1	ELI NADURIS-WEISSMAN (CSB 254788) E-mail: enaduris-weissman@rsglabor.com HANNAH WEINSTEIN (CSB 301666)					
2	HANNAH WEINSTEIN (CSB 301666)	u				
3	E-mail: hweinstein@rsglabor.com ROTHNER, SEGALL & GREENSTONE 510 South Marengo Avenue Pasadena, California 91101-3115					
4	Pasadena, California 91101-3115					
5	Telephone: (626) 796-7555 Facsimile: (626) 577-0124					
6	Attorneys for Plaintiffs and those similarly situated					
7						
8						
9	UNITED STATES DISTRICT COURT					
10	SOUTHERN DISTRICT OF CALIFORNIA					
11						
12	ALBERTO ARELLANO, MAICO ALEJO, and GARY OLLISON, on	CASE NO. <u>'18CV0229 BAS MDD</u>				
13	behalf of themselves and all other employees similarly situated,					
14	Plaintiffs,	COMPLAINT FOR OVERTIME WAGES				
15	v.	[29 U.S.C. § 201 et seq., Fair Labor Standards Act]				
l6   l7	CITY OF SAN DIEGO; and DOES 1 through 10, inclusive,	JURY TRIAL DEMANDED				
18	Defendants.					
19		I				
20						
21						
22	JURISDICTION					
23	1. The Court has jurisdiction of this case under 28 U.S.C. §§ 1331 and					
24	1343(3) because it presents a federal question under the Fair Labor Standards Act					
25	of 1938 ("FLSA"), 29 U.S.C. § 201 et seq.					
26	///					
27	///					
28	///					

#### **VENUE**

2. Venue is proper in this Court pursuant to 28 U.S.C. § 1391(b) because defendant City of San Diego is in this federal district and because the events giving rise to the claims for relief occurred in this District.

## **PARTIES**

- 3. Plaintiffs are current or former non-exempt employees of the City of San Diego. Plaintiffs bring this action on their own behalf and, pursuant to 29 U.S.C. § 216(b), on behalf of all other current and former non-exempt employees similarly situated. Plaintiffs have consented in writing to become a party to this action. This is a proposed collective action for which current and former employees who opt in will file consents to join in this action pursuant to 29 U.S.C. § 216(b).
- 4. Defendant City of San Diego ("City") is a charter city and a political subdivision of the State of California and at all relevant time is, or was, each plaintiff's employer. The City is an employer within the meaning of 29 U.S.C. § 203(d).
- 5. The true names and/or capacities, whether individual, corporate, associate, or otherwise, of defendants DOES 1 through 10, inclusive, are unknown to plaintiffs, who therefore sue said defendants by such fictitious names.
- 6. Plaintiffs are informed and believe, and on that basis allege, that each defendant named in this action, including DOE defendants, was at all relevant times the agent, ostensible agent, servant, employee, representative, assistant, joint venture, and/or co-conspirator of each of the other defendants and was at all times acting within the course and scope of authority as agent, servant, employee,

1

representative, assistant, joint venture, and/or co-conspirator and with the same authorization, consent, permission, and/or ratification of each of the other defendants.

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

### **CLAIM FOR RELIEF**

7. At all relevant times, Plaintiffs and those current and former employees similarly situated are, and were, employed by the City within the meaning of 29 U.S.C. § 203(g). Plaintiffs Alberto Arellano, Maico Alejo, and Gary Ollison are, and were during the relevant three-year period, each employed by the City as electricians. Each was at all relevant times a non-exempt employee eligible to earn overtime under the FLSA who worked more than forty hours in one or more seven-day workweeks within the relevant three-year period. Plaintiffs and those current and former employees similarly situated did work more than forty hours in one or more seven-day work weeks in the relevant three-year period. In 2015, 2016, and from January through July of 2017, Plaintiff Alberto Arellano worked more than forty hours in a seven-day work week on average two times per month. In 2015, 2016, and 2017, Plaintiff Maico Alejo worked at least one hundred hours of overtime each year. In 2016 and in 2017, Plaintiff Gary Ollison worked at least two hundred hours of overtime each year. Each was entitled to have his or her overtime rate of pay determined by reference to his or her regular rate of pay within the meaning of 29 U.S.C. § 207.

