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of himself and on behalf of all similarly situated
13 individuals

14
15 **UNITED STATES DISTRICT COURT**
16 **CENTRAL DISTRICT OF CALIFORNIA**
17

18 THOMAS JENKINS, on behalf of himself
and on behalf of all similarly situated
19 individuals,

20
21 Plaintiff,

22 v.

23 CITY OF LOS ANGELES; LOS
24 ANGELES POLICE DEPARTMENT; and
25 DOES 1 through 10, inclusive,

26 Defendants.
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Case No. 2:24-cv-01056-FMO-AJR
Hon. Fernando M. Olguin

**FIRST AMENDED CLASS,
COLLECTIVE, AND
REPRESENTATIVE ACTION
COMPLAINT FOR:**

- (1) **FAILURE TO PAY ALL
WAGES DUE (FLSA - 29
U.S.C. §§ 206 AND 207);**
- (2) **FAILURE TO PAY ALL
MINIMUM WAGES DUE
(CAL. LAB. CODE §§ 1194,
1194.2, AND 1198; IWC WAGE
ORDER NO. 4-2001); AND**
- (3) **PENALTIES PURSUANT TO
CAL. LAB. CODE § 2699(a)
(FOR VIOLATIONS OF CAL.
LAB. CODE § 558)**

1 Plaintiff Thomas Jenkins (“Plaintiff”), on behalf of himself, all similarly
2 situated individuals, and the general public, and on behalf of the State of California
3 as a private attorney general (pursuant to Cal. Lab. Code §§ 2698, et seq.), brings this
4 class, collective, and representative action complaint against Defendant City of Los
5 Angeles (“Defendant” or “the City”), and DOES 1 to 10, inclusive (collectively,
6 “Defendants”), alleging as follows:

7 **I.**

8 **INTRODUCTION AND FACTUAL BACKGROUND**

9 1. This is a Class, Collective, and Representative Action, pursuant to Fed.
10 R. Civ. P. 23, 29 U.S.C. §§ 206 and 207, and Cal. Lab. Code §§ 2698, et seq.,
11 respectively, on behalf of Plaintiff and the Classes of individuals described in detail
12 below against Defendants.

13 2. The Fair Labor Standards Act of 1938 (as amended 29 U.S.C. §§ 201, et
14 seq.) (“FLSA”) provides for minimum standards for both wages and overtime
15 entitlement, and details administrative procedures by which covered work time must
16 be compensated. The provisions of the FLSA provide the courts with substantial
17 authority to stamp out abuses of child labor, equal pay, and portal-to-portal activities,
18 as well as the overtime pay provisions at issue in this action.

19 3. The California Labor Code provides for more protective, more rigid, and
20 more extensive labor standards which apply to all California employees.

21 4. For at least four (4) years prior to the filing of this action and continuing
22 to the present (the “liability period”), Defendants have had a consistent policy of
23 failing to pay all wages due and all minimum wages due.

24 5. Plaintiff, on behalf of himself and members of each Class, brings this
25 action pursuant to Cal. Lab. Code §§ 1194, 1194.2, and 1198, the California Industrial
26 Welfare Commission’s (“IWC”) Wage Order No. 4-2001, and 29 U.S.C. §§ 206 and
27 207, seeking compensation for all unpaid wages, liquidated damages, injunctive and
28 other equitable relief, and reasonable attorneys’ fees and costs.

4 7. Plaintiff, on behalf of himself and all Aggrieved Employees pursuant to
5 California’s Private Attorneys General Act of 2004, Cal. Lab. Code §§ 2698, et seq.
6 (“PAGA”), seeks penalties for Defendants’ various violations of the California Labor
7 Code.

II.

9. The City removed this action from the Los Angeles County Superior Court to this Court pursuant to 28 U.S.C. § 1331, and asserted in its removal papers that this Court has original jurisdiction based on a federal question pursuant to the FLSA Claims, as well as the state law claims. *See* Dkt. No. 1.

11. Venue is proper in the Western Division pursuant to 28 U.S.C. § 1391. The City is a municipality located in the Western Division, and employed Plaintiff and the Class in the Western Division.

