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**ELECTRONICALLY FILED**  
Superior Court of California  
County of Sacramento

04/26/2024

By: A. Turner Deputy

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF SACRAMENTO

JOHN MARTIN, STACEY BURKS, JODI  
RIVES, LINDA FRASER, SANDRA  
BLACKMAN, ARNIE SCHOENBERG,  
BOBBI-LEE SMART, DEANNA  
AZEVEDO, ELLEN STRAW, STAN  
PORTER, JAMES KELLER, MERCEDES  
MCDONALD, individually and on behalf of  
all others similarly situated,

Plaintiffs,

vs.

BOARD OF GOVERNORS OF THE  
CALIFORNIA COMMUNITY COLLEGES,  
SHASTA-TEHAMA-TRINITY JOINT  
COMMUNITY COLLEGE DISTRICT,  
BUTTE-GLENN COMMUNITY COLLEGE  
DISTRICT, YUBA COMMUNITY  
COLLEGE DISTRICT, LOS RIOS  
COMMUNITY COLLEGE DISTRICT, MT.  
SAN JACINTO COMMUNITY COLLEGE  
DISTRICT, SAN DIEGO COMMUNITY  
COLLEGE DISTRICT, CERRITOS  
COMMUNITY COLLEGE DISTRICT, LOS  
ANGELES COMMUNITY COLLEGE  
DISTRICT, SAN JOAQUIN DELTA  
COMMUNITY COLLEGE DISTRICT, MT.  
SAN ANTONIO COMMUNITY COLLEGE  
DISTRICT, YOSEMITE COMMUNITY

**Case No. 34-2022-00328402-CU-OE-GDS**

CLASS ACTION

**THIRD AMENDED COMPLAINT FOR  
INJUNCTIVE AND DECLARATORY  
RELIEF, RESTITUTION, AND  
DAMAGES FOR:**

- 1. Failure to Pay Minimum Wages - Labor Code §§1194, 1194.2, 1197, 1197.1, and IWC Wage Order No. 4-2001**
- 2. Restitution or Unjust Enrichment**
- 3. Failure to comply with California Education Code §70901(b)(1)(B).**

Unlimited Civil Case

JURY TRIAL DEMANDED

COLLEGE DISTRICT, PASADENA AREA  
COMMUNITY COLLEGE DISTRICT,  
SANTA CLARITA COMMUNITY  
COLLEGE DISTRICT, and DOES 1 through  
50, inclusive,

Defendants.

1. Plaintiffs JOHN MARTIN, STACEY BURKS, JODI RIVES, LINDA FRASER,  
SANDRA BLACKMAN, ARNIE SCHOENBERG, BOBBI-LEE SMART, DEANNA  
AZEVEDO, ELLEN STRAW, STAN PORTER, JAMES KELLER, and MERCEDES  
MCDONALD, individually and on behalf of all others similarly situated, by and through its  
counsel, and upon personal knowledge as to facts known to Plaintiffs, and as to all other facts  
upon information and belief following investigation of counsel, alleges as follows against  
Defendants BOARD OF GOVERNORS OF THE CALIFORNIA COMMUNITY COLLEGES,  
SHASTA-TEHAMA-TRINITY JOINT COMMUNITY COLLEGE DISTRICT, BUTTE-  
GLENN COMMUNITY COLLEGE DISTRICT, YUBA COMMUNITY COLLEGE  
DISTRICT, LOS RIOS COMMUNITY COLLEGE DISTRICT, MT. SAN JACINTO  
COMMUNITY COLLEGE DISTRICT, SAN DIEGO COMMUNITY COLLEGE DISTRICT,  
CERRITOS COMMUNITY COLLEGE DISTRICT, LOS ANGELES COMMUNITY  
COLLEGE DISTRICT, SAN JOAQUIN DELTA COMMUNITY COLLEGE DISTRICT, MT.  
SAN ANTONIO COMMUNITY COLLEGE DISTRICT, YOSEMITE COMMUNITY  
COLLEGE DISTRICT, PASADENA AREA COMMUNITY COLLEGE DISTRICT, SANTA  
CLARITA COMMUNITY COLLEGE DISTRICT, and DOES 1 through 50 (collectively,  
“Defendants”).<sup>1</sup>

### PRELIMINARY STATEMENT

2. On April 6, 2022, *The New York Times* published an article entitled “*Help*

<sup>1</sup> This Third Amended Complaint retains, from the First Amended Complaint, the Second Cause of Action and the claims for statutory penalties contained in paragraph 4 of the Prayer for Relief for civil penalties authorized by California Labor Code §1194.2, 1197.1 and IWC Wage Order No. 4-2001, Sec. 20, recognizing that those provisions of the First Amended Complaint were stricken by the Court’s Order entered on May 19, 2023, and are included herein solely to preserve them for subsequent proceedings either in this Court or on an appeal.

1 *Wanted: Adjunct Professor, Must Have Doctorate. Salary: \$0.*” The article highlighted how the  
2 University of California, Los Angeles, had advertised for an assistant adjunct professor position  
3 that demanded strong academic credentials but offered no pay at all.<sup>2</sup> After an online outcry,  
4 UCLA apologized and took down the advertisement “[b]ut,” as the article stated, “the unspoken  
5 secret had been fleetingly exposed: Free labor is a fact of academic life.”<sup>3</sup>

6 3. However, free labor is not permitted under the law of the State of California. And  
7 the problem identified is not just extant at UCLA but also at California community colleges,  
8 including the Defendants herein.

