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10 IN THE UNITED STATES DISTRICT COURT
11 CENTRAL DISTRICT OF CALIFORNIA
12

13 COREY GODDARD, on behalf of)
14 himself and all similarly situated)
15 individuals,)
16 Plaintiffs,)
17 v.)
18 CITY OF CATHEDRAL CITY,)
19 Defendant.)

Case No.
**COMPLAINT FOR VIOLATIONS OF
THE FAIR LABOR STANDARDS
ACT**
**COLLECTIVE ACTION - 29 U.S.C. §
216**

20 I.
21 **INTRODUCTION**

- 22 1. This action is brought pursuant to the provisions of the Fair Labor Standards Act
23 ("FLSA"), 29 U.S.C. sections 201, *et seq.*, to recover from Defendant CITY OF
24 CATHEDRAL CITY (hereinafter "Defendant") unpaid overtime compensation,
25 interest thereon, liquidated damages, costs of suit, and reasonable attorney's fees.
- 26 2. This action arises from Defendant's failure to include all statutorily required
27 forms of compensation in the "regular rate" of pay, thereby resulting in the
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1 systematic underpayment of overtime compensation to Plaintiff and all similarly
2 situated individuals.

3 **II.**

4 **PARTIES**

5 3. Plaintiff COREY GODDARD (“Plaintiff”) is currently employed by Defendant
6 as an Engineer/Paramedic with the Cathedral City Fire Department.

7 4. Defendant is a political subdivision of the State of California and, at all relevant
8 times hereto, employed Plaintiff.

9 **III.**

10 **JURISDICTION**

11 5. This Court has jurisdiction over this action pursuant to 28 U.S.C. section 1331
12 because the claims alleged herein arise under the FLSA. (*See* 29 U.S.C. §§ 201,
13 *et seq.*).

14 **IV.**

15 **COLLECTIVE ACTION ALLEGATIONS**

16 6. This action is brought by Plaintiff as a collective action under the provisions of
17 29 U.S.C. section 216 on behalf of himself and all other persons similarly situated
18 who work, or have worked, for Defendant at any time over the last three years and
19 were deprived of their complete statutory overtime compensation.

20 7. There are common questions of law and fact in this action relating to and
21 affecting the rights of each member of the collective group, including whether
22 Defendant failed to fully compensate Plaintiff and similarly situated individuals
23 for all overtime hours worked by excluding certain remunerations from the
24 “regular rate” of pay used to calculate overtime compensation. The relief sought
25 is common to the entire class.

26 8. Plaintiff’s claims and the claims of those similarly situated depend on a showing
27 of Defendant’s acts and omissions giving rise to Plaintiff’s right to the relief
28 sought herein.

- 1 9. The identity of these individuals is readily ascertainable from Defendant’s
2 records, and notice can be provided by conventional means such as U.S. mail,
3 email, and workplace postings.
- 4 10. This action is properly maintained as a collective action in that the prosecution
5 of separate actions by individual members of the collective group would create
6 a risk of adjudications with respect to individual members of the class which may,
7 as a practical matter, be dispositive of the interests of the other members not
8 parties to the adjudications, or may substantially impair or impede their ability to
9 protect their interests.
- 10 11. This action is appropriate for conditional certification as a collective action
11 because Defendant subjected Plaintiff, and the class of putative plaintiffs he seeks
12 to represent, to the same uniform practice of excluding certain remunerations
13 from the “regular rate” of pay used to calculate their overtime compensation.
- 14 12. This factual nexus is sufficient to justify the Court to exercise its discretion to
15 ensure that accurate and timely notice is given to all similarly situated former and
16 current employees of Defendant so that they may make an informed decision
17 about whether or not to join this action.

18 **V.**

19 **FACTUAL ASSERTIONS**

- 20 13. Plaintiff is a member of the Cathedral City Professional Firefighters Association
21 (“CCPFA”).
- 22 14. CCPFA is the exclusive bargaining representative of employees in Defendant’s
23 firefighter bargaining unit, which consists of all sworn Firefighters,
24 Firefighter/Paramedics and Fire Engineers of the City of Cathedral City below the
25 rank of Captain.
- 26 15. The terms and conditions of employment of CCPFA members, including but not
27 limited to compensation, are governed by a Memorandum of Understanding
28 (“MOU”) between CCPFA and Defendant.

