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9 **IN THE UNITED STATES DISTRICT COURT**
10 **DISTRICT OF ARIZONA**

11 Christopher J. Houck, on behalf of
12 himself and all those similarly situated,
13
14 Plaintiff,
15
16 v.
17 Maricopa County,
18
19 Defendant.

Case No.
**COLLECTIVE ACTION AND CLASS
ACTION COMPLAINT**
[JURY TRIAL DEMANDED]

20 Plaintiff Christopher J. Houck (“Plaintiff”), individually and on behalf of all others
21 similarly situated, for his Complaint against Defendant Maricopa County (the “County”)
22 alleges as follows:

23 **I. NATURE OF THE CASE**

24 1. Plaintiff brings this action against the County for its unlawful failure to pay
25 overtime wages in violation of the Fair Labor Standards Act, 29 U.S.C. § 201 *et seq.*
26 (“FLSA”).

27 2. This action is brought as a collective action pursuant to 29 U.S.C. § 216(b) to
28 recover unpaid overtime compensation, liquidated damages, statutory penalties and

1 damages owed to Plaintiff and all others similarly situated. For collective action purposes,
2 the proposed Class consists of:

3 All current and former lieutenants employed by Maricopa
4 County in the Patrol Division in the last three years (“Patrol
5 Lieutenants”).

6 3. For at least three (3) years prior to the filing of this action (the “Liability
7 Period”), the County had and continues to have a consistent policy and practice of suffering
8 or permitting employees who worked as Patrol Lieutenants, including Plaintiff, to work in
9 excess of forty (40) hours per week, without paying them proper overtime compensation as
10 required by federal wage and hour laws. Plaintiff seeks to recover unpaid overtime
11 compensation, interest thereon, statutory penalties, reasonable attorneys’ fees and litigation
12 costs on behalf of himself and all similarly situated current and former Patrol Lieutenants.
13 Plaintiff and all similarly situated current and former Patrol Lieutenants who may opt-in
14 pursuant to 29 U.S.C. § 216(b) also seek liquidated damages.

15 **II. JURISDICTION AND VENUE**

16 4. This Court has jurisdiction over the subject matter and the parties hereto
17 pursuant to 29 U.S.C. § 216(b) and 28 U.S.C. § 1331.

18 5. Venue is proper in this District under 28 U.S.C. §§ 1391(b) and (c) because
19 all or a substantial part of the events or omissions giving rise to the claims occurred in the
20 State of Arizona within this District. Plaintiff was employed by the County in this District.

21 **III. PARTIES**

22 6. At all times relevant to the matters alleged herein, Plaintiff Christopher J.
23 Houck resided in the State of Arizona in Maricopa County.

24 7. Plaintiff has worked for the Maricopa County Sherriff’s Office (“MCSO”)
25 from February 2007 to the present.

26 8. Plaintiff was a full-time, non-exempt employee of the County employed as a
27 Deputy from August 2007 when he completed training until September 2017 and then as
28 Sergeant for MSCO from September 2017 until April 4, 2022.

1 20. Plaintiff's primary duty as a Patrol Lieutenant is non-exempt in nature.
2 Plaintiff's primary duty is law enforcement, including rescuing crime victims, preventing
3 or detecting crimes, conducting investigations and inspections for violations of law,
4 performing surveillance, pursuing, restraining, and apprehending suspects, detaining or
5 supervising suspected and convicted criminals, interviewing witnesses, and interrogating
6 suspects.

7 21. While Plaintiff has some office duties, his primary and most important duty
8 as a Patrol Lieutenant constitute law enforcement first responder duties.

9 22. To that end, Plaintiff spends every day monitoring the police radio for patrol
10 activity, so that he can respond to first responder law enforcement calls as required by the
11 County.

12 23. Patrol Lieutenants are expected to provide law enforcement as their primary
13 duty for the County. For example, Patrol Lieutenants like Plaintiff are required to respond
14 to all high level patrol calls and report as first responders in the field for all such calls.