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1 **III.**

2 **THE PARTIES**

3 **A. Plaintiff**

4 12. Plaintiff Thomas Jenkins has been employed by Defendants since
5 January 2014 as a non-exempt employee, and performed work for Defendants in the
6 County of Los Angeles, State of California.

7 13. During his work with Defendants, Plaintiff was willfully denied the
8 payment of all wages due during employment, including all minimum and overtime
9 wages.

10 **B. Defendants**

11 14. Defendant City of Los Angeles employed Plaintiff and members of each
12 Class in the County of Los Angeles.

13 15. The true names and capacities, whether individual, corporate, associate,
14 or otherwise, of Defendants sued herein as DOES 1 to 10, inclusive, are currently
15 unknown to Plaintiff, who therefore sues these Defendants by such fictitious names.
16 Plaintiff is informed and believes, and based thereon alleges, that each of the
17 Defendants designated herein as a DOE is legally responsible in some manner for the
18 unlawful acts referred to herein. Plaintiff will seek leave of court to amend this
19 Complaint to reflect the true names and capacities of the Defendants designated
20 hereinafter as DOES, when such identities become known.

21 16. Plaintiff is informed and believes, and based thereon alleges, that each
22 Defendant acted in all respects pertinent to this action as the agent of the other
23 Defendants, carried out a joint scheme, business plan or policy in all respects pertinent
24 hereto, and the acts of each Defendant are legally attributable to the other Defendants.

25 17. The Defendants named herein as DOES 1 through 10 are and were
26 persons acting on behalf of, or acting jointly with, Defendants, who violated, or
27 caused to be violated, one or more provisions of the California Labor Code as alleged
28 herein.

1 IV.

2 **CLASS ACTION ALLEGATIONS**

3 18. Plaintiff brings this action on behalf of himself, and all others similarly
4 situated as a Class Action pursuant to Fed. R. Civ. P. 23. Plaintiff seeks to represent
5 the following classes composed of and defined as follows:

6 **THE FLSA CLASS**

7 All persons employed by Defendants as non-exempt employees in the
8 United States during the period three (3) years prior to the filing of this
9 action and continuing to the present, plus any additional time tolled by
10 the California State Judicial Council pursuant to Emergency Rule 9 in
11 response to the COVID-19 pandemic, and continuing through the
12 present.

13 **THE CALIFORNIA CLASS**

14 All persons employed as non-exempt law enforcement officers by
15 Defendants in California at any time since the date three (3) years
16 preceding the filing of this Action, plus any additional time tolled by the
17 California State Judicial Council pursuant to Emergency Rule 9 in
18 response to the COVID-19 pandemic, and continuing through the
19 present.

20 19. Plaintiff reserves the right to amend or modify this class description with
21 greater specificity or further division into subclasses or limitation to particular issues.

22 20. This action has been brought and may properly be maintained as a class
23 action under the provisions of Fed. R. Civ. P. 23, because: (1) the proposed Classes
24 are so numerous that joinder of all members is impracticable; (2) there are questions
25 of law or fact common to the proposed Classes; (3) the claims of Plaintiff are typical
26 of the claims of the proposed Classes; and (4) Plaintiff will fairly and adequately
27 protect the interests of the proposed Classes.

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1 **A. Numerosity**

2 21. The potential members of each Class as defined are so numerous that
3 joinder of all class members is impracticable. While the precise number of members
4 of each Class has not been ascertained at this time, Plaintiff is informed and believes,
5 and based thereon alleges, that Defendants currently employ, and during the relevant
6 time periods employed, over 50 persons in the State of California who fall within the
7 Class definitions.

8 22. Accounting for employee turnover during the relevant period necessarily
9 increases this number. Plaintiff alleges Defendants' employment records would
10 provide information as to the number and location of members of each Class. Joinder
11 of members of each Class is not practicable.