9 4. As set forth in more detail below, each of the Plaintiffs are well-qualified  
10 individuals who have been employed as “part-time,” “adjunct,” “assistant,” or “associate” faculty  
11 at one or more of the defendant community colleges. They are referred to hereinafter as “part-  
12 time professors” or “part-time faculty.” While the defendant community colleges have paid  
13 them for their classroom teaching time, Plaintiffs have not been paid for all their hours of work  
14 outside of class to prepare their lectures or labs, grade papers and exams, prepare syllabi, email  
15 with or talk to their students, and assist in essential departmental activities. Each of the  
16 defendant community colleges knows that such outside-of-classroom work is essential to their  
17 part-time professors’ teaching effectiveness and imposes criteria and evaluations as to which this  
18 work is integral. Each defendant community college, moreover, has specially benefitted from  
19 the uncompensated work of their part-time faculty.

20 5. California state law does not permit employers to take advantage of employees by  
21 not paying them for all hours worked where (as here) employees are not exempt from state  
22 minimum wage requirements. Accordingly, Plaintiffs bring this action to recover, on their own  
23 behalf, and on behalf of all of those similarly situated, the pay owed to them for their  
24 considerable uncompensated work. Plaintiffs also seek declaratory and injunctive relief to  
25 ensure that, going forward, part-time professors at these community colleges will not be  
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27 <sup>2</sup> Anemona Hartocollis, “Help Wanted: Adjunct Professor, Must Have Doctorate. Salary: \$0.”, The New York  
28 Times (April 6, 2022), available online at <https://www.nytimes.com/2022/04/06/us/ucla-adjunct-professor-salary.html>.

<sup>3</sup> *Id.*

1 subjected to such unlawful treatment.

2 6. More specifically, as set forth herein below, Defendants' actions violate Sections  
3 1194, 1197 and 1199 of the California Labor Code, Wage Order No. 4-2001 of the California  
4 Industrial Welfare Commission, and the Unfair Competition Law codified at Business &  
5 Professions Code §17200, *et seq.* (the "UCL"). Plaintiffs seek appropriate relief, including  
6 attorneys' fees, costs and expenses, on their individual claims as well as for the class set forth in  
7 paragraph 43 below pursuant to Labor Code §§218.5, 1194, and 1197.1, and/or Code of Civil  
8 Procedure § 1021.5, as well as declaratory relief pursuant to Section 1060 of the California Civil  
9 Practice code.

### 10 **PARTIES**

11 7. Plaintiff JOHN MARTIN is a part-time professor at Shasta Community College  
12 and is over the age of 18 years. At all times relevant herein, Plaintiff was, and currently is, a  
13 resident of the State of California.

14 8. Plaintiff STACEY BURKS is part-time professor at Butte Community College  
15 and is over the age of 18 years. At all times relevant herein, Plaintiff was, and currently is, a  
16 resident of the State of California.

17 9. Plaintiff JODI RIVES is a part-time professor at Yuba Community College and is  
18 over the age of 18 years. At all times relevant herein, Plaintiff was, and currently is, a resident of  
19 the State of California.

20 10. Plaintiff LINDA FRASER is a part-time professor at Sacramento City College  
21 and is over the age of 18 years. At all times relevant herein, Plaintiff was, and currently is, a  
22 resident of the State of California.

23 11. Plaintiff SANDRA BLACKMAN is a part-time professor at Mt. San Jacinto  
24 Community College and is over the age of 18 years. At all times relevant herein, Plaintiff was,  
25 and currently is, a resident of the State of California.

26 12. Plaintiff ARNIE SCHOENBERG is a part-time professor at San Diego City  
27 College and is over the age of 18 years. At all times relevant herein, Plaintiff was, and currently  
28 is, a resident of the State of California.

1           13.     Plaintiff BOBBI-LEE SMART is a part-time professor at Cerritos Community  
2 College and Los Angeles City College and is over the age of 18 years. At all times relevant  
3 herein, Plaintiff was, and currently is, a resident of the State of California

4           14.     Plaintiff DEANNA AZEVEDO is a part-time professor at San Joaquin Delta  
5 College and is over the age of 18 years. At all times relevant herein, Plaintiff was, and currently  
6 is, a resident of the State of California.

7           15.     Plaintiff ELLEN STRAW is part-time professor at Mt. San Antonio College and  
8 is over the age of 18 years. At all times relevant herein, Plaintiff was, and currently is, a resident  
9 of the State of California.

10          16.     Plaintiff STAN PORTER is a part-time professor at Modesto Junior College and  
11 is over the age of 18 years. At all times relevant herein, Plaintiff was, and currently is, a resident  
12 of the State of California.

13          17.     Plaintiff JAMES KELLER is a part-time professor at Pasadena City College and  
14 is over the age of 18 years. At all times relevant herein, Plaintiff was, and currently is, a resident  
15 of the State of California.

16          18.     Plaintiff MERCEDES MCDONALD is a part-time professor at College of the  
17 Canyons and is over the age of 18 years. At all times relevant herein, Plaintiff was, and current  
18 is, a resident of the State of California.

19          19.     Defendant Board of Governors of the CALIFORNIA COMMUNITY  
20 COLLEGES (“Board of Governors”) is a part of the California State government that oversees,  
21 sets policy and provides guidance for the California community college districts and colleges  
22 throughout the State of California pursuant to legislatively granted authority. Defendant  
23 California Community Colleges has its offices in Sacramento, California. Pursuant to Ed Code  
24 70901(b)(1)(B). Defendant Board of Governors directly plays a role in setting minimum  
25 standards, as required by law, for the employment of academic and administrative staff in  
26 community colleges and in serving as the liaison between community college districts across the  
27 State and the Legislature of the State of California. Upon information and belief, Defendant  
28 Board of Governors, in its standard-setting, oversight and policy implementing role, was

1 responsible for and/or was aware of and either affirmatively has supported or was acquiescent in  
2 the acts and practices detailed herein of each of the community college defendants.