15 24. In fact, Plaintiff's supervisory role is limited, both because of the importance
16 of his primary duty of law enforcement and because he lacks discretion in his duties
17 involving supervision of other employees.

18 25. Plaintiff's discretion in his administrative or supervisory role is limited by the
19 decisions of his Captain, who ultimately makes decisions regarding management and
20 operations of the Patrol Division.

21 26. Plaintiff does not have authority to hire and fire employees, his primary duty
22 is not management, he does not have discretion over other employees' employment, he does
23 not run a division within the MCSO, his primary duty is not the performance of office or
24 non-manual work directly related to the management or general business operations of
25 MCSO, and his primary duty is not the performance of work requiring knowledge of an
26 advanced type customarily acquired by prolonged course of intellectual instruction.

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1 27. Despite the non-exempt nature of Plaintiff’s duties as a Patrol Lieutenant, the
2 County classifies Plaintiff and the Patrol Lieutenants as exempt managers and pays them a
3 “salary.”

4 28. Plaintiff’s “salary” as a Patrol Lieutenant is paid on an hourly basis with the
5 requirement that Plaintiff accounts for at least 80 hours every two weeks regardless of the
6 amount of hours he actually works.

7 29. Plaintiff’s hourly rate as a Patrol Lieutenant started at \$47.45 per hour and
8 was increased to \$52.06 in July 2022.

9 30. As a Patrol Lieutenant, Plaintiff routinely works more than forty hours per
10 week and he is not paid time and a half for those hours worked over forty in a workweek.

11 31. Plaintiff’s overtime hours during a typical week in which he works overtime
12 ranges from two to nine hours.

13 32. For example, for the pay period from July 10, 2022 through July 24, 2022,
14 Plaintiff’s pay stubs show that he worked 5.5 hours of overtime. However, Plaintiff was
15 only paid for 80 hours at his regular rate of pay and he was not paid any overtime for the
16 5.5 hours he was required to work beyond the forty hours per week reflected on his pay
17 statement for that pay period.

18 33. Plaintiff complained to his supervisor and human resources that he was not
19 being paid correctly because the County was failing to pay him overtime even though he
20 was performing law enforcement duties comparable to the duties he performed as a non-
21 exempt Sergeant prior to his promotion to Patrol Lieutenant, but the County refused to
22 correct his pay and continued its practice not to pay him or the Patrol Lieutenants time and
23 a half for hours worked over forty in a workweek.

24 34. Rather, the County improperly stated that the Patrol Lieutenants were exempt
25 from overtime, failing to account for the fact that their primary duties are law enforcement.

26 35. Plaintiff’s work in the field as a Patrol Lieutenant includes activities like
27 investigating crimes and apprehending fugitives.

28

1 36. Plaintiff's duties, hours and compensation are indicative of the similarly
2 situated Patrol Lieutenants.

3 37. The County's improper policies and compensation practices applied to
4 Plaintiff and all similarly situated Patrol Lieutenants he seeks to represent.

5 38. Upon information and belief, the County is aware that it has misclassified the
6 Patrol Lieutenants as exempt from overtime, but it has taken no actions necessary to ensure
7 that all non-exempt employees who work overtime hours have been properly paid for those
8 hours as required by the FLSA.

9 **V. COLLECTIVE ACTION ALLEGATIONS**

10 39. Plaintiff brings his claim under the FLSA, 29 U.S.C. § 201 *et seq.*, as a
11 collective action. Plaintiff brings this action on behalf of himself and others similarly
12 situated, properly defined in paragraph 2 above.

13 40. The County's illegal overtime wage practices were widespread with respect
14 to the proposed Class. The failure to pay proper overtime was not the result of random or
15 isolated individual management decisions or practices.

16 41. The County's overtime wage practices were routine and consistent.
17 Throughout the Liability Period, employees regularly were not paid the proper overtime
18 wage despite working in excess of forty hours per week.

19 42. Other Patrol Lieutenants performed the same or similar job duties as Plaintiff.
20 Moreover, Patrol Lieutenants regularly work more than forty hours in a workweek.
21 Accordingly, the employees victimized by the County's unlawful pattern and practices are
22 similarly situated to Plaintiff in terms of employment and pay provisions.

