

The Ninth Circuit Gives San Francisco Registered Nurses Their Day in Court Against the City and County of San Francisco

Judge Bea found that the San Francisco Nurses are entitled to judgment as a matter of law and entitled to their unpaid overtime wages.

SAN FRANCISCO, CA, UNITED STATES, September 26, 2024 /EINPresswire.com/ -- [San Francisco](#)

[Nurses](#) Seek Rehearing of Ninth Circuit Court Decision Reversing Judgment Against Them Arguing That a Trial is Not Necessary to Prove They are Owed Overtime Wages as a Matter of Federal Law

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Eduardo G. Roy

Eduardo G. Roy of Prometheus Partners L.L.P., counsel for 141 of 300 Registered Nurses who filed suit against the [City and County of San Francisco](#) explained: Recently, the Ninth Circuit Court of Appeals reversed the U.S. Northern District Court of California's grant of summary judgment for the City and County of San Francisco, dealing a major win to approximately 300 frontline San Francisco

Registered Nurses. The three-judge panel of the Court determined that the District Court erred by finding that there were no triable issues regarding whether these Nurses were paid on an hourly basis as they contend or a salaried basis as the City contends. The Court panel found that even the City's expert witness report identified 72 unexplained instances where 23 of its Nurses, alone, were not paid according to their alleged salaries but were seemingly paid on an hourly basis. Based on these serious discrepancies, combined with the City's Memorandum of Understanding with the local union that called for the Nurses to be paid on an hourly basis, and other evidence, the majority opinion of the Court determined that the Nurses are entitled to a trial on their significant overtime claims.

However, the concurring and dissenting opinion of the Hon. Carlos T. Bea disagreed with the majority, in part, because he would have not only reversed the judgment for the City but entered judgment for the plaintiff Nurses. Judge Bea found that there were no triable issues on the record before the Court and that the Nurses are entitled to judgment as a matter of law because they were indisputably paid on an hourly basis and are, therefore, entitled to their unpaid overtime wages. That failure to pay the Nurses also exposes the City to paying double the unpaid

overtime wages, among other things, which could be a huge loss for City and County of San Francisco taxpayers.

In response to this recent decision, the 300+ affected San Francisco Registered Nurses just filed a petition with the Ninth Circuit Court seeking a rehearing before the original three-judge panel or the full en banc panel to find that they were wrongfully denied overtime benefits as a matter of law. The Petition for Rehearing explains why the concurring and dissenting opinion of Judge Bea was legally correct that there were no triable issues on the record before the Court and that the Nurses are entitled to judgment as a matter of law because they were indisputably paid on an hourly basis and are, therefore, entitled to their unpaid overtime wages.

Mr. Eduardo G. Roy of Prometheus Partners L.L.P., explained: "We have joined in the Petition filed by our co-plaintiffs Registered Nurses because Judge Bea got it absolutely correct and this is a matter of exceptional importance to publicly employed employees throughout the country. Our clients strongly believe that the majority opinion of the Court seriously conflicts with recent, seminal Supreme Court precedent, other circuit court decisions, and regulatory guidance from the U.S. Department of Labor, which could cause the governing salary basis test to be significantly nullified for public sector employees where they are indisputably paid on an hourly basis and wrongfully denied their overtime benefits. We are confident that, upon further consideration, the original panel or full Ninth Circuit Court will agree."

Eduardo G. Roy can be contacted at 415.527.0255. The case is Tatyana Litvinova v. City and County of San Francisco, Case No. 22-16568 (Consolidated with No. 22-16079). The matter was originally filed in the Northern District of California (San Francisco).

Eduardo G. Roy
Prometheus Partners
+1 415-527-0255
[email us here](#)

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