22

23

24

25

26

27

28

21

8. At all relevant times, Plaintiffs and those current and former employees similarly situated are, and were, participants in the City's Flexible Benefits Plan, under which each was entitled to an annual amount of money, known as "flex dollars," which he or she could designate for use for purchase of health and welfare benefits paid on the employee's behalf by the City to trustees or third parties or which he or she could take in various forms as cash-in-lieu of

benefits. Within the relevant three-year period, Plaintiff Arellano has taken his "flex dollars" as cash-in-lieu of health and welfare benefits. Within the relevant three-year period, Plaintiffs Alejo and Ollison have designated their "flex dollars" for use for purchase of health and welfare benefits paid by the City on their behalf to trustees or third parties.

- 9. On or about June 30, 2017, the City notified employees that, effective July 1, 2017, the City "will include in an employee's FLSA overtime calculations the cash value of any flexible benefit credits that they did not use to pay for health, dental, vision or life insurance." Plaintiffs are informed and believe, and on that basis allege, that the City's action was taken in response to the decision in *Flores v*. *City of San Gabriel*, 824 F.3d 890 (9th Cir. 2016), cert. denied.
- 10. At all relevant times, the City failed to include all remuneration paid to or on behalf of Plaintiffs and current and former employees similarly situated, including "flex dollars," in the employee's regular rate of pay for purposes of calculating the employee's overtime rate of pay.
- 11. At relevant times, the City failed to include in overtime payments made to Plaintiffs and current and former employees similarly situated flex benefits paid as cash-in-lieu of benefits as remuneration to or on behalf of the employee in the employee's regular rate of pay for purposes of calculating the employee's overtime rate of pay.
- 12. At relevant times, the City failed to include in overtime payments made to Plaintiffs and current and former employees similarly situated flex benefits paid to trustees or third parties on behalf of employees as remuneration to or on behalf of the employee in the employee's regular rate of pay for purposes of

3

4 5

6

7

8

9 10

11

12 13

14

15 16

17

18

19

20

21 22

23

24

25

26

27

28

- calculating the employee's overtime rate of pay. Such flex benefits paid to trustees or third parties on behalf of employees for health, dental, vision, life insurance, or other similar employee benefits were not, and are not, excludable from the employee's regular rate of pay for purposes of calculating the employee's overtime rate of pay under 29 U.S.C. § 207(e)(4) and under the Flores decision as contributions irrevocably made to a bona fide plan.
- 13. The City's failure to include all remuneration paid to or on behalf of the employee, including "flex dollars," in an employee's regular rate of pay for purposes of calculating the employee's overtime rate of pay violated, and continues to violate, the FLSA, in that the City underpaid and underpays Plaintiffs and current and former employees similarly situated for all overtime hours for which they worked and will work. The City's failure to include all remuneration paid to or on behalf of the employee, including "flex dollars," in the employee's regular rate of pay for purposes of calculating the employee's overtime rate of pay affects all non-exempt employees who worked or will work in excess of forty hours in any work week similarly, in that the City underpaid and underpays such employees for overtime hours for which they worked or will work.
- 14. Plaintiffs and current and former employees similarly situated are entitled to liquidated damages in an amount equal to the amount of underpaid overtime under 29 U.S.C. § 216(b).
- 15. The City's and defendants' conduct was willful within the meaning of 29 U.S.C. § 255(a) in that the City was on notice of and knew its obligations under the FLSA, including during the pendency of the Flores case and continuing after its resolution, yet disregarded its obligations to treat flex dollars as remuneration for overtime purposes.

	<b>   </b>			
1	WHEREFORE, Plaintiffs prag	y for the following relief:		
2				
3	1. That notice be given to	current and former non-exempt employees of		
4	the City that, if they worked during	the relevant period and/or continue to work		
5	more than forty hours in a work wee	ek during a time when they participated and/or		
6	participate in the City's Flex Benefits Plan, they have a right to join this action,			
7	without retaliation;			
8				
9	2. That judgment be enter	ed against the City in the amounts respectively		
10	due plaintiffs and current and former employees similarly situated for unpaid			
11	overtime compensation, liquidated damages, and interest as the Court may			
12	determine pursuant to 29 U.S.C. § 216(b);			
13				
14	3. That the Court issue a p	permanent injunction against the City under 29		
15	U.S.C. § 217 restraining further violations of the FLSA;			
16				
17	4. That the Court award at	ttorneys' fees, costs, and prejudgment interest		
18	pursuant to 29 U.S.C. § 216(b); and			
19				
20	5. For such other and furth	her relief as to the Court may deem just and		
21	proper.			
22				
23	DATED: January 31, 2018	ELI NADURIS-WEISSMAN HANNAH WEINSTEIN		
24		ROTHNER, SEGALL & GREENSTONE		
25		s/Hannah Weinstein		
26		Attorneys for Plaintiffs Alberto Arellano		
27		Maico Alejo, and Gary Ollison, on behalf of themselves and all other employees similarly situated		
28		similarly situated E-mail: hweinstein@rsglabor.com		

