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8 Attorney for Plaintiffs Joseph A. Lopez,  
9 William D. Kingsbury, and Curtis E. Perkins

10 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
11 **FOR THE COUNTY OF SAN DIEGO**

12	JOSEPH A. LOPEZ,	)	CASE NO:	<b>869054</b>
13	WILLIAM D. KINGSBURY, and	)		
14	CURTIS E. PERKINS,	)		
15		)		
16	Plaintiffs,	)	COMPLAINT FOR	
17		)	DECLARATORY RELIEF	
18	v.	)		
19		)		
20	CITY OF SAN DIEGO, and DOES 1 to 20,	)		
21	inclusive,	)		
22		)		
23	Defendants.	)		

24 1. Plaintiff Joseph A. Lopez (“Lopez”) is a San Diego Police Officer and is therefore  
25 employed by the City of San Diego (“the City”).

26 2. Plaintiff William D. Kingsbury (“Kingsbury”) is a San Diego Police Officer and  
27 is therefore employed by the City.

28 3. Plaintiff Curtis Edward Perkins (“Perkins”) is a is a San Diego Police Officer and  
is therefore employed by the City.

4. The City is a municipal corporation with all municipal powers, functions, rights,  
privileges and immunities authorized by the Constitution and laws of the State of California.  
The City is a “charter city” under Article XI of the California Constitution, which authorizes the  
organization of municipal corporations (cities) as either “general law cities” or “charter cities.”  
The City is authorized to enact ordinances consistent with its charter, and is required to adhere to  
its own ordinances.



1 which is prepared annually and which shall be kept on file in the Office of the City Clerk, and  
2 also maintained by the City Manager, the City Auditor and the Personnel Director.”

3 12. The most recent Earnings Code Document states that “Motorcycle Care Pay” is  
4 included in Base Compensation (or “Retirement Base Earnings”).

5 13. Each of the plaintiffs earns “Motorcycle Care Pay” but such pay is not included  
6 by the City in plaintiffs’ Base Compensation (or “Retirement Base Earnings”).

7 14. Plaintiffs have requested that the City comply with San Diego Municipal Code  
8 section 24.0103 but the City has refused.

9 **CAUSE OF ACTION FOR DECLARATORY RELIEF**

10 **(Against All Defendants)**

11 15. Plaintiffs incorporate by reference and reallege paragraphs 1 through 14 as though  
12 fully set forth herein.

13 16. An actual and justiciable controversy has arisen, and now exists, between  
14 plaintiffs, on the one hand, and the City, on the other hand, as to whether “Motorcycle Care Pay”  
15 should be included in “Base Compensation.”

16 17. Plaintiffs contend that the City is required to include “Motorcycle Care Pay” in  
17 “Base Compensation.”

18 18. The City contends that it is not required to include “Motorcycle Care Pay” in  
19 “Base Compensation.”

20 19. Pursuant to Code of Civil Procedure section 1060, plaintiffs desire a judicial  
21 determination that the City is required to include “Motorcycle Care Pay” in “Base  
22 Compensation.”

23 20. Such a judicial determination is necessary and appropriate at this time so that the  
24 parties can ascertain their respective rights and duties.

25 21. There are no administrative remedies available to plaintiffs to compel the relief  
26 sought herein. Therefore, plaintiffs, and each of them, have exhausted all available  
27 administrative remedies.

28 22. Plaintiffs, and each of them, have no plain, speedy or adequate remedy at law.

1           23.     The plaintiffs are bringing this action in the public interest and do not seek any  
2 relief greater than a class of which the plaintiffs are members, namely, more than 40 other San  
3 Diego Police Officers who are affected by the City's failure to include "Motorcycle Care Pay" in  
4 "Base Compensation."

5           24.     The action, if successful, would enforce an important right affecting the public  
6 interest, and would confer significant benefits, pecuniary and nonpecuniary, on the general  
7 public and a large class of persons. Private enforcement is necessary and has placed a  
8 disproportionate financial burden on the plaintiffs in relation to their stake in the matter.  
9 Plaintiffs are therefore entitled to an award of attorney fees under Code of Civil Procedure  
10 section 1021.5, as well as the common fund doctrine.

11           **WHEREFORE, plaintiffs pray that, following a duly noticed hearing, the Court:**

12           1.     Render a judicial determination that the City is required pursuant to San Diego  
13 Municipal Code section 24.0103 to include "Motorcycle Care Pay" in "Base Compensation."

14           2.     Award plaintiffs costs of suit herein;

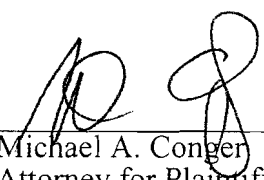
15           3.     Award plaintiffs reasonable attorney fees in accordance with California Code of  
16 Civil Procedure section 1021.5; and

17           4.     Award such other and further relief as it deems necessary and proper.  
18

19 Dated: July 12, 2006

**LAW OFFICE OF MICHAEL A. CONGER**

20  
21 By:

  
\_\_\_\_\_  
Michael A. Conger  
Attorney for Plaintiffs