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10  
 11 IN THE UNITED STATES DISTRICT COURT  
 12 CENTRAL DISTRICT OF CALIFORNIA  
 13

14 JEFF SCHNEIDER; JASON )  
 ALEXANDER; ANDREI )  
 15 ALEXANDRESCU; JOSEPH )  
 ARMENDARIZ; CHRISTOPHER )  
 16 ASKEW; THOMAS BARILLA; )  
 JOSEPH BARNA; ANDREA )  
 17 BINLEY; CHRISTOPHER )  
 BROOKHART; MICHAEL )  
 18 CARNEY; PATRICIA CAUTHEN; )  
 JONATHAN CHUNCHICK; )  
 19 MICHAEL DAIGNAULT; JESSICA )  
 DEVRIES; BRETT DICKERSON; )  
 20 NATHAN FOSTER; TRAVIS )  
 FOSTER; DUSTIN FOULKS; )  
 21 RYAN GARDY; DUSTIN )  
 GRIFFIN; MATTHEW )  
 22 GULSERIAN; KARL HEGLE; )  
 NIMA HOMA YOUNIEH; JOHN )  
 23 HURT; MIKE JOHNSON; PAUL )  
 KRAMER; LEONARD )  
 24 LATTIMORE; SEAN MARKEY; )  
 BRAD MCCAULLEY; THOMAS )  
 25 MELENDREZ; MELANIE )  
 MUNNS; KRISTA POPE; JESSE )  
 26 QUINALTY; BILL ROZINKA; )  
 CARALEE SKAGGS; JOSEPH )  
 27 TAMBE; NICHOLAS VASQUEZ; )  
 CRAIG WARREN; and DENNIS )  
 28 WEAVER, )

Case No.

**COMPLAINT FOR VIOLATIONS OF  
 THE FAIR LABOR STANDARDS  
 ACT**

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Plaintiffs, )  
v. )  
CITY OF UPLAND, )  
Defendant. )  
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**I.**  
**INTRODUCTION**

1. This action is brought pursuant to the provisions of the Fair Labor Standards Act (“FLSA”) 29 U.S.C. sections 201, *et seq.*, to recover from Defendant CITY OF UPLAND (hereinafter “Defendant”) unpaid overtime and other compensation, interest thereon, liquidated damages, costs of suit, and reasonable attorney fees.
2. This action arises from Defendant’s failure to include all statutorily required forms of compensation in the “regular rate” of pay used to calculate overtime compensation for Plaintiffs, thereby resulting in the systematic underpayment of overtime compensation to Plaintiffs.

**II.**  
**PARTIES**

3. Plaintiffs JEFF SCHNEIDER; JASON ALEXANDER; ANDREI ALEXANDRESCU; JOSEPH ARMENDARIZ; CHRISTOPHER ASKEW; THOMAS BARILLA; JOSEPH BARNAB; ANDREA BINLEY; CHRISTOPHER BROOKHART; MICHAEL CARNEY; PATRICIA CAUTHEN; JONATHAN CHUNCHICK; MICHAEL DAIGNAULT; JESSICA DEVRIES; BRETT DICKERSON; NATHAN FOSTER; TRAVIS FOSTER; DUSTIN FOULKS; RYAN GARDY; DUSTIN GRIFFIN; MATTHEW GULSERIAN; KARL HEGLE; NIMA HOMAYOUNIEH; JOHN HURT; MIKE JOHNSON; PAUL KRAMER; LEONARD LATTIMORE; SEAN MARKEY; BRAD MCCAULLEY; THOMAS MELENDREZ; MELANIE MUNNS; KRISTA

1 POPE; JESSE QUINALTY; BILL ROZINKA; CARALEE SKAGGS; JOSEPH  
2 TAMBE; NICHOLAS VASQUEZ; CRAIG WARREN; and DENNIS WEAVER  
3 (“Plaintiffs”) were previously employed by the Defendant as firefighters, flight  
4 paramedics, and flight nurses.

5 4. Defendant is a political subdivision of the State of California and, at all times  
6 relevant hereto, employed the Plaintiffs.

7 **III.**  
8 **JURISDICTION**

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

12 **IV.**  
13 **FACTUAL ASSERTIONS**

14 6. Plaintiffs were employed by the Defendant within the last three (3) years.