12 **B. Commonality**

13 23. There are questions of law and fact common to each Class that
14 predominate over any questions affecting only individual members of each Class.
15 These common questions of law and fact include, without limitation:

16 a. Whether Defendants failed to pay all wages due to Plaintiff and
17 FLSA Class Members, in violation of the FLSA (29 U.S.C. §§ 206 and 207); and

18 b. Whether Defendants failed to pay all minimum wages due to
19 Plaintiff and California Class Members, in violation of Cal. Lab. Code §§ 1194,
20 1194.2, and 1198, and IWC Wage Order No. 4-2001.

21 **C. Typicality**

22 24. The claims of the named Plaintiff are typical of the claims of the
23 members of each Class. Plaintiff and the members of each Class sustained injuries
24 and damages arising out of, and caused by, Defendants' common course of conduct
25 in violation of laws, regulations that have the force and effect of law, and statutes as
26 alleged herein.

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D. Adequacy of Representation

25. Plaintiff will fairly and adequately represent and protect the interests of the members of each Class. Counsel who represent Plaintiff are competent and experienced in litigating large employment class actions.

E. Superiority of Class Action

26. A class action is superior to other available means for the fair and efficient adjudication of this controversy. Individual joinder of all proposed members of each Class is not practicable, and questions of law and fact common to the proposed Classes predominate over any questions affecting only individual members of the proposed Classes. Each member of the proposed Classes has been damaged and is entitled to recovery by reason of Defendants' illegal policies and/or practices.

27. Class action treatment will allow those similarly situated persons to litigate their claims in the manner that is most efficient and economical for the parties and the judicial system. Plaintiff is unaware of any difficulties that are likely to be encountered in the management of this action that would preclude its maintenance as a class action.

IV.

CAUSES OF ACTION

FIRST CAUSE OF ACTION

FAILURE TO PAY ALL WAGES DUE

(FLSA - 29 U.S.C. §§ 206 and 207)

(By Plaintiff and the FLSA Class against All Defendants)

28. Plaintiff incorporates paragraphs 1 through 27 above as though fully set forth herein.

29. Plaintiff brings this cause of action as a collective action under section 16(b) of the FLSA (29 U.S.C. § 216(b)).

30. This cause of action arises from Defendants' violation of the FLSA (29 U.S.C. §§ 201, et seq.), for their failure to pay all wages due to Plaintiff and FLSA

1 Class Members. At all relevant times hereto, Defendants have been an “enterprise
2 engaged in commerce or in the production of goods for commerce,” as defined under
3 29 U.S.C. § 203(s)(1)(C).

4 31. Defendants, individually and collectively, are Plaintiff’s and FLSA Class
5 Members’ “employer” as defined by the FLSA.

6 32. Defendants, individually and collectively, are an “enterprise” as defined
7 by section 3(r)(1) of the FLSA (29 U.S.C. § 203(r)(1)).

8 33. Defendants, individually and collectively, are an enterprise engaged in
9 commerce or in the production of goods for commerce within the meaning of section
10 3(s)(1)© of the FLSA (29 U.S.C. § 203(s)(1)(C)).

11 34. Defendants’ annual gross volume of sales made, or business done,
12 individually and collectively, has exceeded \$500,000 in each of the last three calendar
13 years.

14 35. Plaintiffs and FLSA Class Members are, or were, each an “employee” of
15 Defendants as defined by the FLSA.

16 36. During the entire course of their employment by Defendants, Plaintiff
17 and FLSA Class Members have not been exempt from the overtime wage provisions
18 of the FLSA.

19 37. Plaintiff is informed and believes, and based thereon alleges, that
20 Defendants have required, or require, Plaintiff and FLSA Class Members, as part of
21 their employment, to work without all additional overtime wages, pursuant to 29
22 U.S.C. § 207(a)(1). That section provides the following:

23 Except as otherwise provided in this section, no employer shall employ
24 any of his employees . . . for a workweek longer than forty hours unless
25 such employee receives compensation for his employment in excess of
26 the hours above specified at a rate which is not less than one and one-half
27 times the regular rate at which he is employed.
28

1 38. In the performance of their duties for Defendants, Plaintiff and FLSA
2 Class Members often worked more than forty (40) hours per week and did not receive
3 all overtime wage compensation for the work, labor, and services they provided to
4 Defendants as required by the FLSA (29 U.S.C. §§ 206 and 207). Specifically, they
5 were not paid overtime wages at the correct rate of pay. Defendants failed to properly
6 compute bonuses, commissions, and/or other non-base hourly wages earned by
7 Plaintiff and FLSA Class Members into their regular rate of pay for purposes of
8 paying them overtime wages at the correct rates of pay.