- 1 16. Pursuant to the MOU, Plaintiff’s total compensation consists of a base salary as
2 well as incentives and other forms of remuneration that compensate him for his
3 regularly scheduled shifts.
- 4 17. For example, Defendant provides Plaintiff monetary compensation in lieu of
5 observing holidays (“Holiday Pay”) pursuant to Section 13.6 “Holidays” of the
6 MOU between CCPFA and Defendant.
- 7 18. The MOU also includes other incentives, including but not limited to, Education
8 Incentives, Acting Pay, and Bilingual Pay.
- 9 19. At all times relevant hereto, Defendant treated these payments to Plaintiff as
10 wages for the purpose of applicable tax withholdings.
- 11 20. Plaintiff is informed and believes Defendant provided Holiday Pay to other
12 similarly situated employees and treated such payments in the same manner.
- 13 21. Plaintiff is informed and believes Defendant provided incentive pay, including
14 but not limited to Education, Acting, and Bilingual pay, to other similarly situated
15 employees and treated such payments in the same manner.
- 16 22. At all times relevant hereto, Defendant suffered or permitted Plaintiff to work
17 hours beyond statutory thresholds, thus triggering Defendant’s obligation to pay
18 Plaintiff overtime compensation as required by the FLSA.
- 19 23. Pursuant to 29 U.S.C. section 207(e), the “regular rate” upon which all forms of
20 Plaintiff’s overtime compensation are based must include all remuneration
21 received by Plaintiff, unless explicitly excluded.
- 22 24. At all times relevant hereto, Defendant impermissibly excluded certain
23 remuneration from Plaintiff’s “regular rate” of pay, including but not limited to
24 Holiday Pay, Education Pay, Acting Pay, and Bilingual Pay, thereby resulting in
25 the systematic underpayment of overtime compensation to Plaintiff.
- 26 25. By the same conduct (i.e., the impermissible exclusion of remuneration from the
27 “regular rate”), Defendant failed to pay Plaintiff and other similarly situated
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1 individuals for cashed out compensatory time off (“CTO”) at the “regular rate”
2 of pay as required by 29 U.S.C. section 207(o)(3)-(4).

3 **FIRST COUNT**

4 **(Fair Labor Standards Act - Failure to Pay All Overtime Compensation**
5 **Earned)**

6 26. Plaintiff incorporates by reference each and every paragraph above as though set
7 forth fully herein.

8 27. Defendant suffered or permitted Plaintiff and, on information and belief, other
9 similarly situated individuals to work hours beyond statutory thresholds, thus
10 triggering Defendant’s obligation to pay overtime compensation as required by
11 the FLSA, but failed to include all required forms of compensation into the
12 “regular rate” of pay used to calculate their overtime compensation and cash out
13 CTO.

14 28. By failing to include all required forms of compensation in the “regular rate” of
15 pay used to calculate overtime compensation and cash out CTO, Defendant failed
16 to compensate Plaintiff and other similarly situated individuals at one and one-
17 half times the “regular rate” of pay for all overtime hours worked as required by
18 the FLSA.

19 29. At all times relevant hereto, Defendant and its agents and representatives were
20 aware of their obligation to pay Plaintiff and other similarly situated individuals
21 for all overtime hours worked at one and one-half times the “regular rate” of pay
22 as required by the FLSA.

23 30. At all times relevant hereto, Defendant and its agents and representatives knew,
24 or should have known, of their obligation to pay Plaintiff and other similarly
25 situated individuals overtime compensation at one and one-half of their “regular
26 rate” of pay for all hours worked in excess of the applicable thresholds
27 established by section 207 of the FLSA.

1 31. At all times relevant hereto, Defendant’s failure to fully compensate Plaintiff and
2 other similarly situated individuals for all overtime hours worked was not in good
3 faith, and was a willful violation of the FLSA.

4 32. As a result of the foregoing violations of the FLSA as enumerated herein,
5 Plaintiff seeks damages for three (3) years of unpaid overtime compensation that
6 was earned but not paid, as well as an equal amount in liquidated damages.

7 33. Plaintiff also seeks reasonable attorney fees and costs pursuant to 29 U.S.C.
8 section 216(b).

9 **PRAYER**

10 WHEREFORE, Plaintiff prays for judgment as follows:

- 11 1. For recovery of unpaid overtime compensation and interest thereon plus
12 an equal amount of liquidated damages for Plaintiff and all other similarly
13 situated individuals pursuant to 29 U.S.C. section 216(b);
- 14 2. For a determination that Defendant’s conduct was reckless and/or an
15 intentional, knowing, and willful violation of the FLSA, therefore entitling
16 Plaintiff and all other similarly situated individuals to recover damages
17 under a three (3) year statute of limitations;
- 18 3. For reasonable attorney fees pursuant to 29 U.S.C. section 216(b);
- 19 4. For costs incurred as a result of this proceeding;
- 20 5. For injunctive relief ordering the Defendant to cease and desist from
21 engaging in said unlawful conduct, including but not limited to, revisions
22 to applicable compensation policies to clearly indicate that the above-
23 referenced remuneration will be included in the “regular rate” of pay for
24 the purposes of overtime compensation;
- 25 6. For conditional certification of the collective class as pled;
- 26 7. For an order to timely notify all potential collective class members of this
27 action;
- 28 8. For such other and further relief as the court deems just and proper.

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Dated: March 18, 2018

Respectfully submitted,
MASTAGNI HOLSTEDT, A.P.C.

By: /s/ David E. Mastagni
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