15 7. At all times relevant hereto, Defendant suffered or permitted Plaintiffs to work  
16 hours beyond statutory thresholds for overtime compensation required by the  
17 FLSA.

18 8. At all times relevant hereto, Defendant provided cash payments to eligible  
19 Plaintiffs in lieu of health insurance (“Cash-in-Lieu”) as well as cash payments  
20 paid to eligible Plaintiffs in lieu of holidays (“Holiday-in-Lieu”).

21 9. At all times relevant hereto, Defendant treated Cash-in-Lieu and Holiday-in-Lieu  
22 payments to Plaintiffs as wages for the purposes of applicable tax withholdings.

23 10. Pursuant to 29 U.S.C. section 207(e), Defendant is statutorily required to include  
24 all forms of remuneration in Plaintiffs’ “regular rate” of pay.

25 11. At all times relevant hereto, Defendant excluded Cash-in-Lieu and Holiday-in-  
26 Lieu from the calculation of Plaintiffs’ “regular rate,” thereby resulting in the  
27 systematic underpayment of overtime compensation to Plaintiffs.

28 12. By the same conduct (i.e., the exclusion of Cash-in-Lieu and Holiday-in-Lieu

1 from the “regular rate”), Defendant also failed to pay Plaintiffs for cashed out  
2 compensatory time off (“CTO”) at the “regular rate” of pay as required by  
3 29.U.S.C. section 207(o)(3)-(4).

4 **FIRST COUNT**

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

7 13. Plaintiffs incorporate by reference each and every paragraph above inclusive as  
8 though set forth fully herein.

9 14. Defendant suffered or permitted Plaintiffs to work beyond statutory thresholds,  
10 thus triggering Defendant’s obligation to pay overtime compensation as required  
11 by the FLSA, but failed to include Cash-in-Lieu and Holiday-in-Lieu in the  
12 calculation of Plaintiffs’ “regular rate” of pay used to determine overtime  
13 compensation and cash out their CTO.

14 15. By failing to include Cash-in-Lieu and Holiday-in-Lieu in the “regular rate” of  
15 pay used to determine overtime compensation and cash out CTO, Defendant  
16 failed to compensate Plaintiffs at one and one-half times their “regular rate” of  
17 pay for all overtime hours worked as required by the FLSA.

18 16. At all times relevant hereto, Defendant and its agents and representatives were  
19 aware of their obligations to pay Plaintiffs for all overtime hours worked at one  
20 and half times the “regular rate” of pay as required by the FLSA.

21 17. At all times relevant hereto, Defendant and its agents and representatives knew  
22 or should have known of their obligations to pay Plaintiffs overtime  
23 compensation at one and one-half times their “regular rate” of pay for all  
24 overtime hours worked.

25 18. At all times relevant hereto, Defendant’s failure to fully compensate Plaintiffs for  
26 all hours worked was not in good faith, and was a willful violation of the FLSA.

27 19. As a result of the foregoing violations of the FLSA as enumerated herein,  
28 Plaintiffs seek damages for three (3) years of unpaid overtime compensation that

1 was earned but not paid, as well as an equal amount in liquidated damages.  
2 20. Plaintiff also seeks reasonable attorney fees and costs pursuant to 29 U.S.C.  
3 section 216(b).

4 **PRAYER**

5 WHEREFORE, Plaintiffs pray for judgment as follows:

- 6 1. For recovery of unpaid overtime compensation and interest thereon plus
- 7 an equal amount of liquidated damages for Plaintiffs;
- 8 2. For a determination that Defendant’s conduct was reckless and/or an
- 9 intentional, knowing, and willful violation of the FLSA, and therefore
- 10 Plaintiffs are entitled to recover damages under a three (3) year statute of
- 11 limitations;
- 12 3. For reasonable attorney fees pursuant to 29 U.S.C. section 216(b);
- 13 4. For costs incurred as a result of this proceeding;
- 14 5. For such other and further relief as the court deems just and proper.

15  
16 Dated: September 24, 2019 **MASTAGNI HOLSTEDT, APC**

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18 *By: /s/ David E. Mastagni*  
19 **DAVID E. MASTAGNI**  
20 **ISAAC S. STEVENS**  
21 **IAN B. SANGSTER**  
22 **TASHAYLA D. BILLINGTON**  
23 **Attorneys for Plaintiffs**