3         20. Defendant SHASTA-TEHAMA-TRINITY JOINT COMMUNITY COLLEGE  
4 DISTRICT is an entity established pursuant to California Education Code §70900, upon  
5 accreditation as a public Community College District by the Accrediting Commission for  
6 Community and Junior Colleges, Western Association of Schools and Colleges (“ACCJC”).  
7 Shasta-Tehama-Trinity Joint Community College District encompasses Shasta College. Its  
8 principal place of business is located in Sacramento, California.

9         21. Defendant BUTTE-GLENN COMMUNITY COLLEGE DISTRICT is an entity  
10 established pursuant to California Education Code §70900, upon accreditation as a public  
11 Community College District by ACCJC. Butte-Glenn Community College District encompasses  
12 Butte College. Its principal place of business is located in Butte County, California.

13         22. Defendant YUBA COMMUNITY COLLEGE DISTRICT is an entity established  
14 pursuant to California Education Code §70900, upon accreditation as a public Community  
15 College District by ACCJC. Its principal place of business is located in Yuba County,  
16 California.

17         23. Defendant LOS RIOS COMMUNITY COLLEGE DISTRICT is an entity  
18 established pursuant to California Education Code §70900, upon accreditation as a public  
19 Community College District by ACCJC. Los Rios Community College District encompasses  
20 four community colleges: American River College, Cosumnes River College, Folsom Lake  
21 College, and Sacramento City College. Its principal place of business is located in Sacramento,  
22 California.

23         24. Defendant MT. SAN JACINTO COMMUNITY COLLEGE DISTRICT is an  
24 entity established pursuant to California Education Code §70900, upon accreditation as a public  
25 Community College District by ACCJC. Mt. San Jacinto Community College District  
26 encompasses Mt. San Jacinto College. Its principal place of business is located in San Jacinto,  
27 California.

28         25. Defendant SAN DIEGO COMMUNITY COLLEGE DISTRICT is an entity

1 established pursuant to California Education Code §70900, upon accreditation as a public  
2 Community College District by ACCJC. San Diego Community College District encompasses  
3 four colleges: San Diego City College, Mesa College, Miramar College and the San Diego  
4 College of Continuing Education. Its principal place of business is located in San Diego,  
5 California.

6 26. Defendant CERRITOS COMMUNITY COLLEGE DISTRICT is an entity  
7 established pursuant to California Education Code §70900, upon accreditation as a public  
8 Community College District by ACCJC. Cerritos Community College District encompasses  
9 Cerritos College Its principal place of business is located in Norwalk, California.

10 27. Defendant LOS ANGELES COMMUNITY COLLEGE DISTRICT is an entity  
11 established pursuant to California Education Code §70900, upon accreditation as a public  
12 Community College District by ACCJC. LACCD encompasses nine colleges: East Los Angeles  
13 College, Los Angeles City College, Los Angeles Harbor College, Los Angeles Mission College,  
14 Los Angeles Pierce College, Los Angeles Southwest College, L.A. Trade-Tech College, Los  
15 Angeles Valley College, West Los Angeles College. Its principal place of business is located in  
16 Los Angeles, California.

17 28. Defendant SAN JOAQUIN DELTA COMMUNITY COLLEGE DISTRICT is an  
18 entity established pursuant to California Education Code §70900, upon accreditation as a public  
19 Community College District by the Accrediting Commission for Community and Junior  
20 Colleges, Western Association of Schools and Colleges (“ACCJC”). San Joaquin Delta  
21 Community College District encompasses San Joaquin Delta College. Its principal place of  
22 business is located in Stockton, California.

23 29. Defendant MT. SAN ANTONIO COMMUNITY COLLEGE DISTRICT is an  
24 entity established pursuant to California Education Code §70900, upon accreditation as a public  
25 Community College District by ACCJC. Mt. San Antonio Community College District  
26 encompasses Mt. San Antonio College. Its principal place of business is located in Los Angeles  
27 County, California.

28 30. Defendant YOSEMITE COMMUNITY COLLEGE DISTRICT is an entity

1 established pursuant to California Education Code §70900, upon accreditation as a public  
2 Community College District by ACCJC. Yosemite Community College District encompasses  
3 Columbia College and Modesto Junior College. Its principal place of business is located in  
4 Modesto, California.

5 31. Defendant PASADENA AREA COMMUNITY COLLEGE DISTRICT is an  
6 entity established pursuant to California Education Code §70900, upon accreditation as a public  
7 Community College District by ACCJC. Pasadena Community College District encompasses  
8 Pasadena City College. Its principal place of business is located in Pasadena, California.

9 32. Defendant SANTA CLARITA COMMUNITY COLLEGE DISTRICT is an  
10 entity established pursuant to California Education Code §70900, upon accreditation as a public  
11 Community College District by ACCJC. Santa Clarita Community College District encompasses  
12 College of the Canyons. Its principal place of business is located in Santa Clarita, California.

13 33. The Community Colleges described in paragraphs 21-34 are referred to  
14 collectively herein as the “Community College Defendants.”

#### 15 **DOE DEFENDANTS**

16 34. DOES 1 through 50 are persons or entities whose true names and capacities are  
17 presently unknown to Plaintiffs and who therefore are sued by such fictitious names. Plaintiffs  
18 are informed, believe and thereon allege that each of the fictitiously named Defendants  
19 perpetrated some or all of the wrongful acts alleged herein-below, are responsible in some  
20 manner for the matters alleged herein, and are jointly and severally liable to Plaintiffs. Plaintiffs  
21 will seek leave of court to amend this Complaint to state the true names and capacities of such  
22 fictitiously named Defendants when ascertained.