23 43. The County's failure to pay overtime compensation at the rates required by
24 the FLSA result from generally applicable policies or practices and do not depend on the
25 personal circumstances of the members of the collective action. Thus, Plaintiff's experience
26 is typical of the experience of the others employed by the County as Patrol Lieutenants.

27 44. All Patrol Lieutenants, including Plaintiff, regardless of their precise job
28 requirements or rates of pay, are entitled to overtime compensation for hours worked in

1 excess of forty. Although the issue of damages may be individual in character, there is no
2 detraction from the common nucleus of facts pertaining to liability.

3 **VI. COUNT ONE**

4 **(Failure to Pay Overtime Wages - FLSA - 29 U.S.C. § 207 *et seq.*)**

5 45. Plaintiff, on behalf of himself and all those similarly situated, incorporates by
6 reference all of the above allegations as though fully set forth herein.

7 46. Plaintiff and the Patrol Lieutenants are non-exempt employees entitled to the
8 statutorily mandated overtime pay according to the FLSA.

9 47. The County was an employer pursuant to 29 U.S.C. § 203(d).

10 48. The County failed to comply with 29 U.S.C. § 207 because Plaintiff and the
11 Patrol Lieutenants worked for the County in excess of forty hours per week, but the County
12 failed to pay them for those excess hours at the statutorily required rate of one and one-half
13 times their regular rate of pay as required by the FLSA.

14 49. The work was performed at the County's direction and with the County's
15 knowledge.

16 50. The County's failure to pay overtime to Plaintiff and the Patrol Lieutenants
17 was willful. The County knows Plaintiff and the Patrol Lieutenants work overtime but fails
18 to properly pay overtime wages. The County has no reason to believe its failure to pay
19 overtime was not a violation of the FLSA.

20 51. Plaintiff and the Patrol Lieutenants are entitled to statutory remedies provided
21 pursuant to 29 U.S.C. § 216(b), including but not limited to liquidated damages and
22 attorneys' fees and costs.

23 **VII. REQUESTED RELIEF**

24 WHEREFORE, Plaintiff, individually and on behalf of all others similarly situated,
25 prays:

26 A. For the Court to order the County to furnish to Plaintiff's counsel a list of the
27 names and contact information of all current and former Patrol Lieutenants who worked for
28 the County within the past three years;

1 B. For the Court to authorize Plaintiff's counsel to issue notice at the earliest
2 possible time to all current and former Patrol Lieutenants who worked for the County within
3 the past three years immediately preceding this action, informing them that this action has
4 been filed and the nature of the action, and of their right to opt-in to this lawsuit if they
5 worked during the Liability Period;

6 C. For the Court to declare and find that the County committed one or more of
7 the following acts:

8 i. violated overtime provisions of the FLSA, 29 U.S.C. § 207, by failing
9 to pay overtime wages to Plaintiff and persons similarly situated who opt-in to this action;
10 and

11 ii. willfully violated overtime provisions of the FLSA, 29 U.S.C. § 207;

12 D. For the Court to award compensatory damages, including liquidated damages
13 pursuant to 29 U.S.C. § 216(b), to be determined at trial;

14 E. For the Court to award interest due and accruing from the date such amounts
15 were due;

16 F. For the Court to award such other monetary, injunctive, equitable, and
17 declaratory relief as the Court deems just and proper;

18 G. For the Court to award restitution;

19 H. For the Court to award Plaintiff's reasonable attorneys' fees and costs
20 pursuant to 29 U.S.C. § 216(b);

21 I. For the Court to award pre- and post-judgment interest; and

22 K. For such other relief as the Court deems just and proper.

23 **VIII. DEMAND FOR JURY TRIAL**

24 52. Plaintiff, on behalf of himself and all others similarly situated, hereby
25 demands trial of his claims by jury to the extent authorized by law.

26 DATED: January 11, 2023.

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