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March 17, 2016

Sent Via Facsimile, Electronic & U.S. Mail

Edward Bonner
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EBonner@placer.ca.gov

Mark Giacomini
Administrative Services Manager
Placer County Sheriff's Office
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Re: Grievance for Night Shift Differential Step 2 Filing

Dear Gentilepersons:

I am writing to you on behalf of the Placer County Deputy Sheriff's Association ("Association") president Batine Ramirez, member Robert Dellinger and all other similarly situated individuals regarding the Association's night shift differential grievance that was filed on March 11, 2016. (See attachment). As of the date of this letter, the County has not issued a written response to the Association's grievance. It is my understanding that Mr. Giacomini informally attempted to resolve the grievance by only having the Association refer those members to him who believe they have been paid incorrectly. This remedy is unsatisfactory to the Association to resolve the grievance for the simple reason that some members may be unaware of the underpayment at this time. It is the County's duty to compensate Association members in compliance with the MOU and applicable law. Thus, it is incumbent upon the County to investigate all potential failures to fulfill its obligations and make those individuals whole, not just to those who may be

March 17, 2016

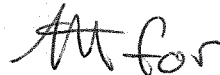
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currently aware of a potential underpayment. The MOU applies with equal force to those Association members who are cognizant of their rights under the contract and those who are not. Further, it is the Association's obligation to ensure this.

As such, this letter constitutes the Association's escalation of the grievance to Step 2 as outlined in the MOU and incorporates by reference all allegations raised in the Step 1 filing therein. If the County contends that this grievance is procedurally defective in any way, please let me know immediately, so that the defect(s) can be cured promptly without prejudicing the grievants' rights. You may contact me by phone at (916) 491-4289, by email at davidm@mastagni.com, or by fax at (916) 446-2857. I look forward to your Step 2 response.

Sincerely,

MASTAGNI HOLSTEDT, A.P.C.



DAVID E. MASTAGNI

Partner

DEM/jee

Enclosure- Step 1 Grievance

cc: Batine Ramirez, Placer County Deputy Sheriff's Association, President
Jon Scofield, Placer County Deputy Sheriff's Association, Vice-President
Noah Frederito, Placer County Deputy Sheriff's Association, Treasurer
Rob Tarabetz, Placer County Deputy Sheriff's Association, Director

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RE: Grievance for Night Shift Differential; Underpayment of Overtime; Demand for Accounting of CTO Accruals

Dear Gentlepersons:

I am writing on behalf of the Placer County Deputy Sheriffs' Association ("Association") president Batine Ramirez, member Robert Dellinger and all other similarly situated individuals. This letter represents a formal grievance regarding the County's failure to pay night shift differential payments, in violation of the parties' Memorandum of Understanding. The Association brings this grievance on behalf of itself, and all similarly situated Association members. Association board members John Scofield and Noah Frederito met with Administrative Services Manager Mark Giacomini multiple times in an attempt to resolve this this matter informally. As of the date of this letter, the situation remains unresolved.

Article 8.11 guarantees to Association members a shift differential of 7.5% if more than half a member's regularly scheduled shift occurs between 5 p.m. to 6 a.m. Further, a member is entitled to the night shift differential if the department schedules a member for a work shift that qualifies even if it is not a normally scheduled shift.

It has recently come to the Association's attention that the night shift differential is not being paid to members, including but not limited to Robert Dellinger who are scheduled to work

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a qualifying shift. This failure to pay has resulted in a significant underpayment of wages to Association members that they earned and are guaranteed by the MOU. Further this non-payment results in an under calculation of overtime due to members. (Article 7; County Personnel Rule 3.04.180 et. seq.) Our United States Supreme Court ruled almost seventy years ago that shift differentials are includable in the regular rate of pay. (*Bay Ridge Operating Co. v. Aaron* 334 U.S. 446, 468-69 (1948)). By not paying the night shift differential the County has obviously under calculated the regular rate for the purposes of overtime.

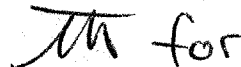
The non-payment of the night shift differential also has implications for each member's compensatory time off. (MOU section 7.2; County Personnel Rule 3.04.240) Article 7.2 incorporates by reference article 29 of the code of federal regulations. The regulations require the payment of excess CTO as if it were any other overtime payment, entitling the payment of one and half times the regular rate of pay for all overtime hours. (29 U.S.C. 207(o); 29 CFR 553.20 – 29 CFR 553.28) By failing to pay the night shift differential the County has also under calculated the payments issued to Association members for excess CTO accrued.

The Association demands that an audit be conducted to determine the extent of the underpayment. Specifically, the Association requests the County to perform an audit going back three years from the date of this grievance to determine: (1) the extent of the unpaid night shift differential for qualifying shifts (2) recalculate all overtime earned to factor in the night shift differential including CTO cap excess payments, (3) issue to all affected members the unpaid shift differentials as well any unpaid overtime and an equal amount in liquidated damages for the entire three year period.

Thank you for your attention and courtesy in this matter. If the County contends that this grievance is procedurally defective in any way, please let me know immediately, so that the defect(s) can be cured promptly without prejudicing the grievants' rights. You may contact me by phone at (916)491-4289, by email at davidm@mastagni.com, or by fax at (916) 446-2857. I look forward to your response.

Sincerely,

MASTAGNI HOLSTEDT, A.P.C.



DAVID E. MASTAGNI
Partner

DEM/prb

cc: Batine Ramirez, Placer County Deputy Sheriff's Association, President
Jon Scofield, Placer County Deputy Sheriff's Association, Vice-President
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Rob Tarabetz, Placer County Deputy Sheriff's Association, Director