#### 23 **JURISDICTION AND VENUE**

24 35. This Court has jurisdiction over the claims in this case because all the Plaintiffs  
25 and Defendants are residents of the State of California.

26 36. Venue is proper in the County of Sacramento because Plaintiff LINDA FRASER  
27 and Defendants BOARD OF GOVERNORS and LOS RIOS COMMUNITY COLLEGE  
28 DISTRICT are residents of the County of Sacramento, and acts and practices relative to the



claims at issue occurred in the County of Sacramento.

**OPERATIVE FACTS**

37. Plaintiff JOHN MARTIN has been a part-time professor of U.S. history and African American history since 1999 at Shasta College. During that time, Plaintiff Martin's compensation for teaching his assigned classes has been based on the hours Plaintiff is instructing his class in the classroom, yet Plaintiff Martin has had to spend a substantial amount of time preparing for in-classroom teaching as well as grading. Further, Defendant SHASTA-TEHAMA-TRINITY JOINT COMMUNITY COLLEGE DISTRICT has evaluated Plaintiff Martin in part on the basis of his work outside the classroom, including preparation, grading and professional development work, a considerable number of hours of which Plaintiff Martin has provided and has only been able to perform on an unpaid basis.

38. Plaintiff STACEY BURKS has been a part-time professor in the English and Philosophy Departments at Butte College since 1981. During that time, Plaintiff Burks' compensation for teaching her assigned classes has been based on the hours Plaintiff is instructing her class in the classroom, yet Plaintiff Burks has had to spend a substantial amount of time preparing for in-classroom teaching as well as grading. Further, Defendant BUTTE-GLENN COMMUNITY COLLEGE DISTRICT has evaluated Plaintiff Burks in part on the basis of her work outside the classroom, including preparation, grading and professional development work, a considerable number of hours of which Plaintiff Burks has provided and has only been able to perform on an unpaid basis.

39. Plaintiff JODI RIVES has been a part-time professor of public speaking since 2013 at Yuba College. During that time, Plaintiff's compensation for teaching her assigned classes has been based on the hours Plaintiff is instructing her class in the classroom, yet Plaintiff Rives has had to spend a substantial amount of time preparing for in-classroom teaching, grading students and answering emails outside of classroom hours. Further, Defendant YUBA COMMUNITY COLLEGE DISTRICT has evaluated Plaintiff Rives in part on the basis of her work outside the classroom, including preparation, grading and professional development work, a considerable number of hours of which Plaintiff Rives has provided and has only been able to

1 perform on an unpaid basis.

2         40. Plaintiff LINDA FRASER has been a part-time professor of English since 1993 at  
3 Sacramento City College. During that time, Plaintiff Fraser's compensation for teaching her  
4 assigned classes has been based on the hours Plaintiff is instructing her class in the classroom,  
5 yet Plaintiff Fraser has had to spend a substantial amount of time preparing for in-classroom  
6 teaching as well as grading students and answering their emails. Further, Defendant LOS RIOS  
7 COMMUNITY COLLEGE DISTRICT has evaluated Plaintiff Fraser in part on the basis of her  
8 work outside the classroom, including preparation, grading, and professional development work,  
9 a considerable number of hours of which Plaintiff Fraser has provided and has only been able to  
10 perform on an unpaid basis.

11         41. Plaintiff SANDRA BLACKMAN has been a part-time professor of history since  
12 2007 at Mt. San Jacinto Community college. During that time, Plaintiff Blackman's  
13 compensation for teaching her assigned classes is based on the hours Plaintiff Blackman is  
14 instructing her class in the classroom, yet Plaintiff Blackman has had to spend a substantial  
15 amount of time preparing for in-classroom teaching as well as grading students and answering  
16 their emails. Further, Defendant MT. SAN JACINTO COMMUNITY COLLEGE DISTRICT  
17 has evaluated Plaintiff Blackman, in part on the basis of her work outside the classroom,  
18 including preparation, grading and professional development work, a considerable number of  
19 hours of which Plaintiff Blackman has provided and has only been able to perform on an unpaid  
20 basis.

21         42. Plaintiff ARNIE SCHOENBERG has been a part-time professor of anthropology  
22 since 1999 at San Diego Community College. During that time, Plaintiff Schoenberg's  
23 compensation for teaching his assigned classes has been based on the hours Plaintiff Schoenberg  
24 is instructing his class in the classroom, yet Plaintiff Schoenberg has had to spend a substantial  
25 amount of time preparing for in-classroom teaching as well as grading students and answering  
26 their emails. Further, Defendant SAN DIEGO COMMUNITY COLLEGE DISTRICT has  
27 evaluated Plaintiff Schoenberg, in part on the basis of his work outside the classroom, including  
28 preparation, grading and professional development work, a considerable number of hours of

1 which Plaintiff Schoenberg has provided and has only been able to perform on an unpaid basis.

2 43. Plaintiff BOBBI-LEE SMART has been a part-time professor of sociology at  
3 Cerritos Community College since 2015, and at Los Angeles Southwest College in the Los  
4 Angeles Community College District since 2019. During that time, Plaintiff Smart's  
5 compensation for teaching her assigned classes has been based on the hours Plaintiff Smart is  
6 instructing her class in the classroom, yet Plaintiff Smart has had to spend a substantial amount  
7 of time preparing for in-classroom teaching as well as grading students, answering their emails,  
8 and engaging in professional development efforts. Further, Defendants CERRITOS  
9 COMMUNITY COLLEGE DISTRICT and LOS ANGELES COMMUNITY COLLEGE  
10 DISTRICT have evaluated Plaintiff Smart in part on the basis of her work outside the classroom,  
11 including preparation, grading, and professional development efforts, a considerable number of  
12 hours of which Plaintiff Smart has provided and has only been able to perform on an unpaid  
13 basis.

