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**F I L E D**  
Clerk of the Superior Court

JUN - 6 2005

By: \_\_\_\_\_ Deputy

5 Attorney for Plaintiffs Steven A. Sloan,  
6 Paul Hubka and Peter Mills

8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
9 **FOR THE COUNTY OF SAN DIEGO**

10 STEVEN A. SLOAN, PAUL HUBKA, and )  
11 PETER MILLS, )

11 Plaintiffs, )

12 v. )

13 CITY OF SAN DIEGO, and DOES 1 to 20, )  
14 inclusive, )

15 Defendants. )

CASE NO: **GIC 848641**

COMPLAINT FOR  
DECLARATORY RELIEF

17 1. Plaintiff Steven A. Sloan ("Sloan") is a San Diego Police Officer and is therefore  
18 employed by the City of San Diego ("the City").

19 2. Plaintiff Paul Hubka ("Hubka") is a San Diego Police Officer and is therefore  
20 employed by the City.

21 3. Plaintiff Peter Mills ("Mills") is a is a San Diego Police Officer and is therefore  
22 employed by the City.

23 4. The City is a municipal corporation with all municipal powers, functions, rights,  
24 privileges and immunities authorized by the Constitution and laws of the State of California.

25 The City is a "charter city" under Article XI of the California Constitution, which authorizes the  
26 organization of municipal corporations (cities) as either "general law cities" or "charter cities."

27 The City is authorized to enact ordinances consistent with its charter, and is required to adhere to  
28 its own ordinances.



1 'Earnings Codes Included in Retirement Base Compensation [the Earnings Codes Document]  
2 which is prepared annually and which shall be kept on file in the Office of the City Clerk, and  
3 also maintained by the City Manager, the City Auditor and the Personnel Director."

4 12. The most recent Earnings Code Document states that "Canine Care Pay," "Canine  
5 Unit Pay," and "Canine Training Pay" are to be included in Base Compensation (or "Retirement  
6 Base Earnings").

7 13. Each of the plaintiffs earns "Canine Care Pay," "Canine Unit Pay," and/or  
8 "Canine Training Pay" but they are not included by the City in plaintiffs' Base Compensation (or  
9 "Retirement Base Earnings").

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

12 **CAUSE OF ACTION FOR DECLARATORY RELIEF**

13 **(Against All Defendants)**

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

16 16. An actual and justiciable controversy has arisen, and now exists, between  
17 plaintiffs, on the one hand, and the City, on the other hand, as to whether "Canine Care Pay,"  
18 "Canine Unit Pay," and/or "Canine Training Pay" should be included in "Base Compensation."

19 17. Plaintiffs contend that the City is required to include "Canine Care Pay," "Canine  
20 Unit Pay," and/or "Canine Training Pay" in "Base Compensation."

21 18. The City contends that it is not required to include "Canine Care Pay," "Canine  
22 Unit Pay," and/or "Canine Training Pay" in "Base Compensation."

23 19. Pursuant to Code of Civil Procedure section 1060, plaintiffs desire a judicial  
24 determination that the City is required to include "Canine Care Pay," "Canine Unit Pay," and/or  
25 "Canine Training Pay" in "Base Compensation."

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

28 21. There are no administrative remedies available to plaintiffs to compel the relief

1 sought herein. Therefore, plaintiffs, and each of them, have exhausted all available  
2 administrative remedies.

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

4 23. The plaintiffs are bringing this action in the public interest and do not seek any  
5 relief greater than a class of which the plaintiffs are members, namely, more than 100 other San  
6 Diego Police Officers who are affected by the City's failure to include "Canine Care Pay,"  
7 "Canine Unit Pay," and/or "Canine Training Pay" in "Base Compensation."

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

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

15 1. Render a judicial determination that the City is required pursuant to San Diego  
16 Municipal Code section 24.0103 to include "Canine Care Pay," "Canine Unit Pay," and/or  
17 "Canine Training Pay" in "Base Compensation."

18 2. Award plaintiffs costs of suit herein;

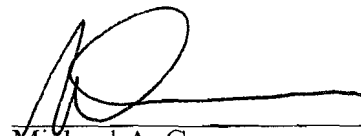
19 3. Award plaintiffs reasonable attorney fees in accordance with California Code of  
20 Civil Procedure section 1021.5; and

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

22  
23 Dated: June 6, 2005

**LAW OFFICE OF MICHAEL A. CONGER**

24  
25 By:

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