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

Aberton Arcillance, Maioc Adejo, and Gary Oilloson, on behalf of thomselves and all other employees similarly situated  (b) County of Readers of First Fiscal Placeting  (B) County of Readers of First Fiscal Placeting  (C) Assumes, Aldrew Andrew An	I (-) DI AINIPIEEC				DEFENDANTE		
(C) Country of Residence of First Listed Defendant San Diego (EXERTED U.S. FLANTIFF CASES)  (C) Attorneys (Firm Atams, Address, and Fatephane Number)  Eli Nacduris-Veiesman and Hannah Weinstein  El Nacduris-Veiesman and Hannah Weinstein  Story Start S	I. (a) PLAINTIFFS				DEFENDANTS		
(C) Attentings (Firm Name, Address, and Taleptines Number)  Ell Nadarfus-Weissman and Harman Weinstein  Rothers, Segal & Greenstone  Flore Sanaga & Greenstone  10 S. Marango Awe, Passadana, CA 91101 (626) 796-7555    Washingtone Standard & Greenstone  10 S. Marango Awe, Passadana, CA 91101 (626) 796-7555    Washingtone Trim Name Address, and Taleptines Number)    U.S. Georeman Sanaga & Greenstone   Part		•	, on behalf of them	selves	City of San Diego,	and DOES 1 through 10	), inclusive
NOTE:   NI ARD COMPANDATION CASSS. USE THE LOCATION OF THE IRACUTE CHECK PARK PROVINCIAND.	(b) County of Residence of	f First Listed Plaintiff S	an Diego		County of Residence	of First Listed Defendant	San Diego
Col. Attorneys (From Name, Address, and Telephone Numbers)   Telephone Numbers	(EX	CEPT IN U.S. PLAINTIFF CA	SES)				
****   ****					NOTE: IN LAND CO THE TRACT	ONDEMNATION CASES, USE T OF LAND INVOLVED.	HE LOCATION OF
II. BASIS OF JURISDICTION (Place on "X" in One Box Only)	(c) Attorneys (Firm Name, A	Address, and Telephone Numbe	r)		Attorneys (If Known)		
III. BASIS OF JURISDICTION (Place on "X" in One Box Conley) Plannit (U.S. Government Not a Party)  1 U.S. Government (Not a Party)  2 U.S. Government (Not a Party)  3 U.S. Government (Not a Party)  4 Discontinuous (Indiance Citizenships of Parties in Item III)  4 Discontinuous (Indiance Citizenships of Parties in Item III)  4 Discontinuous (Indiance Citizenships of Parties in Item III)  5 U.S. NATURE OF SUIT (Place on "X" in One Bac Only)  5 U.S. NATURE OF SUIT (Place on "X" in One Bac Only)  5 U.S. NATURE OF SUIT (Place on "X" in One Bac Only)  5 U.S. Nature (Indiance Citizenships of Parties in Item III)  6 U.S. Government (Not a Party)  7 U.S. Government (Not a Party)  8 U.S. Government (Not a Party)  8 U.S. Government (Not a Party)  8 U.S. Government (Not a Party)  9 U.S. Govern	Rothner, Segall & Greens	stone	(26) 796-7555			'18CV0229	BAS MDD
U.S. Government   Pinamif   Conference   C				~-			
1   1.5   Government   March   Platain   Plata   Plata   Platain	II. BASIS OF JURISDI	CTION (Place an "X" in O	ne Box Only)			RINCIPAL PARTIES	
Delendant   Challarae Citizenship of Parties in Inem III)		-	Not a Party)		P	1	PTF DEF rincipal Place
IV. NATURE OF SUIT (Place on "X" in One But Only)  CONTRACT  TOKE  ONTRACT  ONTRACT  ONTRACT  TOKE  ONTRACT  ONTRA			ip of Parties in Item III)	Citize	en of Another State		
Total Contract   Total   Tot					•	3 🗖 3 Foreign Nation	□ 6 □ 6
10 Insurance     PERSONAL INJURY     30 African   30 April   30							
120 Marine							
□ 30 Miller Act □ 150 Recovery of Overpayment □ 151 Medicare Act □ 151 Recovery of Overpayment □ 152 Recovery of Defaulted Stader Loans □ 152 Recovery of Overpayment □ 153 Medicare Act □ 154 Recovery of Overpayment □ 154 Recovery of Overpayment □ 155 Recovery of Overpayment				Y   1 62			
15 Recovery of Defaulted Student Loans (Excludes Veterans)   15 Recovery of Overnayment of Veterans is Benefits   16 Stockholder's Suits	☐ 130 Miller Act	☐ 315 Airplane Product	Product Liability	□ 69	1 2		3729(a))