14 44. Plaintiff DEANNA AZEVEDO has been a part-time professor of Art History  
15 since 2015 at San Joaquin Delta College. During that time, Plaintiff Azevedo's compensation for  
16 teaching his assigned classes has been based on the hours Plaintiff is instructing her class in the  
17 classroom, yet Plaintiff Azevedo has had to spend a substantial amount of time preparing for in-  
18 classroom teaching as well as grading. Further, Defendant SAN JOAQUIN DELTA  
19 COMMUNITY COLLEGE DISTRICT has evaluated Plaintiff Azevedo in part on the basis of  
20 his work outside the classroom, including preparation, grading and professional development  
21 work, a considerable number of hours of which Plaintiff Azevedo has provided and has only  
22 been able to perform on an unpaid basis.

23 45. Plaintiff ELLEN STRAW has been a part-time professor of English at Mt. San  
24 Antonio Community College since 2000. During that time, Plaintiff Straw's compensation for  
25 teaching her assigned classes has been based on the hours Plaintiff is instructing her class in the  
26 classroom, yet Plaintiff Straw has had to spend a substantial amount of time preparing for in-  
27 classroom teaching as well as grading. Further, Defendant MT. SAN ANTONIO  
28 COMMUNITY COLLEGE DISTRICT has evaluated Plaintiff Straw in part on the basis of her

1 work outside the classroom, including preparation, grading and professional development work,  
2 a considerable number of hours of which Plaintiff Straw has provided and has only been able to  
3 perform on an unpaid basis.

4 46. Plaintiff STAN PORTER has been a part-time professor and lecturer in the  
5 writing program since 2014 at Modesto Junior College. During that time, Plaintiff Porter's  
6 compensation for teaching his assigned classes has been based on the hours Plaintiff is  
7 instructing his class in the classroom, yet Plaintiff Porter has had to spend a substantial amount  
8 of time preparing for in-classroom teaching as well as grading students and answering their  
9 emails. Further, Defendant YOSEMITE COMMUNITY COLLEGE DISTRICT has evaluated  
10 Plaintiff Porter in part on the basis of his work outside the classroom, including preparation,  
11 grading, and professional development work, a considerable number of hours of which Plaintiff  
12 Porter has provided and has only been able to perform on an unpaid basis.

13 47. Plaintiff JAMES KELLER has been a part-time professor of German language,  
14 culture and civilization, and German translation since 2004 at Pasadena Community college.  
15 During that time, Plaintiff Keller's compensation for teaching his assigned classes is based on  
16 the hours Plaintiff Keller is instructing his class in the classroom, yet Plaintiff Keller has had to  
17 spend a substantial amount of time preparing for in-classroom teaching as well as grading  
18 students and answering their emails. Further, Defendant PASADENA AREA COMMUNITY  
19 COLLEGE DISTRICT has evaluated Plaintiff Keller, in part on the basis of his work outside the  
20 classroom, including preparation, grading and professional development work, a considerable  
21 number of hours of which Plaintiff Keller has provided and has only been able to perform on an  
22 unpaid basis.

23 48. Plaintiff MERCEDES MCDONALD has been a part-time professor of Art  
24 Illustration at College of the Canyons since 2001. During that time, Plaintiff McDonald's  
25 compensation for teaching her assigned classes has been based on the hours Plaintiff McDonald  
26 instructs her class in the classroom, yet Plaintiff McDonald has had to spend a substantial  
27 amount of time preparing for in-classroom teaching as well as grading students and answering  
28 their emails. Further, Defendant SANTA CLARITA COMMUNITY COLLEGE DISTRICT has

1 evaluated Plaintiff McDonald in part on the basis of her work outside the classroom, including  
2 preparation, grading and professional development work, a considerable number of hours of  
3 which Plaintiff McDonald has provided and has only been able to perform on an unpaid basis.

4 49. The Community College Defendants all maintain materially similar contracts that  
5 apply to part-time faculty that provide payment only for in-classroom hours and certain other  
6 limited instructional activities. Classroom hours are the hours when a class actually meets,  
7 whether in a classroom or virtually. The contracts all uniformly limit the type of activities for  
8 which the adjunct or part-time instructors may receive compensation.

9 50. The contracts also provide criteria by which part-time hourly instructional faculty  
10 will be evaluated. Evaluations uniformly rely on student input and evaluate adjunct or part-time  
11 hourly instruction faculty members' effectiveness and timeliness in completing their out-of-  
12 classroom teaching duties, including preparedness for class, coherence of the syllabus,  
13 promptness in evaluating student work, and helpfulness to students. Part-time faculty may lose  
14 re-employment preference or even face termination in the event of a less than satisfactory  
15 evaluation.

16 51. For example, LOS RIOS COMMUNITY COLLEGE DISTRICT penalizes part-  
17 time faculty in their faculty's performance reviews if they do not meet their grading, syllabus,  
18 and textbook order requirements on time and if they do not make themselves available to  
19 students.

