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7
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9 IN THE UNITED STATES DISTRICT COURT
10 NORTHERN DISTRICT OF CALIFORNIA

11
12 JOHN MATTES, on behalf of himself and
all similarly situated individuals,

13 Plaintiff,

14 vs.

15 TOWN OF ATHERTON,

16 Defendant.
17
18

Case No.

**COLLECTIVE ACTION - 29 U.S.C. §
216(b)**

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

19 **I.**

20 **INTRODUCTION**

- 21 1. This action is brought pursuant to the provisions of the Fair Labor Standards Act
22 (“FLSA”) 29 U.S.C. sections 201, *et seq.*, to recover from Defendant TOWN OF
23 ATHERTON (hereinafter “Defendant”) unpaid overtime and other compensation, interest
24 thereon, liquidated damages, costs of suit and reasonable attorney fees.
- 25 2. This action arises from Defendant’s failure to compensate Plaintiff for all overtime hours
26 Defendant suffered or permitted Plaintiff to work as well as include all statutorily required
27 forms of compensation in the “regular rate” used to calculate Plaintiff’s overtime
28 compensation.

II.
PARTIES

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- 2
- 3 3. Plaintiff JOHN MATTES (“Plaintiff”) was employed by the Defendant. Plaintiff brings
4 this action on behalf of himself and all other similarly situated individuals. Defendant
5 deprived Plaintiff and similarly situated individuals of their full statutorily required
6 compensation for overtime hours worked.
- 7 4. Defendant is a political subdivision of the State of California and employed the Plaintiff.
- 8 5. Defendant implemented an illegal compensation method by suffering or permitting
9 Plaintiff to work in excess of forty hours per week, but failed to provide him with all
10 overtime compensation due for these hours. Further, Defendant’s method of calculating
11 Plaintiff’s and other similarly situated individuals’ “regular rate” excluded certain
12 remunerations that were required to be included, also resulting in an underpayment of
13 overtime compensation due.
- 14 6. Plaintiff brings this action on behalf of himself and all other similarly situated individuals.
15 Those individuals constitute a well-defined community of interest in the questions of law
16 and fact at issue in this case. The claims of the represented Plaintiff are typical of the
17 claims of those similarly situated.
- 18 7. The named Plaintiff will fairly and adequately reflect and represent the interests of those
19 similarly situated. There is no conflict as to the individually named Plaintiff and other
20 members of the collective action with respect to this action or with respect to the claims
21 for relief herein set forth.

22 **III.**
23 **JURISDICTION**

- 24 8. This action is brought pursuant to the provisions of the FLSA, 29 U.S.C. sections 201, *et*
25 *seq.*, to recover from Defendant unpaid overtime compensation, interest thereon,
26 liquidated damages, costs of suit and reasonable attorney fees. This Court has jurisdiction
27 over this action pursuant to 28 U.S.C. section 1331 and 29 U.S.C. section 216(b), because
28 this action is based on the FLSA. This Court has subject matter jurisdiction of this action

1 pursuant to 29 U.S.C. sections 207, *et seq.*

2 **IV.**

3 **COLLECTIVE ACTION ALLEGATIONS**

4 9. Plaintiff, on behalf of himself and all other Collective Action Members, repeat and re-
5 allege each and every allegation by reference contained in all previous paragraphs.

6 10. Plaintiff, brings these claims for relief for violation of the FLSA as a collective action
7 pursuant to Section 16(b) of the FLSA, 29 U.S.C. section 216(b), on behalf of himself and
8 all other similarly situated individuals under the provisions of 29 U.S.C. section 216 for
9 unpaid wages, liquidated damages under a three-year statute of limitations or greater
10 based on the effective date of any applicable tolling agreement, and relief incident and
11 subordinate thereto, including costs and attorney fees.

12 11. Plaintiff hereby consents to sue for violations of the FLSA, pursuant to 29 U.S.C. sections
13 216(b) and 256.

14 12. A collective action is a superior method for bringing this action in that there is a well-
15 defined community of interest in the questions of law and fact.

16 13. Plaintiff and Collective Action Members are similarly situated and are subject to
17 Defendants' common practices, policies, or plans of failing to compensate them for all
18 hours worked and refusing to pay the required amount of overtime compensation in
19 violation of the FLSA.

