

## ALADS' OVERTIME LAWSUIT

The overtime lawsuit supported by ALADS is moving forward. ALADS encourages all of its members to join the lawsuit in order to protect their overtime rights. Here's the information you need about the lawsuit and how to join.

**What is the lawsuit about?** ALADS believes the County has been underpaying deputies' overtime. In its *Flores* decision two years ago, the Ninth Circuit held that "cashback" payments from health care plans had to be included in the overtime rate under the Fair Labor Standards Act. The County has failed to comply with *Flores*. In addition, ALADS has reason to believe that the County's basic overtime calculations have been wrong.

**Are deputies automatically part of the lawsuit?** **No. To be covered by the lawsuit, deputies have to sign a document known as a Consent to Join that will be filed with the court.**

**Who is eligible to join the lawsuit?** Any deputy who has worked any overtime hours for Los Angeles County at any time since August 9, 2015, is eligible to join the lawsuit. This includes retirees, provided they worked overtime in the last three years.

**How Does the Lawsuit Relate To The Extra Overtime Payments The County Will Be Making?** Clearly spurred by ALADS' preparations to file a lawsuit, the County has announced that it will now be paying employees extra overtime retroactive over the last three years. However, the County will not be paying employees the "liquidated damages" the lawsuit is seeking. "Liquidated damages" are an amount equivalent to back pay, which is why the FLSA is known as a double-damages law. The lawsuit will also examine whether the County's payments are accurate.

**How to Join the Lawsuit.** Deputies must complete two forms to join the lawsuit: (1) A consent to join the lawsuit; and (2) An attorney-client agreement. Deputies can either download the two forms here, <https://www.laovertimelawsuit.com/>, or pick them up from the ALADS facility. The signed forms can either be returned to the ALADS facility at 2 Cupania Circle in Monterey Park or to Nicole Castronovo, Attorney, 1428 2nd Street, Suite 200, Santa Monica, CA 90401.

**Who Are The Attorneys And How Are They Being Paid?** The team of attorneys handling the case include attorneys from the Rains Lucia Stern St. Phalle and Silver law firm and the Public Safety Labor Group. The attorneys are handling the case on a 25% contingent fee basis, meaning that the attorneys only get paid if they make a recovery. The attorneys' fees will only be charged on the additional amounts they recover beyond what the County will be paying employees in the extra overtime payments.

**Who Should Deputies Call If They Have Questions?** If you have any questions, call attorney Elizabeth Silver or Nicole Castronovo at 310.393.1486 or ALADS, Evel Zamudio 323.213.4005, [ezamudio@alads.org](mailto:ezamudio@alads.org)

## **OVERTIME LAWSUIT AGAINST THE COUNTY FAQs**

### **Am I eligible to join if I don't receive cashback?**

Yes, you are. One of the things the lawsuit will examine is whether the County is correctly paying the basic overtime rate. If you've received any overtime over the last three years, you're eligible to join.

### **What if I took my overtime as Save Time?**

You are eligible –Save Time (Comp Time) and pay are the same in this circumstance. Additionally, comp-time cash-outs at retirement maybe impacted.

### **Are retirees, non-sworn employees, DAIs, and other county employees eligible to join the lawsuit?**

Yes, any current or former County employee who has worked overtime in the last three years is eligible to join.

### **Do I have to mail in the paperwork?**

You either need to mail the completed paperwork to the attorneys or stop by the ALADS office to drop off the paperwork.

### **What's the deadline for joining the lawsuit?**

There's no deadline set yet, though it's likely the Court will establish one. However, it's best to join the lawsuit as soon as possible, as every day that goes by without you joining is another day of damages you've lost on the "tail" end of the statute of limitations. Joining the lawsuit "freezes" your statute of limitations as of the date you join.

### **What if I was involved in a previous FLSA lawsuit against the County? Am I eligible to join this lawsuit?**

Yes, you are eligible, provided you've worked overtime in the last three years.

### **How much can I expect to recover?**

It's too early to answer. Each member's recovery will depend upon how much overtime they worked and how much cashback they received from the health insurance plan.

### **Will the attorneys be accepting the County's calculations of how much I am owed?**

The attorneys have retained an expert economist who has worked on numerous FLSA cases. The electronic payroll files for each employee joining the lawsuit will be obtained from the County and forwarded to the expert, who will do an independent calculation of how much each employee is owed.

### **Will I have to pay taxes on the extra overtime the County pays me or anything I recover in the lawsuit?**

Yes, both types of payments are taxable income under IRS rules. There's a rumor that either the extra overtime or a lawsuit settlement will flag members for an IRS audit. That rumor is incorrect.

### **Will the 25% attorney fees be taken on the amounts the County is already paying?**

No. The attorney fees will be calculated only on the additional amounts the attorneys are able to recover.

### **If the County has already agreed to pay what it owes, why the lawsuit?**

To begin with, the County has yet to produce the formulas it used to calculate what it thinks it owes, and there's good reason to think the County's formula for calculating basic overtime may be wrong.

More importantly, the FLSA entitles employees to liquidated (or double) damages when the employer violates the law. The County's payments don't include liquidated damages.

**What was that website where I can find the forms?**

It's <https://www.laovertimelawsuit.com/>.

**Please Note: There are two signature locations and three printed name locations on the forms. Please complete all forms to be properly opted-in.**

*This information was sent to ALADS members via email. If you are not receiving ALADS' emails, please register on the ALADS website [www.alads.org](http://www.alads.org) or call (323) 213-4005.*