20 52. Further, the Community College Defendants' faculty evaluations are also based  
21 on their professional development efforts, a considerable number of hours of which are not  
22 compensated. For example, Defendant LOS RIOS COMMUNITY COLLEGE DISTRICT  
23 requires faculty to prepare a self-study and submit it to the review team for evaluation. Such  
24 activity is important, especially for part-time faculty, who are hired for further semesters based  
25 on their performance but, in spite of this activity being mandatory, Defendant LOS RIOS  
26 COMMUNITY COLLEGE DISTRICT does not provide any compensation for the several hours  
27 that it requires. At all the other defendant Community College Districts, similar requirements are  
28 in effect.

1           53.     At SAN DIEGO COMMUNITY COLLEGE DISTRICT, for the academic year  
2 2021-2022, hourly wage rates for part-time hourly instructional faculty range from \$44.63 to \$  
3 94.02 for each hour of classroom time and are based on the faculty member's credentials and  
4 years of experience. The other Community College Defendants have substantially similar hourly  
5 wage rate ranges which vary based on years of experience.

6           54.     In connection with teaching any class, Plaintiffs and Class Members must perform  
7 substantial additional duties outside of the compensated classroom hours or instructional  
8 activities. Such duties include, but are not limited to preparing lectures, grading student work,  
9 preparing classroom syllabi, selecting texts and other teaching materials, and communicating  
10 with students about assignments, course material, and other instructional matters.

11           55.     The Community College Defendants expect their full-time faculty members to  
12 spend substantial time outside their classroom hours in teaching-related activities, and the  
13 compensation structure compensates full-time faculty members for that out-of-classroom time by  
14 paying full-time faculty on a salary basis. Each and every Community College Defendant  
15 expected part-time or adjunct professors to perform substantially the same duties as full-time  
16 professors in connection with being responsible for teaching a class, including spending  
17 considerable additional time performing work outside of the classroom to support the classroom  
18 duties for which they, unlike full-time faculty, are not compensated.

19           56.     In 2013, the Internal Revenue Service recognized the issue of unpaid labor by  
20 adjunct professors when it issued proposed rules concerning how to calculate when adjunct  
21 faculty members should be considered to be working close enough to full-time to be entitled to  
22 employee health insurance under then-new healthcare legislation. The IRS-proposed rules  
23 explained that "some commenters noted that educational organizations generally do not track the  
24 full hours of service of adjunct faculty, but instead compensate adjunct faculty on the basis of  
25 credit hours taught."<sup>4</sup>

26           57.     In final guidance issued by the Treasury Department and the IRS to colleges  
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28 <sup>4</sup> Scott Jaschik, "IRS Starts to Address Issues on Adjunct Faculty Hours," Inside Higher Ed (January 7, 2013),  
available online at [https://www.insidehighered.com/quicktakes/2013/01/07/irs-starts-address-issues-adjunct-faculty-  
hours](https://www.insidehighered.com/quicktakes/2013/01/07/irs-starts-address-issues-adjunct-faculty-hours)

1 across the country, it was recommended that colleges credit adjunct instructors for 1 ¼ hours of  
2 preparation time for each hour they spend in the classroom. It was also recommended that  
3 adjunct instructors be credited for any time they spend in office hours or other required meeting  
4 time.<sup>5</sup> This rule recognized the fact that considerable uncompensated out-of-classroom work was  
5 supporting in-class instructional activities.

#### 6 **CLASS ACTION ALLEGATIONS**

7 58. Pursuant to California Code of Civil Procedure §382, Plaintiffs bring this class  
8 action on behalf of themselves and all other persons similarly situated to seek redress on behalf  
9 of persons who have been affected by Defendants' practices.

10 59. The class on whose behalf this Complaint is brought is composed of all non-  
11 exempt individuals who were or are employed as part-time professors by SHASTA-TEHAMA-  
12 TRINITY JOINT COMMUNITY COLLEGE DISTRICT, BUTTE-GLENN COMMUNITY  
13 COLLEGE DISTRICT, YUBA COMMUNITY COLLEGE DISTRICT, LOS RIOS  
14 COMMUNITY COLLEGE DISTRICT, MT. SAN JACINTO COMMUNITY COLLEGE  
15 DISTRICT, SAN DIEGO COMMUNITY COLLEGE DISTRICT, CERRITOS COMMUNITY  
16 COLLEGE DISTRICT, LOS ANGELES COMMUNITY COLLEGE DISTRICT, SAN  
17 JOAQUIN DELTA COMMUNITY COLLEGE DISTRICT, MT. SAN ANTONIO  
18 COMMUNITY COLLEGE DISTRICT, YOSEMITE COMMUNITY COLLEGE DISTRICT,  
19 PASADENA AREA COMMUNITY COLLEGE DISTRICT, and SANTA CLARITA  
20 COMMUNITY COLLEGE DISTRICT at any time from the date four years prior to the filing of  
21 this Complaint to the date of trial in this action.

#### 22 **NUMEROSITY AND ASCERTAINABILITY**

23 60. Defendants SHASTA-TEHAMA-TRINITY JOINT COMMUNITY COLLEGE  
24 DISTRICT, BUTTE-GLENN COMMUNITY COLLEGE DISTRICT, YUBA COMMUNITY  
25 COLLEGE DISTRICT, LOS RIOS COMMUNITY COLLEGE DISTRICT, MT. SAN  
26 JACINTO COMMUNITY COLLEGE DISTRICT, SAN DIEGO COMMUNITY COLLEGE

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28 <sup>5</sup> Doug Lederman, "(More) Clarity on Adjunct Hours," Inside Higher Ed (February 11, 2014), available online at  
<https://www.insidehighered.com/news/2014/02/11/irs-guidance-health-care-law-clarifies-formula-counting-adjunct-hours>

1 DISTRICT, CERRITOS COMMUNITY COLLEGE DISTRICT, LOS ANGELES  
2 COMMUNITY COLLEGE DISTRICT, SAN JOAQUIN DELTA COMMUNITY COLLEGE  
3 DISTRICT, MT. SAN ANTONIO COMMUNITY COLLEGE DISTRICT, YOSEMITE  
4 COMMUNITY COLLEGE DISTRICT, PASADENA AREA COMMUNITY COLLEGE  
5 DISTRICT, and SANTA CLARITA COMMUNITY COLLEGE DISTRICT each employ over  
6 100 adjunct and part-time professors.