20 14. Plaintiff, as collective action representative, brings this action on behalf of a class of all
21 similarly situated individuals. The proposed class includes the following similarly situated
22 individuals ("Collective Action Members"). The Collective Action Members consists of
23 Plaintiff and all individuals employed by Defendants in non-exempt positions as
24 dispatcher who performed more than 40 hours of work in a workweek and at any time
25 from three years before the filing of the instant Complaint, or the effective date of any
26 applicable tolling agreement, whichever is earlier and ending at the time this action
27 proceeds to final judgment or settlement (the "Collective Action Period"). A sub-class of
28 Collective Action Members consists of Plaintiff and all individuals employed by

1 Defendants in non-exempt positions as dispatcher who performed more than 40 hours of
2 work in a workweek and received cash payments in lieu of health benefits during the
3 Collective Action Period.

- 4 15. Plaintiff reserves the right to name additional class representatives and to identify sub-
5 classes and sub-class representatives as may be necessary and appropriate. Those
6 individuals are similarly situated and constitute a well-defined community of interest in
7 their respective questions of law and fact relevant to this action. The claims of the Plaintiff
8 are typical of those of other individuals similarly situated. The Plaintiff will fairly and
9 adequately represent the interests of those similarly situated.
- 10 16. The identity of all Collective Action Members is readily ascertainable from Defendants’
11 records, and class notice can be provided to all Collective Action Members by
12 conventional means such as U.S. mail, email, and workplace postings.
- 13 17. There are common questions of law and fact in this action relating to and affecting the
14 rights of each member of the collective group, including whether Defendant failed to fully
15 compensate Plaintiff and other similarly situated individuals for all overtime hours worked
16 as well as failed to include compensation in lieu of health benefits in the “regular rate” of
17 pay used to calculate overtime compensation, and whether Defendant failed to cash out
18 Plaintiff’s accrued compensatory time off at the appropriate rate of pay. The relief sought
19 is common to the entire class.
- 20 18. Plaintiff’s claims and the claims of those similarly situated depend on a showing of
21 Defendant’s acts and omissions giving rise to Plaintiff’ right to the relief sought herein.
22 There is no conflict as to the named Plaintiff and other members of the collective action
23 group seeking to opt in, with respect to this action, or with respect to the claims for relief
24 herein set forth.
- 25 19. This action is properly maintained as a collective action in that the prosecution of separate
26 actions by individual members of the collective group would create a risk of inconsistent
27 adjudications with respect to individual members of the class which may as a practical
28 matter be dispositive of the interests of the other members not parties to these

- 1 adjudications, or may substantially impair or impede their ability to protect their interests.
- 2 20. Plaintiff’ lawyers are experienced and capable in the field of FLSA and labor/employment
- 3 litigation and have successfully represented thousands of claimants in other litigation of
- 4 this nature.
- 5 21. Plaintiff’s counsel, Mastagni Holstedt, APC, will conduct and be responsible for
- 6 Plaintiff’s case herein. Plaintiff’s counsel, who will be primarily responsible for litigating
- 7 this matter, have represented thousands of employees pursuing wage and hour claims
- 8 throughout the State of California, and recovered significant sums of compensation on
- 9 their behalf.
- 10 22. This action is appropriate for conditional certification as a collective action because
- 11 Defendant subjected Plaintiff and the other members of the class to the same practice of
- 12 not paying overtime for all hours worked beyond forty (40) in a week in violation of 29
- 13 U.S.C. section 207 and excluding certain remunerations from the regular rate of pay, and
- 14 failing to cash out employees’ accrued compensatory time off at the appropriate rate of
- 15 pay.
- 16 23. This factual nexus is sufficient to justify the Court to exercise its discretion to ensure that
- 17 accurate and timely notice is given to all similarly situated former and current employees
- 18 of Defendant so that they may make an informed decision about whether to join this
- 19 action.