9 39. The precise amount of unpaid overtime wages will be proven at trial.

10 40. Plaintiff proposes to undertake appropriate proceedings to have FLSA
11 Class Members aggrieved by Defendants' unlawful conduct notified of the pendency
12 of this action and join this action as plaintiffs, pursuant to 29 U.S.C. § 216(b), by
13 filing written consents to joinder with the Court.

14 41. Defendants' violations of the FLSA were willful within the meaning of
15 the statute and interpretive case law.

16 42. As a result of the foregoing, Plaintiff seeks judgment against Defendants
17 on his own behalf, and on behalf of FLSA Class Members similarly situated who file
18 written consents to joinder in this action, for all unpaid wages owed by Defendants to
19 Plaintiff and FLSA Class Members, pursuant to 29 U.S.C. §§ 206 and 207, together
20 with an award of an additional equal amount as liquidated damages, and costs,
21 interest, and reasonable attorneys' fees, as provided for under 29 U.S.C. § 216(b).

22 43. Wherefore, Plaintiff and the FLSA Class he seeks to represent request
23 relief as described below.

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SECOND CAUSE OF ACTION

FAILURE TO PAY ALL MINIMUM WAGES DUE

(Cal. Lab. Code §§ 1194, 1194.2, & 1198, and IWC Wage Order No. 4-2001)

(By Plaintiff and the California Class against All Defendants)

44. Plaintiff incorporates paragraphs 1 through 43 above as though fully set forth herein.

45. During the liability period, Defendants failed to pay Plaintiff and California Class Members all minimum wages due during the course of employment, in violation of Cal. Lab. Code §§ 1194, 1194.2, and 1198, and IWC Wage Order No. 4-2001. Defendants did not fully compensate Plaintiff and California Class Members, because they were required to engage in pre-shift and post-shift donning and doffing of uniforms (e.g., trousers, shirt, belt, body camera, and boots), equipment, and special protective gear (e.g., bullet proof vests) that are integral and indispensable to their duties. Officers must check out their body cameras at the station and must return them immediately after their shift. Plaintiff spends between five to fifteen minutes pre-shift/prior to roll call and post-shift/after sign-out donning and doffing at the station's locker room—time that is unscheduled, off-the-clock, and wholly uncompensated. Such donning and doffing occurs at each shift, thus, constitutes a significant number of uncompensated hours annually. Although police officers receive a stipend for costs associated with purchasing, cleaning, and maintaining uniforms and equipment, there is no compensation provided for time spent robing and disrobing. Moreover, Defendants' rules and regulations regarding uniforms and special protective gear are detailed, subject to formal inspection by superior officers and watch commanders, and failure to adhere to uniform requirements could result in discipline. Defendants benefit by receiving a ready and healthy police force that is identifiable by members of the public and safely prepared for tours of duty.

46. Defendants maintain policies and practices that serve as de facto requirements that Plaintiff and the California Class Members don and doff their

1 uniforms and equipment on Defendants' premises at the station's locker room. Each
 2 officer is assigned a locker and, as a general matter due to these requirements, changes
 3 at the station. Donning and doffing at the station is understood to protect the dignity
 4 of the uniform as well as the safety of the officers. An officer could be put at risk, for
 5 example, if perceived as being on duty while still in uniform and running errands on
 6 his or her way home. Plaintiff and the California Class follow these requirements to
 7 don and doff uniforms and equipment on Defendants' premises, but are and were not
 8 compensated for this time.

