32. Plaintiffs incorporate by reference the allegations of Paragraphs 1 through
13 27 of this Complaint as though fully set forth in this First Claim for Relief.

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

20 34. During the applicable limitations period, Plaintiffs were employed by
21 Defendant as TAD Workers.

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

26 36. During the applicable limitations period, Defendant frequently required,
27 suffered, and/or permitted TAD Workers, including Plaintiffs, to work more than

1 forty (40) hours per week without paying them all of the overtime compensation
2 required by 29 U.S.C. § 207(a).

3 37. Defendant required, suffered, and/or permitted Plaintiff RIBOTA to work
4 more than forty (40) hours per week without paying all of the overtime
5 compensation required by 29 U.S.C. § 207(a) on numerous occasions throughout
6 the applicable limitations period, including, without limitation and upon
7 information and belief.

8 38. Defendant required, suffered, and/or permitted Plaintiff SYLVESTRE to
9 work more than forty (40) hours per week without paying all of the overtime
10 compensation required by 29 U.S.C. § 207(a) on numerous occasions throughout
11 the applicable limitations period, including, without limitation and upon
12 information and belief.

13 39. Defendant required, suffered, and/or permitted Plaintiff DALTON to work
14 more than forty (40) hours per week without paying all of the overtime
15 compensation required by 29 U.S.C. § 207(a) on numerous occasions throughout
16 the applicable limitations period, including, without limitation and upon
17 information and belief.

18 40. Defendant required, suffered, and/or permitted Plaintiff SALAZAR to
19 work more than forty (40) hours per week without paying all of the overtime
20 compensation required by 29 U.S.C. § 207(a) on numerous occasions throughout
21 the applicable limitations period, including, without limitation and upon
22 information and belief.

23 41. During the applicable limitations period, Defendant failed to accurately
24 record, report, and/or preserve records of hours worked by TAD Workers,
25 including Plaintiffs. To the extent such records exist, they are in the possession of
26 Defendant and discoverable in this action.
27

1 42. Upon information and belief, Defendant's failure to pay overtime to TAD
2 Workers, including Plaintiffs, was "willful" for the purposes of 29 U.S.C. § 255(a).

3 43. By reason of Defendant's foregoing conduct, TAD Workers, including
4 Plaintiffs, have suffered harm and been damaged.

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

13 45. WHEREFORE, Plaintiffs, on their own behalf and on behalf of all
14 others similarly situated, request relief as set forth in this First Claim for Relief
15 and below.

16 **PRAYER FOR RELIEF**

17 WHEREFORE, Plaintiffs pray for the following, on their own behalf and on
18 behalf of all others similarly situated:

19 A. Judgment against Defendant for an amount equal to the overtime Defendant
20 failed to pay at the applicable overtime rate, pursuant to 29 U.S.C. § 216(b).

21 B. Liquidated damages in an additional amount equal to the overtime
22 Defendant failed to pay at the applicable overtime rate, pursuant to 29
23 U.S.C. § 216(b).

24 C. Attorney fees and costs, pursuant to, inter alia, 29 U.S.C. § 216(b).

25 D. A finding that Defendant's violations of law were willful and providing for a
26 recovery period of three (3) years prior to the filing of this Complaint,
27 pursuant to 29 U.S.C. § 255(a).

1 E. An award of prejudgment interest.

2 F. Leave to add additional plaintiffs by motion, the filing of written consent
3 forms, or any other method approved by the Court; and

4 G. Such further relief as the Court deems just and equitable.

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6 Dated: March 11, 2020

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8 Respectfully submitted,

9
10 /s/ John R. Parker, Jr.

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