A selationement of Judgment   Saleder   Personal Injury   Potolect Liability   388 Abeticas Personal Injury   Potolect Liability   388 Abeticas Personal Injury   Potolect Liability   348 Abeticas Personal Injury   Potolect Liability   348 Abeticas Personal Injury   Potolect Liability   348 Abeticas Personal Injury   Potolect Liability   Poto		3				PROPERTY RIGHTS	
□ 152 Recovery of Defaulted Student Labshity - 140 Marine Product Labshity - 153 Recovery of Overpayment Carbon Corrupt Organizations - 154 Marine Product Labshity - 154 Recovery of Overpayment Labshity - 155 Recovery of Overpayment Labshity - 155 Motor Vehicle - 1		Slander	Personal Injury			☐ 820 Copyrights	☐ 430 Banks and Banking
Student Loans (Excludes Verens)   34 Marine   1sipur Product Liability   158 Receivery of Overpayment of Veteran's Benefits   160 Stockholders' Suits   150 Motor Vehicle   150 Motor Ve				,			
□ 151 Recovery of Overpayment of Vetera's Renefits □ 160 Stockholder's Suits □ 190 Other Contract □ 190 Other Contract □ 190 Other Contract □ 190 Other Contract □ 190 Stort Contract □ 190 Franchise □ 196 F				'			
Of Veteran's Benefits   3 350 Motor Vehicle   371 Truth in Lending   371 Truth in Lending   371 Truth in Lending   371 Truth in Lending   372 Other Personal   195 Contract   355 Motor Vehicle   Product Liability   380 Other Personal   195 Contract   380 Other Personal   1915 Contract   380 Other Personal   1917   380 Other Personal   1918   380 Other Personal   1917   380 Other Personal   1918   1				)TX	LABOR		
108 Sockholders Suits   190 Other Contract   200 Fore Contract   200 Fore Contract Liability   200 Fore Contract Product Liability   200 Fore Contract Product Liability   200 Fore Clearer   200 Fore Cl							
196 Franchise   360 Other Personal Injury   387 Opens   248 Educations   196 Franchise   388 Propens   248 Educations   196 Franchise   389 Other Statutory Actions   389 Opens   389 Product Liability   249 Forecoad Injury   Medical Malpractice   240 Forecoad Injury   240 Forecoad Inj				Ī	Act	☐ 862 Black Lung (923)	
□ 196 Franchise  □ Injury  □ 388 Property Damage  □ 740 Railway Labor Act  □ 751 Family and Medical Malpractice  □ 200 Candida M				□ 72			
Medical Malipractice   Leave Act   PRISONER PETITIONS   PRISONER PETIT		Injury		□ 74			☐ 891 Agricultural Acts
REAL PROPERTY			Product Liability	□ 75			
230 Rent Lease & Ejectment   240 Torts to Land   241 Voting   240 Torts to Land   242 Employment   246 Amer. wDisabilities   330 General   330 General   245 Tort Product Liability   246 Tort Real Property   246 Tort Real Property   246 Amer. wDisabilities   330 General   345 Mandamus & Other   246 Amer. wDisabilities   350 General   245 Mandamus & Other   246 Amer. wDisabilities   255 Prison Condition of Confinement   246 Amer. wDisabilities   255 Prison Condition   250 Civil Rights   250 Civil Right	REAL PROPERTY	1	PRISONER PETITIO	NS □ 79		FEDERAL TAX SUITS	<del></del>
□ 240 Torts to Land □ 240 Torts to Land □ 245 Tort Product Liability □ 290 All Other Real Property □ 448 Housing/ Accommodations □ 448 Education □ 448 Education □ 448 Education □ 535 Death Penalty Other □ 550 Civil Rights □ 555 Prison Condition of Confinement □ 4 Reinstated or Proceeding □ 2 Removed from Proceeding □ 2 Removed from State Court □ 3 Remanded from Appellate Court □ 4 Reinstated or Reopened □ 4 Reinstated or Reopened □ 5 Transferred from Another District (specify) □ 550 Civil Sights □ 555 Prison Conditions of Confinement □ 4 Reinstated or Reopened □ 5 Transferred from Another District (specify) □ 7 Transfer □ 4 Reinstated or Reopened □ 5 Transferred from Another District (specify) □ 7 Transfer □ 4 Reinstated or Reopened □ 5 Transferred from Another District (specify) □ 7 Transfer □ 4 Reinstated or Reopened □ 5 Transferred from Another District (specify) □ 7 Transfer □ 6 Multidistrict □ 8 Multidistrict □ 8 Multidistrict □ 1 Repote File □ 4 Reinstated or Reopened □ 5 Transferred from Another District (specify) □ 7 Transfer □ 7 Tra		2	_	□ 79	1 2	`	