20 **V.**

21 **FACTUAL ASSERTIONS**

- 22 24. Plaintiff was employed as a dispatcher by the Town of Atherton’s police department
- 23 within the last three (3) years.
- 24 25. At all times relevant hereto, Plaintiff’s terms and conditions of employment, including is
- 25 compensation, was governed by a memorandum of understanding (“MOU”) between
- 26 Defendant, and Plaintiff’s collective bargaining representative, the Atherton Police
- 27 Officers Association (“APOA”).
- 28 26. At all times relevant hereto, Defendant suffered or permitted Plaintiff to work a regular

- 1 schedule of three twelve-hour shifts totaling thirty-six (36) hours in the first workweek
2 and four twelve-hour shifts totaling forty-eight (48) hours in the second workweek. At all
3 times relevant hereto, Plaintiff's shift normally began at 6:00 a.m. and ended at 6:00 p.m.
- 4 27. On information and belief, at all times relevant hereto, Defendant maintained a policy that
5 Plaintiff's workweek for the purposes of overtime under the FLSA began at 12:01 a.m.
6 Sunday and ended at 11:59 p.m. the following Saturday.
- 7 28. At all times relevant hereto, Defendant had a policy to only compensate Plaintiff, and on
8 information and belief similarly situated individuals, only for hours worked beyond eighty
9 (80) in a two-week period regardless of the number of hours worked beyond forty in a
10 single workweek. For example, if Plaintiff worked his regular schedule, Defendant would
11 only pay overtime compensation on the last four hours of his eighty-four (84) hour
12 schedule, despite working eight (8) overtime hours in the second workweek.
- 13 29. At all times relevant hereto, Defendant knew or should have known that it was obligated
14 to pay overtime compensation to civilian members of the police department, including
15 dispatchers for hours worked beyond forty (40) in a workweek.
- 16 30. In October 2016, Defendant entered into a side letter with APOA to allegedly bifurcate
17 dispatchers' scheduled work hours equally between the two workweeks of the regular
18 two-week schedule into 42 hours a piece. This side letter did not set forth the time of day
19 nor the day of the week that the workweek was to begin.
- 20 31. Defendant did not issue back overtime pay to Plaintiff for the overtime hours worked
21 beyond forty (40) in the workweek that were only compensated at the straight-time rate
22 prior to the adoption of this side letter. On information and belief the same is true for
23 other similarly situated individuals.
- 24 32. Further, Defendant continued its policy to only compensate Plaintiff for only four (4)
25 hours of overtime when he worked his normal schedule. On information and belief the
26 same is true for other similarly situated individuals.
- 27 33. As part of the compensation it provided Plaintiff, and pursuant to Defendant's MOU with
28 APOA, Defendant paid Plaintiff and other similarly situated individuals' monetary

1 compensation in lieu of contributing towards Defendant-provided health benefits.

2 34. At all times relevant hereto, Defendant placed no condition on use of these in-lieu
3 payments.

4 35. At all times relevant hereto, Defendant treated these payments to Plaintiff as wages for the
5 purposes of applicable tax withholdings. Plaintiff is informed and believes Defendant
6 treated such payments to similarly situated individuals in the same manner.

7 36. In calculating the “regular rate” for the purposes of overtime compensation, Defendant
8 excluded the remunerations it paid Plaintiff and similarly situated individuals in lieu of
9 contributions towards medical benefits.

10 37. At all times relevant hereto, Defendant and its agents and representatives were aware of
11 their obligations to properly compute overtime compensation owed to Plaintiff and
12 similarly situated individuals based on a workweek as well as their obligation to properly
13 calculate the regular rate of pay owed to Plaintiff and similarly situated individuals.

14 38. Plaintiff is informed and believes and thereon alleges Defendant and its agents and/or
15 representatives willfully and knowingly violated the FLSA by failing to compensate
16 Plaintiff for all overtime hours worked and for excluding certain remunerations from the
17 calculation of Plaintiff’s and similarly situated individuals’ “regular rate” of pay.

18 **FIRST CLAIM FOR RELIEF**

19 **(Fair Labor Standards Act - Failure To Pay All Overtime Compensation Earned For All**
20 **Overtime Hours Worked)**

21 39. Plaintiff, on behalf of himself and all other Collective Action Members, repeat and re-
22 allege each and every allegation by reference contained in all previous paragraphs.

23 40. Plaintiff and Collective Action Members are, or were, employed by the Defendant within
24 the last three (3) years.

25 41. 29 U.S.C section 207 guarantees to non-exempt employees overtime compensation at one
26 and half times their regular rate of pay for all hours worked beyond forty (40) in a
27 workweek.

28 42. 29 CFR 553.211 prohibits an employer from asserting the partial exemption from

1 overtime under 29 U.S.C. section 207(k) applicable to employees engaged in law
2 enforcement activities to civilian employees of a police department. As such, individuals
3 employed as dispatchers are entitled to overtime compensation when they work beyond
4 forty (40) hours in a workweek.

