

1 MICHAEL A. CONGER, ESQUIRE (State Bar No. 147882)
2 LAW OFFICE OF MICHAEL A. CONGER
3 P.O. Box 9374
4 16236 San Dieguito Road, Suite 4-14
5 Rancho Santa Fe, California 92067
6 Telephone: (858) 759-0200
7 Facsimile: (858) 759-1906

8 Attorneys for Plaintiffs Ananta Baidya, Jon Coffman,
9 Jennifer Smith and Carol L. Young, individually, and on
10 behalf of all others similarly situated

11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN DIEGO

ANANTA BAIDYA, JON COFFMAN, JENNIFER SMITH and CAROL L. YOUNG,)	CASE NO: 37-2011-00096237-CU-PO-CTL
Plaintiffs,)	SECOND AMENDED CLASS ACTION
v.)	COMPLAINT FOR BREACH OF
SAN DIEGO CITY EMPLOYEES' RETIREMENT SYSTEM, and DOES 1-30,)	CONSTITUTIONAL AND FIDUCIARY
Defendants.)	DUTIES
)	Judge: Hon. Ronald S. Prager
)	Dept: C-71
)	Action Filed: August 12, 2011
)	Trial Date: Not yet set

THIS IS A CLASS ACTION LAWSUIT.

1. This is a class action lawsuit brought by the plaintiffs Ananta Baidya, Jon Coffman, Jennifer Smith and Carol L. Young ("plaintiffs"). Plaintiffs are all beneficiaries of a pension trust fund administered by defendant San Diego City Employees' Retirement System ("SDCERS"). The plaintiffs bring this suit on their own behalf and for all those others similarly situated. The definition of the class is set forth in paragraph 52 of this complaint.
2. This class action is brought pursuant to section 382 of the California Code of Civil Procedure. The remedies and damages sought by the plaintiffs, both individually and on behalf of the class, exceed the minimum jurisdictional limits of the Superior Court.
3. Venue is proper in San Diego because the defendants committed the wrongs alleged in San Diego.

1 4. Defendant SDCERS is a public employees' retirement system operating under
2 section 17 of article XVI of the California Constitution, San Diego City Charter sections 141
3 through 149, and San Diego Municipal Code Section 24.0100, et seq. Pursuant to Charter
4 section 144, SDCERS is managed by its Board of Administration.

5 5. The true names or capacities, whether individual, corporate, associate, or
6 otherwise, of defendants DOES 1 to 30, inclusive, are unknown to plaintiffs, who therefore sue
7 said defendants by such fictitious names.

8 6. Plaintiffs are informed and believe and thereon allege that the defendants
9 designated herein as DOES are responsible in some manner for the events and happenings herein
10 referred to, and caused injury and damages proximately thereby to plaintiffs as herein alleged.
11 Plaintiffs will seek leave of court to amend this complaint to set forth the true names and
12 capacities of such named defendants when their identities become known to them.

13 7. Plaintiffs are informed and believe and thereon allege that each defendant named
14 in this action, including DOE defendants, at all relevant times, was the agent, ostensible agent,
15 servant, employee, representative, assistant, joint venturer, and/or co-conspirator of each of the
16 other defendants, and was at all times acting within the course and scope of his, her, or its
17 authority as agent, ostensible agent, servant, employee, representative, joint venturer, and/or
18 co-conspirator, and with the same authorization, consent, permission or ratification of each of the
19 other defendants.

20 **FACTUAL ALLEGATIONS**

21 **SDCERS Owes Plaintiffs Fiduciary Duties**

22 8. As the trustee of the plaintiffs' pensions, SDCERS owes each plaintiff fiduciary
23 duties. (*Lexin v. Superior Court* (2010) 47 Cal.4th 1050, 1102; *Hittle v. Santa Barbara County*
24 *Employees Retirement Association (Hittle)* (1985) 39 Cal.3d 374, 392-393.)

25 9. "The retirement board of a public pension or retirement system [has] the sole and
26 exclusive fiduciary responsibility over the assets of the public pension or retirement system. The
27 retirement board . . . also ha[s] sole and exclusive responsibility to administer the system in a
28 manner that will assure prompt delivery of benefits and related services to the participants and

1 their beneficiaries. The assets of a public pension or retirement system are trust funds and [must]
2 be held for the exclusive purposes of providing benefits to participants in the pension or
3 retirement system and their beneficiaries and defraying reasonable expenses of administering the
4 system.” (Cal. Const., art. XVI, § 17, subd. (a), italics added.)