240 All Other Real Property  245 Tort Product Liability 245 Tort Product Liability 246 Naturalization Application 350 General 355 Death Penalty Other 350 Civil Rights Other 350 Civil Detainee Conditions of Conditions of Confinement  V. ORIGIN (Place an "X" in One Box Only)  X 1 Original Proceeding VI. CAUSE OF ACTION  Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity): 29 U.S.C. 216(b) Brief description of cause: Underpayment of FLSA-eligible overtime worked  VII. REQUESTED IN COMPLAINT: UNDER RULE 23, F.R.Cv.P.  JUDGE Roger T. Benitez  DOCKET NUMBER 3:17CV1464 BEN BGS  B/Hannah Weinstein		ŭ		2	Income Security Act	,	
□ 290 All Other Real Property □ 445 Amer. w/Disabilities - Employment □ 446 Amer. w/Disabilities - Other □ 448 Education □ 446 Amer. w/Disabilities - Other □ 540 Mandamus & Other □ 550 Civil Rights □ 555 Prison Condition □ 560 Civil Detaince - Conditions of Confinement □ 570 Civil Rights □ 550 Civil Rights □ 550 Civil Rights □ 550 Civil Rights □ 550 Civil Detaince - Conditions of Confinement □ 72 Removed from □ 3 Remanded from Another District (specify) □ 72 Removed from □ 3 Remanded from Appellate Court □ 4 Reinstated or □ 5 Transferred from Another District (specify) □ 72 Removed from □ 1 State Court □ 1 State C	☐ 240 Torts to Land	☐ 443 Housing/	Sentence				Agency Decision
V. ORIGIN (Place an "X" in One Box Only)    Visual Proceeding   2 Removed from Proceeding   3 Remanded from Applelate Court   3 Remanded from Applelate Court   4 Reinstated or State Court   5 Transferred from Another District (specify)   5 Transferred from Direct File					IMMICDATION	-	
V. ORIGIN (Place an "X" in One Box Only)    V. ORIGIN (Place an "X" in One Box Only)   V. ORIGIN (Place an "X" in One Box Only)   V. ORIGIN (Place an "X" in One Box Only)   V. ORIGIN (Place an "X" in One Box Only)   V. ORIGIN (Place an "X" in One Box Only)   V. ORIGIN (Place an "X" in One Box Only)   V. ORIGIN (Place an "X" in One Box Only)   V. ORIGIN (Place an "X" in One Box Only)   V. ORIGIN (Place an "X" in One Box Only)   V. Original Proceeding	1 290 All Other Real Froperty		•	□ 46		1	State Statutes
V. ORIGIN (Place an "X" in One Box Only)  X1 Original Proceeding				er 🗖 46	U		
V. ORIGIN (Place an "X" in One Box Only)  X 1 Original Proceeding 2 Removed from State Court 3 Remanded from Appellate Court 4 Reinstated or Reopened 5 Transferred from Another District (specify)  VI. CAUSE OF ACTION Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):  29 U.S.C. 216(b)  Brief description of cause: Underpayment of FLSA-eligible overtime worked  VII. REQUESTED IN CHECK IF THIS IS A CLASS ACTION DEMAND \$ CHECK YES only if demanded in complaint: COMPLAINT: UNDER RULE 23, F.R.Cv.P. JURY DEMAND: Yes No  VIII. RELATED CASE(S) IF ANY  SIGNATURE OF ATTORNEY OF RECORD 01/31/2018  SIGNATURE OF ATTORNEY OF RECORD 01/31/2018					Actions		