9 47. As a result of the unlawful acts of Defendants in willfully failing to pay
 10 all minimum wages due, Plaintiff and California Class Members have been deprived
 11 of wages in amounts to be determined at trial, and are entitled to restitution and
 12 recovery of such amounts, plus interest thereon, attorneys' fees, and costs, pursuant
 13 to Cal. Lab. Code § 1194, and liquidated damages pursuant to Cal. Lab. Code §
 14 1194.2.

15 48. Wherefore, Plaintiff and the California Class he seeks to represent
 16 request relief as described below.

17 **THIRD CAUSE OF ACTION**

18 **PENALTIES PURSUANT TO CAL. LAB. CODE § 2699(a) (FOR** 19 **VIOLATIONS OF CAL. LAB. CODE § 558)**

20 **(By Plaintiff and Aggrieved Employees against All Defendants)**

21 49. Plaintiff incorporates paragraphs 1 through 48 above as though fully set
 22 forth herein.

23 50. Aggrieved Employees are composed of all persons employed as non-
 24 exempt law enforcement officers by Defendants in California at any time since the
 25 date one (1) year preceding the filing of this action.

26 51. As a result of the acts alleged above, including the California Labor Code
 27 violations set forth above, Plaintiff, on behalf of himself and the Aggrieved
 28 Employees, seeks civil penalties pursuant to Cal. Lab. Code §§ 2698, et seq.

52. For each such violation, Plaintiff and the Aggrieved Employees are entitled to penalties and other relief in an amount to be shown at the time of trial, subject to the following formula for each violation of Cal. Lab. Code § 558, pursuant to Cal. Lab. Code § 2699(a):

- \$50 for the initial violation; and
- \$100 for each subsequent violation.

53. Civil penalties recovered under this cause of action will be allocated 75% to the California Labor and Workforce Development Agency (“LWDA”), and 25% to the Aggrieved Employees.

54. On October 13, 2023, Plaintiff sent a letter by online submission to the LWDA, and by certified mail, return receipt requested to Defendants, setting forth the facts and theories of the violations alleged against Defendants, as prescribed by the PAGA. No notice was received by Plaintiff from the LWDA within sixty-five (65) calendar days of October 13, 2023; therefore, pursuant to Cal. Lab. Code § 2699.3(a)(2)(A), Plaintiff may commence an action to seek civil penalties pursuant to the PAGA.

55. Wherefore, Plaintiff and the Aggrieved Employees he seeks to represent request relief as described below.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for the following relief:

1. For an order certifying this action as a class action;
2. For recovery of all unpaid wages and liquidated damages, pursuant to the FLSA (29 U.S.C. §§ 201, et seq.), with respect to Plaintiff and FLSA Class Members;
3. For compensatory damages and liquidated damages pursuant to Cal. Lab. Code §§ 1194, 1194.2, and 1198, and IWC Wage Order No. 4-2001 in the amount of all unpaid minimum wages due to Plaintiff and California Class Members;

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1 4. For civil penalties and wages pursuant to the PAGA (Cal. Lab. Code §§
2 2698, et seq.) for Plaintiff and all other Aggrieved Employees;

3 5. For attorneys' fees and costs of suit pursuant to Cal. Lab. Code § 1194
4 and other applicable law;

5 6. For pre-judgment and post-judgment interest; and

6 7. For such other and further relief as the Court may deem just and proper.
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8 Dated: February 29, 2024

COUNSELONE, PC

9
10 By: /s/ Anthony J. Orshansky

11 Anthony J. Orshansky
12 Demetrius X. Lambrinos
13 Justin Kachadoorian

14 Attorneys for Plaintiff Thomas Jenkins,
15 on behalf of himself and on behalf of all
16 similarly situated individuals
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DEMAND FOR JURY TRIAL

Pursuant to Rule 38 of the Federal Rules of Civil Procedure, Plaintiff hereby demands a jury trial on all issues triable to a jury.

Dated: February 29, 2024

COUNSELONE, PC

By: /s/ Anthony J. Orshansky _____

Anthony J. Orshansky

Demetrius X. Lambrinos

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