5 10. “The members of the retirement board of a public pension or retirement system
6 [must] discharge their duties with respect to the system with the care, skill, prudence, and
7 diligence under the circumstances then prevailing that a prudent person acting in a like capacity
8 and familiar with these matters would use in the conduct of an enterprise of a like character and
9 with like aims.” (Cal. Const., art. XVI, § 17, subd. (c).)

10 11. “A retirement board’s duty to its participants and their beneficiaries . . . take[s]
11 precedence over any other duty.” (Cal. Const., art. XVI, § 17, subd. (b).)

12 **SDCERS Does Not Owe Any Fiduciary Duty to the City of San Diego**

13 12. SDCERS does not owe any fiduciary duty to the City of San Diego (“City”).

14 **The City Established a Purchase of Service Credit Program**

15 13. A City employee’s pension is determined by multiplying (a) years of employment
16 (often referred to as “service credits”), (b) the highest compensation earned by the employee in
17 any one-year period, and (c) a retirement factor determined by ordinance.

18 14. In 1993 the City established the purchase of service credit program (“PSC”) to
19 allow employees to purchase service credits for periods of actual service or authorized leaves of
20 absence that were otherwise ineligible for service credits. Such categories of service eligible for
21 purchase were employment probationary periods, part-time service, military services, and
22 approved leaves of absence, among others.

23 15. In 1997 the City, by ordinance, expanded the PSC program to allow the purchase
24 of service credits for periods that were not actually worked, up to 5 years.

25 16. The City adopted and expanded the PSC program because, according a July 30,
26 2010 sworn declaration by the City’s Chief Operating Officer, Jay Goldstone, the City has a
27 “legitimate and overriding business interest in attracting and retaining qualified public employees
28 so as to maintain a qualified, cost-effective public work force[,]” and “[a]dopting and

1 maintaining pension benefits . . . achieve this goal by awarding competitive pension benefits to
2 experienced employees.”

3 17. The 1997 ordinance adopted by the City permitting employees to purchase up to
4 five years of service credit provided that “the cost [of such service] purchased . . . is the amount
5 the [SDCERS’] Board determines to be the employee and employer cost of that . . . service.”

6 18. When the City modified the PSC program in 1997, SDCERS’ actuary advised the
7 board that a two-tiered rate structure—15 percent of current annual compensation for general
8 member employees and 26 percent of current annual compensation for safety member
9 employees—would be sufficient to meet the requirement that the purchase price for service
10 credits paid by employees be equivalent to the sum of the employer and employee cost.

11 19. SDCERS and the City knew the PSC rate structure was imprecise, because the
12 actual cost of a year of service credit for a younger worker, decades from retirement, is far lower
13 than the actual cost of a year of service for an older employee closer to retirement. However,
14 SDCERS decided that charging all employees an “average price” would comply with its mandate
15 to administer the PSC program in a cost-neutral manner.

16 20. At its March 1997 meeting, the SDCERS’ board, which has a majority of
17 members appointed by the Mayor (City Charter, § 144), approved the rates for general and safety
18 members. City employees were then permitted to purchase service credits at the rates the board
19 established.

20 21. The City had actual knowledge of the rates set by SDCERS and made no
21 objection to those rates, or to SDCERS’ “average price” PSC rate structure. Indeed, SDCERS
22 board members appointed by the City voted in favor of such a structure.

23 22. In 2000 and in 2002, the City retroactively increased the retirement factor used to
24 compute its employees’ pensions. This caused an increase in the value, and therefore the cost, of
25 a year of purchased service credit under the PSC program. At a SDCERS board meeting in July
26 2002, SDCERS retirement administrator commented that the current PSC rate structure might
27 therefore be insufficient to fund a year of purchased service credit.

28 23 In August 2002 the SDCERS board directed its actuary to evaluate whether the

1 PSC rate structure set in 1997 reflected the current cost of the benefit.

2 24. The actuary completed his study in August 2003 and recommended to the board
3 that the rates for a year of service credit be adjusted upwards to 27 percent of current annual
4 compensation for general member employees and 37 percent of current annual compensation for
5 safety member employees.

6 25 At a meeting on August 15, 2003, the SDCERS board discussed the actuary's
7 study and recommendation, and voted to adopt the new PSC rates. However, SDCERS delayed
8 implementation of any increase in the rates for 60 days in order to notify its members of the rate
9 increase and allow employees to purchase service credits at existing rates before the increase
10 took effect.

11 26. After that meeting, SDCERS and the City notified all City employees that PSC
12 purchase applications received by SDCERS before November 1, 2003, would be priced
13 according to the old rates—15 percent current annual compensation for general member
14 employees and 26 percent current annual compensation for safety member employees. This
15 period, from August 15, 2003, through October 31, 2003, is referred to as “the window period.”

