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David D. Deason (SBN 207733)
e-mail: David@yourlaborlawyers.com
Matthew F. Archbold (CA SBN 210369)
e-mail: Matthew@yourlaborlawyers.com
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     DEASON & ARCHBOLD
 3
     3300 Irvine Avenue, Suite 245
Newport Beach, CA 92660
Telephone: (949) 794-9560
Facsimile: (949) 794-9517
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     Attorneys for Plaintiffs
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                            UNITED STATES DISTRICT COURT
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                           CENTRAL DISTRICT OF CALIFORNIA
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                                                   Case No.: 2:23-cv-10483
     MARK SARKIS, JOCELYNE
     QUINTANILLA, KEITH SPENCER,
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     MIGUEL ZENDEJAS and JENNIFER )
                                                   COMPLAINT FOR DAMAGES;
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     GARCIA,
                                                   DEMAND FOR JURY TRIAL
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                  Plaintiffs,
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            VS.
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     CITY OF LOS ANGELES; and DOES
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     1 through 10, inclusive,
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                  Defendants.
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                                        JURISDICTION
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                    This Court has subject matter jurisdiction over this action pursuant
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     to 28 U.S.C. §§ 1331 and 1343(3) as the controversy arises under "constitution,
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     laws or treaties of the United States; specifically, the claim arises under the Fair
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     Labor Standards Act of 1938, 29 U.S.C. §§ 201 et seq., ("FLSA").
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                                            VENUE
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                   Venue is proper in the Central District of California pursuant to 28
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     U.S.C. § 1391(b) because a substantial part of the acts, events, or omissions giving
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rise to the action occurred in this District and Plaintiffs and Defendant each reside/operate businesses within this district.

PARTIES

- 3. The above-captioned Plaintiffs are all currently employed by Defendant City of Los Angeles as sworn police officers.
- 4. Defendant, CITY OF LOS ANGELES ("CITY" or "Defendant"), is a political subdivision of the State of California located within California and is an employer whose employees are engaged in commerce within the meaning of 29 U.S.C. § 207(a) and as defined in 29 U.S.C. §§ 203(d) and 203(e)(2)(c).
- 5. Each of the DOES 1 through 10, inclusive, is so named because Plaintiffs does not know their true names and/or capacities at this time. Plaintiffs will seek leave of Court to amend this Complaint when the true names and capacities of the defendants designated herein as DOES 1 through 10 have been ascertained.
- 6. Plaintiffs are informed and believe, and on the basis of such information and belief, allege that each defendant was an agent, employee, partner, and/or alter ego of each of the other remaining defendants, and in doing the things herein alleged were acting within the scope and course of such agency and/or employment. Upon information and belief, each of the fictitiously named defendants are responsible in some manner for the occurrences herein alleged, and Plaintiffs' injuries as herein alleged were proximately caused by such defendants.
- 7. The defendants, and each of them, save and except Defendant CITY, which is sued as an entity, are sued in their individual and official capacities.
- 8. The acts of defendants were in accordance with, and represent the official policy of, Defendant CITY or those whose edicts or acts may fairly be said to represent official policies hereinafter set forth.

9. Each defendant herein willfully committed, ordered, directed, supervised, allowed, planned, ratified, concealed, organized or otherwise participated in the unlawful acts complained of herein.

STATEMENT OF FACTS

- 10. Plaintiffs worked in different divisional assignments throughout the City of Los Angeles, but each Plaintiff was part of a "Temporary Higher Pay" program that resulted in them working in an assignment generally populated by a police officer of a higher rank.
- 11. As compensation for working in these higher rank posts, Plaintiffs are eligible to receive a 2.75% increase in their hourly rate of pay. The procedure to recover this pay increase requires the participating officer to submit paper work to their supervisor confirming they worked a minimum number of hours for a given time period. That paperwork is then sent to the CITY, and the officer is retroactively compensated for their hours worked with the pay increase gap.
- 12. Defendant CITY failed to apply this retroactive pay increase to any overtime hours worked by Plaintiffs. In other words, the retroactive pay was only paid at straight time rates, and not applied to overtime hours worked.
- 13. Defendant knew or should have known that it failed to compensate Plaintiffs with all of their overtime due. This program has been operating for years in divisions throughout City of Los Angeles and Defendant has made no effort whatsoever to correct their conduct. The systemic and pervasive nature of this failure to properly calculate each Plaintiff's rate of overtime compensation, clearly indicates that the delay is Defendant's policy and practice.
- 14. Defendant sat idly by, and knowingly failed to provide lawful compensation. Plaintiffs are informed and believe, and thereon allege, that at all times set forth herein, Defendant was advised by skilled lawyers and other professionals, employees and advisors knowledgeable about the FLSA. Plaintiffs

are informed and believe that Defendant willfully, knowingly and intentionally failed to comply with the FLSA.