V. ORIGIN (Place an "X" in One Box Only)    VI. CAUSE OF ACTION   Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):   VII. REQUESTED IN COMPLAINT: UNDER RULE 23, F.R.Cv.P.   Under Rule 24, F.R.Cv.P.   Under Rule 25, F.R.Cv.P.   Under Rule 25, F.R.Cv.P.   Under Rule 26, F.R.Cv.P.   Under Rule 26, F.R.Cv.P.   Under Rule 27, F.R.Cv.P.   Under Rule 27, F.R.Cv.P.   Under Rule 28, F.R.Cv.P.   Under Rule 29, F.R.Cv.P.   Under Rule 29, F.R.Cv.P.   Under Rule 23, F.R.Cv.P.   Under Rule 23, F.R.Cv.P.   Under Rule 24, F.R.Cv.P.   Under Rule 24, F.R.Cv.P.   Under Rule 25, F.R.Cv.P.   Under Rule 26, F.R.Cv.P.   Under Rule 26, F.R.Cv.P.   Under Rule 27, F.R.Cv.P.   Under Rule 27, F.R.Cv.P.   Under Rule 27, F.R.Cv.P.   Under Rule 27, F.R.Cv.P.   Under Rule 28, F.R.Cv.P.   Under Rule 27, F.R.Cv.P.   Under Rule 27, F.R.Cv.P.   Under Rule 27, F.R.Cv.P.   Under Rule 28, F.R.Cv.P.   Under Rule 28, F.R.Cv.P.   Under Rule 29, F.R.Cv.P.   Under Rule 29, F.R.Cv.P.   Under Rule 20, F.R.Cv.P.   Un							
X   Original Proceeding   2   Removed from State Court   3   Remanded from Appellate Court   4   Reinstated or Reopened   5   Transferred from Another District (specify)   6   Multidistrict Litigation - Transfer   8   Multidistrict Litigation - Direct File							
X   Original Proceeding   2   Removed from State Court   3   Remanded from Appellate Court   4   Reinstated or Reopened   5   Transferred from Another District (specify)   6   Multidistrict Litigation - Transfer   8   Multidistrict Litigation - Direct File	V. ORIGIN (Place an "X" in	n One Box Only)	I			l .	<u> </u>
Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):  29 U.S.C. 216(b)  Brief description of cause: Underpayment of FLSA-eligible overtime worked  VII. REQUESTED IN COMPLAINT: UNDER RULE 23, F.R.Cv.P.  DOCKET NUMBER 3:17CV1464 BEN BGS  DATE SIGNATURE OF ATTORNEY OF RECORD 01/31/2018  S/Hannah Weinstein	▼1 Original □ 2 Rea	moved from $\Box$ 3			pened Anothe	er District Litigation	ı - Litigation -
Brief description of cause: Underpayment of FLSA-eligible overtime worked  VII. REQUESTED IN COMPLAINT: UNDER RULE 23, F.R.Cv.P.  DOCKET NUMBER 3:17CV1464 BEN BGS  DATE  SIGNATURE OF ATTORNEY OF RECORD  01/31/2018  S/Hannah Weinstein		Cite the U.S. Civil Sta	tute under which you a	re filing (I	1 2 00)	,	Breetine
Underpayment of FLSA-eligible overtime worked  VII. REQUESTED IN ☐ CHECK IF THIS IS A CLASS ACTION DEMAND \$ CHECK YES only if demanded in complaint: COMPLAINT: UNDER RULE 23, F.R.Cv.P. JURY DEMAND: ▼ Yes ☐ No  VIII. RELATED CASE(S) IF ANY  UNDER RULE 23, F.R.Cv.P. JURY DEMAND: ▼ Yes ☐ No  VIII. RELATED CASE(S) IF ANY  SIGNATURE OF ATTORNEY OF RECORD 01/31/2018  S/Hannah Weinstein	VI CAUSE OF ACTIO						
VII. REQUESTED IN COMPLAINT:       ☐ CHECK IF THIS IS A CLASS ACTION DEMAND \$       CHECK YES only if demanded in complaint: JUNDER RULE 23, F.R.Cv.P.         VIII. RELATED CASE(S) IF ANY       JUDGE Roger T. Benitez       DOCKET NUMBER 3:17CV1464 BEN BGS         DATE       SIGNATURE OF ATTORNEY OF RECORD 01/31/2018         S/Hannah Weinstein	VI. CAUSE OF ACTIO	Brief description of ca		rtimo wo	arkad		
COMPLAINT: UNDER RULE 23, F.R.Cv.P. JURY DEMAND: X Yes ONO  VIII. RELATED CASE(S) IF ANY  DOCKET NUMBER 3:17CV1464 BEN BGS  DATE  SIGNATURE OF ATTORNEY OF RECORD  01/31/2018  S/Hannah Weinstein	VII PEOLIESTED IN					CHECK VES only	if demanded in complaint:
IF ANY    See instructions:   JUDGE   Roger T. Benitez   DOCKET NUMBER   3:17CV1464 BEN BGS	COMPLAINT:	UNDER RULE 2		, D.	ENIAND \$	•	•
DATE SIGNATURE OF ATTORNEY OF RECORD 01/31/2018 S/Hannah Weinstein			JUDGE Roger T. E	Benitez		DOCKET NUMBER 3:	17CV1464 BEN BGS
01/31/2018 s/Hannah Weinstein	DATE				OF RECORD	<u> </u>	
			5,114111411 11011	.5(5)11			
RECEIPT #AMOUNTAPPLYING IFPJUDGEMAG. JUDGE	RECEIPT # AM	4OUNT	APPLYING IFP		JUDGE	MAG. JUI	OGE

#### INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- **I.(a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
  - (b) County of Residence. For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
  - (c) Attorneys. Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- **II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.
  - United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here. United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.
  - Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.
  - Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)
- **III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- **IV. Nature of Suit.** Place an "X" in the appropriate box. If there are multiple nature of suit codes associated with the case, pick the nature of suit code that is most applicable. Click here for: Nature of Suit Code Descriptions.
- **V. Origin.** Place an "X" in one of the seven boxes.
  - Original Proceedings. (1) Cases which originate in the United States district courts.
  - Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.
  - Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
  - Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date. Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
  - Multidistrict Litigation Transfer. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407
  - Multidistrict Litigation Direct File. (8) Check this box when a multidistrict case is filed in the same district as the Master MDL docket. **PLEASE NOTE THAT THERE IS NOT AN ORIGIN CODE 7.** Origin Code 7 was used for historical records and is no longer relevant due to changes in statue.
- VI. Cause of Action. Report the civil statute directly related to the cause of action and give a brief description of the cause. Do not cite jurisdictional statutes unless diversity. Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service
- **VII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P. Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction. Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. Related Cases. This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

**Date and Attorney Signature.** Date and sign the civil cover sheet.

1	ELI NADURIS-WEISSMAN (CSB 254788) E-mail: enaduris-weissman@rsglabor.com HANNAH WEINSTEIN (CSB 301666) E-mail: hweinstein@rsglabor.com ROTHNER, SEGALL & GREENSTONE					
2	HANNAH WEINSTEIN (CSB 301666)					
3	ROTHNER, SEGALL & GREENSTONE 510 South Marengo Avenue					
4	Pasadena California 91101-3115					
5	Telephone: (626) 796-7555 Facsimile: (626) 577-0124					
6	Attorneys for Plaintiffs and those similarly situated	у				
7	INITED STATES	DISTRICT COURT				
8		CT OF CALIFORNIA				
9	SOUTHERN DISTRI	CT OF CALL ORDER				
10						
11	ALBERTO ARELLANO, MAICO	CASE NO. '18CV0229 BAS MDD				
12	ALEJO, and GARY OLLISON, on behalf of themselves and all other					
13	employees similarly situated,	CONSENT TO JOIN ACTION				
14	Plaintiffs,	UNDER FAIR LABOR STANDARDS ACT				
15	v.	[29 US.C. § 216(b)]				
16	CITY OF SAN DIEGO; and DOES 1 through 10, inclusive,					
17	Defendants.					
18						
19						
20	All La Arrilano	leves of the City of San Diego				
21	I, Aberto Arclano, an employee of the City of San Diego,					
22	want to join this lawsuit to seek unpaid of					
23	owed to me by the City of San Diego. A					
24	plaintiff in the above-captioned action filed under the Fair Labor Standards Act, 29					
25	U.S.C. § 216(b).	101				
26	110010	Nett And le				
27	Dated: 0129 6	By: The first the second of th				
28						