7 61. The class is so numerous that joinder of all members would be impracticable.  
8 The exact size of the proposed class, and the identity of the members thereof, is ascertainable  
9 from the business records of the Community College Defendants. The Disposition of the claims  
10 of these Class Members in a single action will provide substantial benefits to all parties and to  
11 the Court. Class Members are readily identifiable from information and records in the  
12 Community College Defendants' possession, custody, or control.

#### 13 **TYPICALITY**

14 62. The claims of the representative Plaintiffs are typical of the claims of the Class in  
15 that the representative Plaintiffs, like all Class Members, were not paid for a considerable  
16 number of hours of their work performed outside of in-class room teaching.

17 63. Furthermore, the factual bases for the Plaintiffs' claims are typical of the factual  
18 basis for the claims of all Class Members.

#### 19 **ADEQUATE REPRESENTATION**

20 64. Plaintiffs are members of the Class and will fairly and adequately represent and  
21 protect the interests of the Class. Plaintiffs have retained counsel with substantial experience in  
22 prosecuting consumer class actions.

23 65. Plaintiffs and their counsel are committed to vigorously prosecuting the action on  
24 behalf of the Class and have the financial resources to do so. Neither Plaintiffs nor their counsel  
25 have interests adverse to those of the Class.

#### 26 **PREDOMINANCE OF COMMON ISSUES**

27 66. There are numerous questions of law and fact common to Plaintiffs and Class  
28 Members that will predominate over any question affecting only individual Class Members. The



1 answers to these common questions will advance resolution of the litigation as to all Class  
2 Members. The common legal and factual issues that predominate as to all members of the Class  
3 include, *inter alia*:

- 4 (a) whether the Community College Defendants' compensation structure for  
5 adjunct or part-time faculty fails to compensate Class Members for all  
6 time worked outside of the classroom;
- 7 (b) whether the Community College Defendants violated the California Labor  
8 Code and Wage Order No. 4 by failing to compensate Plaintiffs and Class  
9 Members with at least the California statutory minimum wage for all  
10 hours of work, including those worked outside of the classroom;
- 11 (c) whether the Community College Defendants were unjustly enriched as a  
12 result of the uncompensated work of Plaintiffs and Class Members, and its  
13 conferral upon Defendants of an economic benefit; and
- 14 (d) whether the Board of Governors has violated California Education Code  
15 §70901(b)(1)(B) by failing to comply with its oversight responsibilities  
16 over the Community College Defendants with regard to setting minimum  
17 standards, as required by law, for the employment of academic and  
18 administrative staff in community colleges.

#### 19 **SUPERIORITY**

20 67. Plaintiffs and Class Members have all suffered and will continue to suffer harm  
21 and damages as a result of the Community College Defendants' substantially similar uniform  
22 compensation policies for part-time faculty. A class action is superior to all other available  
23 methods for the fair and efficient adjudication of this controversy.

24 68. Absent a class action, most Class Members would likely find the cost of litigating  
25 their claims prohibitively high and would therefore have no effective remedy at law. Absent a  
26 class action, Class Members will continue to incur damages, and Defendants' misconduct will  
27 continue without remedy.

28 69. Class treatment of common questions of law and fact, in lieu of multiple

individual actions or piecemeal litigation, will conserve the resources of the courts and litigants and will promote consistency and efficiency of adjudication.

70. Defendants have acted in a materially identical manner with respect to the Plaintiffs and Class Members.

**FIRST CAUSE OF ACTION**

**Failure to Pay Minimum Wages - Labor Code §§ 1182.12, 1194, 1194.2, 1197, 1197.1, and IWC Wage Order No. 4-2001  
(By Plaintiffs and Class Members Against All Defendants and Applicable DOES)**

71. Plaintiffs reallege and incorporate herein by reference all allegations in Paragraphs 1 through 70, as if expressly set forth in this Count.

72. Labor Code § 1197 makes it unlawful to pay an employee less than the minimum wage for each hour worked.

73. Wage Order No. 4(1)(B) makes it clear that California's minimum wage provisions, which are contained in Section 4 of that Wage Order, apply to Defendant Community College Districts as they are "political subdivisions" of the State and/or "Special Districts" of the State.

74. Section 1182.2 of the California Labor Law, which also contains the State's minimum wage requirements, defines "employer" as "any person who directly or indirectly ... employs or exercises control over the wages, hours, or working conditions of any person" and includes "the state, political subdivisions of the state, and municipalities."

75. By virtue of California Education Code § 70901(b)(1)(b), which requires the Board of Governors to, among other things, establish minimum standards as required by law, including minimum standards for the employment of academic and administrative staff in community colleges, the Board of Governors is also an "employer" of Plaintiffs and the members of the Class for purposes of California's minimum wage laws.

76. Labor Code § 1194 entitles an employee receiving less than the minimum wage to recover, in a civil action, the unpaid balance of minimum wages owing, plus interest thereon, reasonable attorneys' fees, and costs of suit.