16 **Any Shortfall Created by the Window Period Was Being Paid by the City in Its**
17 **Amortization of the Unfunded Accrued Actuarial Liability**

18 27. The employee pension trust fund administered by SDCERS is funded by a
19 combination of (a) employee contributions from employees, paid through a mandatory pay check
20 deduction, (b) annual employer contributions from the City, and (c) earnings on investments
21 from those annual contributions.

22 28. There are two components to the City's annual employer contribution: (a) a
23 “normal” contribution and (b) an additional contribution designed to amortize any unfunded
24 liability of the trust fund over a period not to exceed 15 years. (City Charter, § 143.) The City's
25 annual employer contributions are determined in annual actuarial valuations, which are provided
26 to the City.

27 29. Therefore, if the 1997 PSC pricing did not pay the full cost of the service credits
28 purchased, the City would be required to amortize any such deficiency and make such an

1 amortization payment as a component part of its annual employer contribution.

2 **The City's Knowledge of the Window Period by 2003**

3 30. The City was fully aware that the SDCERS's board's decision to delay
4 implementation of the PSC rate increase might cost the City. For example, the 2002 annual
5 actuarial valuation estimated that the PSC program increased the City's employer contribution
6 that year by more than \$5 million. SDCERS board member and Deputy City Auditor Terri
7 Webster, in e-mails dated July 16, 2003, and August 11, 2003, complained that the old PSC rates
8 had caused the retirement system to "incur[] an approximate \$56 million loss due to the under
9 funding of the [PSC] program." Webster also complained that "the [PSC] program has been
10 administered by the Board at a loss to . . . the City . . ." Webster's August 18, 2003 e-mail,
11 directed to fellow board member Ray Garnica, specifically criticized SDCERS' failure to
12 immediately increase the PSC rates after the SDCERS board had received their actuary's August
13 2003 report.

14 31. Despite its knowledge of the window period, the City actively publicized its
15 availability and accompanying cost savings to employees, because the rates charged for service
16 credits under the PSC program would be rising dramatically effective November 1, 2003.

17 32. On January 27, 2004, in a confidential memorandum (later publicly released by
18 the City) from the City's outside counsel at Luce, Forward, Hamilton & Scripps, LLP, the Mayor
19 and City Council were expressly advised that "City leaders have taken note of the fact that
20 SDCERS has apparently failed to collect the full cost from employees who elect to participate in
21 the 'purchase of service credits' benefit . . . which results in a significant actuarial loss . . . [of] as
22 much as \$180 million if initial estimates from the City are correct"

23 **The City's First PSC Lawsuit**

24 33. In July 2005, SDCERS filed a declaratory relief action (*SDCERS v. City of San*
25 *Diego*, GIC 851286; consolidated with *SDCERS v. Aguirre, et al.*, GIC 841845).

26 34. In that 2005 litigation, the City alleged by cross-complaint that certain pension
27 benefits were "illegal." In that litigation, the City dubbed these "Contested Benefits."

28 35. The "Contested Benefits" included "[a]ny retirement benefit based on a Purchase

1 of Service Credit that was purchased by a member at a rate that was not actuarially neutral.” The
2 City sought an order prohibiting SDCERS from paying any such Contested Benefits.

3 36. On October 16, 2006, SDCERS obtained an order granting its motion for
4 summary adjudication from The Honorable Jeffrey B. Barton expressly declaring that SDCERS
5 “may properly and legally pay all of the Contested Benefits” That order became final
6 without alteration in June 2011.

7 The City’s Second PSC Lawsuit

8 37. On or about September 18, 2006, the City Attorney issued “Interim Report # 12,”
9 which concluded that the PSC purchases made during the window period were illegal.

10 38. As a result of that report, SDCERS asked its new actuary, which had replaced
11 SDCERS previous actuary, to study the PSC program since inception and report to the SDCERS
12 board whether the program had historically been administered in a cost neutral manner, i.e., had
13 SDCERS accurately charged employees an appropriate amount for the service credits purchased
14 under the PSC program.

15 39. The new actuary prepared a report dated August 14, 2007. In that report, he
16 concluded that the SDCERS board had, under the previous PSC pricing structure developed by
17 the prior actuary, charged an insufficient amount for the service credits purchased by general
18 members during the window period.

19 40. At meetings in October and November 2007, the SDCERS board, consisting only
20 of members appointed by the City, because employee board members had recused themselves,
21 considered whether any action should be taken as the result of the information provided by the
22 new actuary in his August 14, 2007 report.