5 43. Moreover, 29 CFR 778.104 prohibits an employer from averaging the number of hours
6 worked over multiple weeks to avoid their obligation to pay overtime compensation for all
7 hours worked beyond forty (40) in a single workweek. Each workweek stands alone for
8 the purposes of compliance with the FLSA.

9 44. To ensure that employers do not average hours worked over multiple workweeks, 29 CFR
10 516.2(a)(5) requires an employer to maintain and preserve records of when an employee's
11 workweek begins and ends.

12 45. Defendant suffered or permitted Plaintiff, and on information and belief other similarly
13 situated individuals, to work as a dispatcher beyond forty (40) hours in a workweek.
14 However, Defendant only paid overtime compensation to Plaintiff for hours worked
15 beyond eighty (80) in a two-week period, despite regularly working forty-eight (48) or
16 more hours in a single workweek.

17 46. By averaging the hours worked by Plaintiff over a two-week period, Defendant failed to
18 pay overtime compensation for all hours worked above forty (40) in a single workweek,
19 thereby failing to compensate Plaintiff and similarly situated individuals at one and one-
20 half times the "regular rate" of pay for all overtime hours worked as required by the
21 FLSA.

22 47. At all times relevant hereto, Defendant and its agents and representatives were aware of
23 their obligations to pay Plaintiff and similarly situated individuals for all overtime hours
24 worked at one and half times the "regular rate" of pay as required by the FLSA.

25 48. At all times relevant hereto, Defendant and its agents and representatives knew or should
26 have known of their obligations to pay Plaintiff and similarly situated individuals
27 overtime compensation at one and one-half their regular rate of pay for all hours worked
28 in excess of the applicable maximum weekly hours established by section 207 of the

1 FLSA.

2 49. At all times relevant hereto Defendant's failure to fully compensate Plaintiff for all
3 overtime hours worked was not in good faith, and was a willful violation of the FLSA.

4 50. As a result of the foregoing violations of the FLSA as herein enumerated, Plaintiff seeks
5 back pay overtime compensation that was earned but unpaid, as well as an equal amount
6 in liquidated damages for the three year period prior to the execution of a tolling
7 agreement between the parties.

8 51. Plaintiff also seeks reasonable attorney fees and costs pursuant to 29 U.S.C. section
9 216(b).

10 **SECOND CLAIM FOR RELIEF**

11 **(Fair Labor Standards Act - Failure To Pay All Overtime Compensation Earned As A 12 Result Of Failing To Include All Remuneration In The Regular Rate)**

13 52. Plaintiff, on behalf of himself and all other Collective Action Members, repeat and re-
14 allege each and every allegation by reference contained in all previous paragraphs.

15 53. Pursuant to 29 U.S.C. section 207(e), Defendant is statutorily required to include all forms
16 of remuneration in Plaintiff's "regular rate" of pay. The burden is on an employer to
17 demonstrate that a payment is excludable from the regular rate. (*Madison v. Resources for*
18 *Human Development*, 233 F.3d 175, 187 (3d Cir. 2000).)

19 54. In *Flores v. City of San Gabriel*, 824 F.3d 890 (9th Cir. 2016), cert. denied 137 S.Ct. 2117
20 (May 15, 2017), the Ninth Circuit Court of Appeals held that payments to employees in
21 lieu of health benefits were not excludable from the "regular rate" of pay under either 29
22 U.S.C. section 207(e)(2) or (e)(4). With respect to the exclusion codified in Section
23 207(e)(2) and its companion federal regulation, the court noted: "Under § 778.224(a), a
24 payment may not be excluded from the "regular rate" of pay pursuant to § 207(e)(2) if it is
25 generally understood as compensation for work, even though the payment is not directly
26 tied to specific hours worked by an employee." (824 F.3d at 898.) Further, the court held
27 that cash payments in lieu of health benefits are not excludable from the "regular rate"
28 under section 207(e)(4) because those payments do not have to be tied to specific hours of

1 work or non-work. (*Id.*)

2 55. Defendant suffered or permitted Plaintiff, and on information and belief other similarly
3 situated individuals, to work beyond forty (40) hours in a workweek.

4 56. In calculating the “regular rate” for the purposes of overtime compensation, Defendant
5 excluded the remunerations it paid Plaintiff and similarly situated individuals in lieu of
6 contributions towards health benefits.