77. Labor Code § 1194.2 entitles an employee to receive damages, including equal to

1 but not less than the minimum wage for the hours for which the employee was not paid, and also  
2 to recover liquidated damages and interest thereon.

3 78. Defendants' compensation structure for part-time faculty only compensates  
4 Plaintiffs and Class Members for their classroom time and a limited number of other  
5 instructional activities. Defendants, however, permitted and suffered Plaintiffs and Class  
6 Members to perform substantial work outside of classroom time on behalf of the Community  
7 College Defendants, including but not limited to classroom and lesson preparation, grading, and  
8 communication with students for which the Community College Defendants did not provide  
9 Plaintiffs and Class Members compensation. Accordingly, the Community College Defendants  
10 have failed, and continue to fail, to pay, and the Board of Governors have failed to require the  
11 Community College Defendants to pay, the Plaintiffs and Class Members at least minimum wage  
12 for all hours worked, in violation of Labor Code §§1194 and 1197, and Wage Order No. 4. As a  
13 proximate result of these violations, Plaintiffs have been damaged in an amount according to  
14 proof at trial.

15 79. Pursuant to Labor Code §§ 1182.2, 1194, 1194.2, 1197, and 1197.1, and other  
16 applicable provisions under the Labor Code and IWC Wage Orders, Plaintiffs and Class  
17 Members are entitled to recover the unpaid minimum wages that Defendants owe Plaintiffs and  
18 Class Members, plus related contributions to the California State Teachers' Retirement System  
19 ("STRS"), interest, liquidated damages, penalties, attorneys' fees, expenses, and costs of suit.

20 **SECOND CAUSE OF ACTION**  
21 **Restitution or Unjust Enrichment**  
22 **(By Plaintiffs and Class Members Against Community College Defendants**  
23 **and Applicable Does)**

24 80. Plaintiffs reallege and incorporate herein by reference the allegations in  
25 Paragraphs 1 through 79, as if expressly set forth in this Count.

26 81. Plaintiffs and Class Members conferred upon Community College Defendants an  
27 economic benefit, in the nature of providing services and labor to the Community College  
28 Defendants without payment for their labor.

82. The Community College Defendants have been unjustly enriched and, therefore,

1 it would be inequitable for Community College Defendants to be allowed to retain the benefits of  
2 Plaintiffs' and Class Members' services without being ordered to pay the reasonable value  
3 therefor.

4 83. As alleged in this Complaint, Community College Defendants have been unjustly  
5 enriched as a result of their wrongful conduct and by Community College Defendant's unfair  
6 competition. Plaintiffs are accordingly entitled to equitable relief including restitution and/or  
7 disgorgement of all revenues, earnings, profits, compensation and benefits which may have been  
8 obtained by Community College Defendants as a result of such business practices.

9 **THIRD CAUSE OF ACTION**

10 **Failure to comply with California Education Code § 70901(b)(1)(B).  
(By Plaintiffs and Class Members Against Defendant Board of Governors)**

11 84. Plaintiffs reallege and incorporate herein by reference the allegations in  
12 Paragraphs 1 through 79, as if expressly set forth in this Count.

13 85. Plaintiffs file this cause of action individually, and on behalf of Class Members,  
14 to challenge and to remedy Defendant Board of Governors' failure to comply with California  
15 Education Code § 70901(b)(1)(b). That Education Code section requires the Board of Governors  
16 to, among other things, establish minimum standards as required by law, including minimum  
17 standards for the employment of academic and administrative staff in community colleges.

18 86. As alleged in this Complaint, Defendant Board of Governors has failed to, as  
19 mandated by Cal. Educ. Code § 70901(b)(1)(b), require that Community College Defendants  
20 comply with California's minimum wage law with regard to compensating Plaintiffs and Class  
21 Members, and has therefore violated its duties under Cal. Educ. Code § 70901(b)(1)(b) and  
22 caused damage to Plaintiffs and Class Members.

23 87. In addition, the Board of Governors should be mandated to require the  
24 Community College Defendants to comply with California's minimum wage laws.

25 **PRAYER FOR RELIEF**

26 WHEREFORE, Plaintiffs, on behalf of themselves and all others similarly situated,  
27 respectfully pray for relief against Defendants as follows:

28 (1) For an order certifying this action as a class action,



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PROOF OF SERVICE

**Re:   *Martin v. CCC***  
**Sacramento County Superior Court Case No. 34-2022-00328402-CU-OE-GDS**

I, Sean R. Barry, certify that I am not a party to the proceeding herein, that I am and was at the time of service over the age of 18 years old, and a resident of the State of California. My business address is 580 California St., Ste. 1211, San Francisco, CA 94104.

On April 26, 2024, I served the following:

**NOTICE OF ENTRY OF ORDER TO PERMIT PLAINTIFFS TO FILE THIRD AMENDED CLASS ACTION COMPLAINT**

**THIRD AMENDED COMPLAINT FOR INJUNCTIVE AND DECLARATORY RELIEF, RESTITUTION, AND DAMAGES FOR:**

- 1. Failure to Pay Minimum Wages - Labor Code §§1194, 1194.2, 1197, 1197.1, and IWC Wage Order No. 4-2001**
- 2. Restitution or Unjust Enrichment**
- 3. Failure to comply with California Education Code §70901(b)(1)(B).**

by ELECTRONIC SERVICE ONLY, pursuant to C.C.P. §1010.6(e) to the person(s) and electronic mail address(es) shown below.

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19 Co-Attorneys for Plaintiffs

20 I declare under penalty of perjury that the foregoing is true and correct.

21 Dated: April 26, 2024

22   
23 \_\_\_\_\_  
24 Sean R. Barry