FIRST CAUSE OF ACTION

FOR WILLFUL VIOLATION OF 29 U.S.C. § 207

(Against All Defendants for Failure to Pay Overtime)

- 15. Plaintiffs reassert and reallege paragraphs 1 though 14, inclusive, as if fully set forth and incorporates said paragraphs herein by reference.
- 16. Defendant has either recklessly, or knowingly and intentionally, failed and refused to compensate Plaintiffs for all of their overtime compensation by failing to apply retroactive pay increases for time spent in "Temporary Higher Pay" assignments to their regular rate of pay when calculating overtime compensation.
- 17. The application of retroactive pay increases to overtime compensation, "...operates to increase the regular rate of pay of the employees for the period of its retroactivity. Thus, if an employee is awarded a retroactive increase of 10 cents per hour, he is owed, under the Act, a retroactive increase of 15 cents for each overtime hour he has worked during the period, no matter what the agreement of the parties may be. A retroactive pay increase in the form of a lump sum for a particular period must be prorated back over the hours of the period to which it is allocable to determine the resultant increases in the regular rate, in precisely the same manner as a lump sum bonus. For a discussion of the method of allocating bonuses based on employment in a prior period to the workweeks covered by the bonus payment, see § 778.209." 29 CFR § 778.303.
- 18. Defendant failed to include Plaintiffs' retroactive pay increases into their regular rate of pay when calculating overtime compensation.
- 19. Although Defendant was apprised of the law regarding the payment of hours covered by the FLSA, Defendant failed to compensate Plaintiffs in a timely manner.

- 20. In doing all the things described and alleged herein, Defendant deprived Plaintiffs of the rights, privileges and immunities secured to them by federal law which clearly sets forth that their retroactive pay increases must be "prorated back over the hours of the period to which it is allocable to determine the resultant increases in the regular rate" for overtime hours worked during that period. Defendant knew or should have known that their reckless and/or willful and intentional failure and refusal to pay for the overtime worked in a timely manner violated these rights, privileges and immunities.
- 21. As a direct and proximate result of Defendant's actions and inactions, Plaintiffs were not compensated for all their overtime hours worked at the proper overtime rates of pay, and Plaintiffs have been damaged and are entitled to compensatory and/or liquidated damages in an amount according to proof at trial including, but not limited to, a sum equivalent to their unpaid overtime compensation for the three (3) years prior to the filing of this action, liquidated damages, and attorney fees and costs as required by 29 U.S.C. § 216(b).

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs pray for relief and judgment against Defendants, jointly and severally, as follows:

As to the First Causes of Action

- 1. Compensatory damages in an amount according to proof at trial including, but not limited to, a sum equivalent to their uncompensated overtime compensation which was erroneously calculated for the three (3) years prior to the filing of this action as required by 29 U.S.C. § 216(b).
- 2. Such other damages as may be allowed in accordance with the Federal Rules of Civil Procedure, Rule 54(c), and 29 U.S.C. 216(b), according to proof;
- 3. Liquidated damages, attorney fees, and costs pursuant to 29 U.S.C. 216(b); and

1	4. Any other relief, including equitable relief, as the Court may deem
2	just and proper.
3	DATED: December 14, 2023 DEASON & ARCHBOLD
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5	By: s/ Matthew F. Archbold
6	Matthew F. Archbold
7	Attorneys for Plaintiffs
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DEMAND FOR JURY TRIAL Plaintiffs hereby demands a jury trial as provided by Rule 38(a) of the Federal Rules of Civil Procedure. **DEASON & ARCHBOLD** DATED: December 14, 2023 By: s/ Matthew F. Archbold Matthew F. Archbold Attorneys for Plaintiffs