7 57. By not properly calculating the “regular rate” used to calculate overtime compensation
8 paid to Plaintiff and other similarly situated individuals, Defendant failed to pay them one
9 and one-half times their “regular rate” of pay for all overtime hours worked.

10 58. At all times relevant hereto, Defendant and its agents and representatives were aware of
11 their obligations to pay Plaintiff and similarly situated individuals for all overtime hours
12 worked at one and one-half times the “regular rate” of pay as required by the FLSA.

13 59. At all times relevant hereto, Defendant and its agents and representatives knew or should
14 have known of their obligations to pay Plaintiff and similarly situated individuals
15 overtime compensation at one and one-half of their regular rate of pay for all hours
16 worked in excess of the applicable maximum weekly hours established by section 207 of
17 the FLSA.

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

20 61. As a result of the foregoing violations of the FLSA as herein enumerated, Plaintiff seeks
21 damages for back pay of overtime compensation that was earned but unpaid, as well as an
22 equal amount in liquidated damages for the three year period prior to the execution of a
23 tolling agreement executed by the parties.

24 62. Plaintiff also seeks reasonable attorney fees and costs pursuant to 29 U.S.C. section
25 216(b).

26 **PRAYER FOR RELIEF**

27 WHEREFORE, Plaintiff prays for judgment as follows:

28 1. For recovery of unpaid overtime compensation and interest thereon plus an equal

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amount of liquidated damages for Plaintiff and all similarly situated individuals pursuant to 29 U.S.C. section 216(b);

2. For a determination that Defendant’s conduct was reckless and/or an intentional, knowing, and willful violation of the FLSA, and therefore Plaintiff is entitled to recover damages under a three (3) year statute of limitations;
3. For reasonable attorney fees pursuant to 29 U.S.C. section 216(b);
4. For costs incurred as a result of this proceeding;
5. For conditional certification of the class as plead;
6. For an order to timely notify all potential class members of this action; and
7. For such other and further relief as the court deems just and proper.

Dated: February 27, 2018

MASTAGNI HOLSTEDT, APC

By: /s/ Ace T. Tate
DAVID E. MASTAGNI
ISAAC S. STEVENS
ACE T. TATE
Attorneys for Plaintiff

1 DAVID E. MASTAGNI, ESQ. (SBN 204244)
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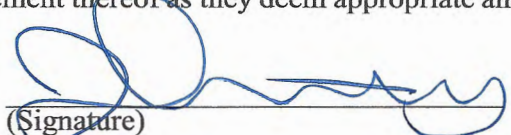
7 Attorneys for Plaintiffs

8
9 IN THE UNITED STATES DISTRICT COURT
10 NORTHERN DISTRICT OF CALIFORNIA

11 JOHN MATTES, on behalf of himself and) Case No.:
all similarly situated individuals,)
12 Plaintiffs,) **CONSENT TO BE INCLUDED AS AN**
v.) **INDIVIDUAL PLAINTIFF**
13 TOWN OF ATHERTON,) **[29 USC 216(b)]**
14 Defendant.)
15

16
17 I have been employed by the Town of Atherton within the last three years from the date
18 indicated below, and I am generally familiar with the above-captioned litigation. The Town of Atherton
19 has not fully compensated me for the hours of overtime I have worked in violation of the Fair Labor
20 Standards Act. The Town of Atherton failed to pay my overtime at the "regular rate of pay" as defined
21 by 29 U.S.C. § 207(e). I therefore consent to be included as a Plaintiff in the above-mentioned litigation
22 and to be awarded damages if any are recovered. I understand that the law offices of Mastagni Holstedt,
23 A.P.C., will be representing me in this action and that this consent form will be filed with the court
24 pursuant to 29 USC 216(b). I authorize said counsel to make all decisions with respect to the conduct
25 and handling of this case, including the settlement thereof as they deem appropriate and/or necessary.

