

E-filing

1 Alison Berry Wilkinson (SBN 135890)  
2 RAINS, LUCIA & WILKINSON LLP  
3 2300 Contra Costa Blvd., Suite 230  
4 Pleasant Hill, CA 94523  
5 Tel: (925) 609-1699  
6 Fax: (925) 609-1690  
7 Email: [awilkinson@rlwlaw.com](mailto:awilkinson@rlwlaw.com)

ORIGINAL FILED  
NOV 16 2006  
RICHARD W. WIEKING  
CLERK U.S. DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
ORLANDO

ADR

8 Attorneys for Plaintiff  
9 GREG LEMMON

10 IN THE UNITED STATES DISTRICT COURT  
11 FOR THE NORTHERN DISTRICT OF CALIFORNIA

12 GREG LEMMON )  
13 )  
14 Plaintiff, )  
15 )  
16 v. )  
17 )  
18 CITY OF SAN LEANDRO )  
19 )  
20 Defendant. )  
21 )  
22 )  
23 )  
24 )  
25 )  
26 )  
27 )  
28 )

Case Number: **G06-07107** MHP  
COMPLAINT (Violation of Fair  
Labor Standards Act, 29 U.S.C.  
section 201 *et seq.*)  
DEMAND FOR JURY TRIAL

BY FAX

18 Plaintiff GREG LEMMON, by and through his counsel, Rains, Lucia & Wilkinson LLP, as  
19 and for his Complaint against the City of San Leandro, alleges and avers as follows:

20 1. Plaintiff GREG LEMMON is, and at all times material hereto was, employed by  
21 Defendant City of San Leandro as a police officer holding sworn status pursuant to California Penal  
22 Code section 830.1.

23 2. Defendant City of San Leandro, at all times pertinent herein, was a municipality  
24 organized and existing under the laws of the State of California.

25 3. Jurisdiction is conferred upon this court by 28 U.S.C. §1331, 29 U.S.C. §216(b).

26 4. In addition to the named Plaintiff, all other similarly situated persons, that is, all  
27 persons employed by Defendant City of San Leandro as sworn police officers, are members of the  
28 Plaintiff class. This claim is maintained as a class action under, and pursuant to, the statutory

1 requirements of the Fair Labor Standards Act (hereinafter "FLSA") 29 U.S.C. §216(b). Attached  
2 hereto as Exhibit A are consent forms for the applicable class members pursuant to the statutory  
3 requirements of the Fair Labor Standards Act (hereinafter "FLSA") 29 U.S.C. §216(b).

4 5. Defendant City of San Leandro is, and at all times material hereto was, a public  
5 agency within the meaning of Section 3(x) of the FLSA. 29 U.S.C. §203(x).

6 6. Defendant City of San Leandro is, and at all times hereby was, a political  
7 subdivision of the State of California and a local government "employer" within the meaning of 29  
8 U.S.C. §§203(r) and (s).

9 **FIRST CLAIM FOR RELIEF**

10 **VIOLATION OF FAIR LABOR STANDARDS ACT**

11 7. Paragraphs 1-6 are incorporated and re-alleged herein.

12 8. Defendant City of San Leandro has willfully violated, and is willfully violating, the  
13 compensation requirements of the FLSA, 29 U.S.C. §207, by employing the named Plaintiff and  
14 other similarly situated employees for work weeks longer than the applicable maximum weekly  
15 hours established by Section 207 of the FLSA, without properly compensating them for work  
16 performed in excess of the above-described hours at rates not less than one and one-half times their  
17 regular rates of pay. Such violations include, but are not limited to, pre-shift and post-shift  
18 activities that are a required, integral and an indispensable part of the principle activities of the  
19 work performed.

20 WHEREFORE, Plaintiff demands:

21 1. That Defendant City of San Leandro be required to pay to the named Plaintiff and  
22 all other similarly situated employees unpaid regular and overtime compensation found due by the  
23 court as a result of defendant's violation of Section 207 of the FLSA, plus an additional equal  
24 amount as liquidated damages;

25 2. That Defendant City of San Leandro be required to pay Plaintiff his reasonable  
26 attorney's fees, costs of this action and both pre-judgment and post-judgment interest;

27 3. That Plaintiff have such further relief as is just and necessary.  
28


1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**DEMAND FOR JURY TRIAL**

Pursuant to Rule 38 of the Federal Rules of Civil Procedure and Civil Local Rule 3-6 of the United States District Court for the Northern District of California, Plaintiff hereby demands a jury trial.

Dated: November 13, 2006

Respectfully submitted,  
**RAINS, LUCIA & WILKINSON LLP**

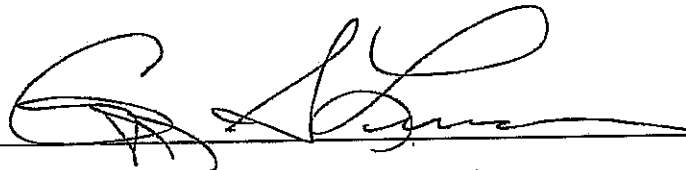
  
By: Alison Berry Wilkinson  
Attorneys for Plaintiff Greg Lemmon

**EXHIBIT A**

**CONSENT TO JOIN ACTION  
(FAIR LABOR STANDARDS ACT, 29 U.S.C. § 216(b))**

I, GREGORY S. LEMMON, hereby consent to become a party to litigation in the United States District Court under the Fair Labor Standards Act (FLSA). The lawsuit alleges that my employer failed to properly compensate its employees for overtime hours worked and failed to make timely payments to its employees for overtime hours worked. I am, or was, employed by the City of SAN LEANDRO, State of California, during some or all of the period from three years prior to the filing of the lawsuit to the date of signing of this consent. This action has been brought on my behalf and on the behalf of similarly situated employees of the City of SAN LEANDRO pursuant to Section 16(b) of the Fair Labor Standards Act (29 U.S.C. § 216(b)). Unpaid overtime compensation, liquidated damages, attorneys' fees, costs, and other relief are sought in the action.

Signature: \_\_\_\_\_



Print Name: \_\_\_\_\_

GREGORY S. LEMMON

Date: \_\_\_\_\_

10-25-06