1	ELI NADURIS-WEISSMAN (CSB 254788)					
2	ELI NADURIS-WEISSMAN (CSB 254788) E-mail: enaduris-weissman@rsglabor.com HANNAH WEINSTEIN (CSB 301666) E-mail: hweinstein@rsglabor.com ROTHNER, SEGALL & GREENSTONE					
3	ROTHNER, SEGALL & GREENSTONE					
4	510 South Marengo Avenue Pasadena, California 91101-3115 Telephone: (626) 796-7555 Facsimile: (626) 577-0124					
5	Facsimile: (626) 796-7555 Facsimile: (626) 577-0124					
6	Attorneys for Plaintiffs and those similarly					
7	situated					
8	UNITED STATES DISTRICT COURT					
9	SOUTHERN DISTRICT OF CALIFORNIA					
10						
11	ALBERTO ARELLANO, MAICO   CASE NO. '18CV0229 BAS MDD					
12	ALBERTO ARELLANO, MAICO ALEJO, and GARY OLLISON, on behalf of themselves and all other					
13	employees similarly situated,					
14	Plaintiffs,  CONSENT TO JOIN ACTION UNDER FAIR LABOR STANDARDS ACT					
15	v. STANDARDS ACT [29 US.C. § 216(b)]					
16	CITY OF SAN DIEGO; and DOES 1 through 10, inclusive,					
17	Defendants.					
18						
19						
20						
21	I, Maiw Aelo, an employee of the City of San Diego,					
22	want to join this lawsuit to seek unpaid overtime compensation which may be					
23	owed to me by the City of San Diego. Accordingly, I consent to become a party					
24	plaintiff in the above-captioned action filed under the Fair Labor Standards Act, 29					
25	U.S.C. § 216(b).					
26	1001					
27	Dated: 1 26 2018 By: N 15					
28						

1	ELI NADURIS-WEISSMAN (CSB 254788) E-mail: enaduris-weissman@rsglabor.com					
2   3	ELI NADURIS-WEISSMAN (CSB 254788) E-mail: enaduris-weissman@rsglabor.com HANNAH WEINSTEIN (CSB 301666) E-mail: hweinstein@rsglabor.com ROTHNER, SEGALL & GREENSTONE					
4	South Marengo Avenue					
5	510 South Marengo Avenue Pasadena, California 91101-3115 Telephone: (626) 796-7555 Facsimile: (626) 577-0124					
6	Attorneys for Plaintiffs and those similarly situated					
7	Situated					
8	UNITED STATES DISTRICT COURT					
9	SOUTHERN DISTRICT OF CALIFORNIA					
10						
11	ALBERTO ARELLANO, MAICO   CASE NO.					
12	ALBERTO ARELLANO, MAICO ALEJO, and GARY OLLISON, on behalf of themselves and all other  CASE NO.					
13	employees similarly situated,  CONSENT TO JOIN ACTION					
14	Plaintiffs,  UNDER FAIR LABOR STANDARDS ACT					
15	v. [29 US.C. § 216(b)]					
16	CITY OF SAN DIEGO; and DOES 1 through 10, inclusive,					
17	Defendants.					
18						
19						
20						
21	I, Gay Ollison, an employee of the City of San Diego,					
22	want to join this lawsuit to seek unpaid overtime compensation which may be					
23	owed to me by the City of San Diego. Accordingly, I consent to become a party					
24	plaintiff in the above-captioned action filed under the Fair Labor Standards Act, 29					
25	U.S.C. § 216(b).					
26	Line is a second of the second					
27	Dated: 1/29/18 By: Oauy Oli	-				
28						

# **ClassAction.org**

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: <u>Lawsuit Against City of San Diego Seeks to Shed Light on Potentially Illegal Pay Practices</u>