26
27 Dated: 2-27, 2018

28 
(Signature)
John A. Mattes
(Print Name)

CONSENT TO BE INCLUDED
AS AN INDIVIDUAL PLAINTIFF

Mattes, et. al. v. Town of Atherton

CIVIL COVER SHEET

The JS-CAND 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 in its original form by the Judicial Conference of the United States in September 1974, is required for the Clerk of Court to initiate the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

JOHN MATTES, on behalf of himself and all similarly situated individuals

(b) County of Residence of First Listed Plaintiff Santa Clara County (EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number) Mastagni Holstedt, APC, 1912 I Street Sacramento, CA 95811, (916) 446-4692

DEFENDANTS

TOWN OF ATHERTON

County of Residence of First Listed Defendant (IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- 1 U.S. Government Plaintiff
2 U.S. Government Defendant
3 Federal Question (U.S. Government Not a Party)
4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

Table with columns for Plaintiff (PTF) and Defendant (DEF) citizenship: Citizen of This State, Citizen of Another State, Citizen or Subject of a Foreign Country, Incorporated or Principal Place of Business In This State, Incorporated and Principal Place of Business In Another State, Foreign Nation.

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Large table with categories: CONTRACT, REAL PROPERTY, TORTS, CIVIL RIGHTS, PRISONER PETITIONS, HABEAS CORPUS, OTHER, FORFEITURE/PENALTY, LABOR, IMMIGRATION, BANKRUPTCY, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES.

V. ORIGIN (Place an "X" in One Box Only)

- 1 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

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. sections 201, et seq. Brief description of cause: Collective Action for unpaid overtime and other compensation, interest thereon, liquidated damages, costs of suit and reasonable attorney fees.

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, Fed. R. Civ. P. DEMAND \$ CHECK YES only if demanded in complaint: JURY DEMAND: Yes No

VIII. RELATED CASE(S), IF ANY (See instructions):

JUDGE DOCKET NUMBER

IX. DIVISIONAL ASSIGNMENT (Civil Local Rule 3-2)

(Place an "X" in One Box Only) SAN FRANCISCO/OAKLAND SAN JOSE EUREKA-MCKINLEYVILLE

DATE 02/27/2018

SIGNATURE OF ATTORNEY OF RECORD

/s/ Ace T. Tate, Esq.

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INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS-CAND 44

Authority For Civil Cover Sheet. The JS-CAND 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 in its original form by the Judicial Conference of the United States in September 1974, is required for the Clerk of Court to initiate 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 Federal Rule of Civil Procedure 8(a), 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.
- (1) United States plaintiff. Jurisdiction based on 28 USC §§ 1345 and 1348. Suits by agencies and officers of the United States are included here.
 - (2) United States defendant. When the plaintiff is suing the United States, its officers or agencies, place an “X” in this box.
 - (3) Federal question. This refers to suits under 28 USC § 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.
 - (4) Diversity of citizenship. This refers to suits under 28 USC § 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-CAND 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 the nature of suit cannot be determined, be sure the cause of action, in Section VI below, is sufficient to enable the deputy clerk or the statistical clerk(s) in the Administrative Office to determine the nature of suit. If the cause fits more than one nature of suit, select the most definitive.
- V. Origin.** Place an “X” in one of the six boxes.
- (1) Original Proceedings. Cases originating in the United States district courts.
 - (2) Removed from State Court. Proceedings initiated in state courts may be removed to the district courts under Title 28 USC § 1441. When the petition for removal is granted, check this box.
 - (3) Remanded from Appellate Court. Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
 - (4) Reinstated or Reopened. Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
 - (5) Transferred from Another District. For cases transferred under Title 28 USC § 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
 - (6) Multidistrict Litigation Transfer. Check this box when a multidistrict case is transferred into the district under authority of Title 28 USC § 1407. When this box is checked, do not check (5) above.
 - (8) Multidistrict Litigation Direct File. Check this box when a multidistrict litigation case is filed in the same district as the Master MDL docket. Please note that there is no Origin Code 7. Origin Code 7 was used for historical records and is no longer relevant due to changes in statute.
- 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 Federal Rule of Civil Procedure 23. 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-CAND 44 is used to identify related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.
- IX. Divisional Assignment.** If the Nature of Suit is under Property Rights or Prisoner Petitions or the matter is a Securities Class Action, leave this section blank. For all other cases, identify the divisional venue according to Civil Local Rule 3-2: “the county in which a substantial part of the events or omissions which give rise to the claim occurred or in which a substantial part of the property that is the subject of the action is situated.”
- Date and Attorney Signature.** Date and sign the civil cover sheet.

ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Atherton, CA Named in Collective Action Over Allegedly Unpaid Overtime Wages](#)