23 41. Realizing that SDCERS had already been charging the City for any PSC-related
24 window period underfunding since 2003, as set forth in paragraphs 27-32, above, the SDCERS
25 board was implored by speakers at those meetings, including Ann Smith, an attorney for the
26 City’s largest labor union, not to take any action. As these speakers explained, any underfunding
27 problem was already being cured because such a deficit was being amortized by the City’s annual
28 employer contributions. Further, in light of the City’s knowledge of the window period, any

1 action taken in 2007 by the SDCERS board might impair SDCERS' statute of limitations defense
2 if the City decided to file suit based upon action taken by the SDCERS board in 2007. (*Marin*
3 *Healthcare District v. Sutter Health* (2002) 103 Cal.App.4th 861, 879 [statutes of limitation
4 apply even to void contracts].)

5 42. On November 16, 2007, acting against the advice of speakers representing the
6 beneficiaries to whom SDCERS owed a fiduciary duty, the SDCERS board decided to charge the
7 City for the perceived shortfall caused by service credit purchased under the PSC program during
8 the window period. Based on information and belief, this decision by City-appointed trustees,
9 which was adverse to the interests of the trust fund's beneficiaries, was knowingly and
10 purposefully taken by City-appointed SDCERS board members to restart a statute of limitations
11 which had expired.

12 43. Four days later, on November 20, 2007, the City filed its *second* lawsuit
13 challenging the service credits purchased during the window period. (*City v. SDCERS*, San
14 Diego Superior Court Case No. 37-2007-00081912.)

15 44. Although SDCERS raised a statute of limitations defense, it was rejected because
16 the court held the City's suit was challenging the November 2007 decision to charge the City,
17 rather than its 2003 decision to open the window period.

18 45. In the City's second PSC lawsuit, SDCERS failed to raise either a plea in
19 abatement pursuant to Code of Civil Procedure section 430.10, subdivision (c), or the rule of
20 exclusive concurrent jurisdiction. Had SDCERS raised either of these defenses, the court in the
21 second case would have been required to stay the City's second PSC lawsuit until the City's first
22 PSC lawsuit had been resolved. (*People ex rel. Garamendi v. American Autoplan, Inc.* (1993) 20
23 Cal.App.4th 760, 770-771.)

24 46. Because (a) the order of abatement or enforcement of the judicial rule of exclusive
25 concurrent jurisdiction would have been mandatory, and (b) the judgment in the City's first PSC
26 lawsuit was favorable to the beneficiaries of the employee pension trust fund, SDCERS' failure
27 to raise either defense in the City's second PSC lawsuit was adverse to beneficiaries, including
28 the plaintiffs, because the City's second PSC lawsuit risked a decision adverse to those trust

1 beneficiaries.

2 47. In the City's second PSC lawsuit, SDCERS also failed to raise the doctrine of
3 unclean hands. In light of the City's conduct in encouraging its employees to purchase service
4 credits during the window period, SDCERS should have raised this defense and had it done so,
5 SDCERS would have prevailed in the City's second PSC lawsuit.

6 48. SDCERS' imprudent acts, which permitted the City's second PSC lawsuit to be
7 adjudicated on the merits, adversely affected the beneficiaries of the employee pension trust fund
8 because SDCERS lost that case.

9 49. On or about April 11, 2011, after SDCERS lost the City's second PSC lawsuit,
10 SDCERS offered to rescind or reform the PSC contracts entered into during the window period.
11 However, SDCERS refused to perform those contracts as written.

12 50. Between September 18, 2006 and July 1, 2010, despite its duty of full disclosure
13 (*Hittle, supra*, 39 Cal.3d 374), although SDCERS knew that the City was challenging PSC
14 service credits purchased during the window period, it failed to inform and adequately apprise
15 affected persons of this fact and the impact it could have on the amount of those employees'
16 pensions. Consequently, several members of SDCERS made life-altering decisions to retire
17 based on incomplete knowledge.

18 51. Although the Government Claims Act does not apply to the claims made in this
19 complaint (Gov. Code, §§ 905, subs. (c), (f)), plaintiffs have nevertheless complied by timely
20 filing claims which have been rejected by SDCERS.

21 **CLASS ACTION ALLEGATIONS**

22 52. The plaintiff class in this case consists of:

23 "All SDCERS general members or beneficiaries, employed or formerly employed
24 by the City of San Diego, who have been subjected to SDCERS' Board Rule 4.90,
25 relating to Purchase of Service Credit Corrections (and who are not plaintiffs in
26 either *Abitria, et al. v. SDCERS*, Case No. 2011-00096899, or *Abbe, et al. v.*
27 *SDCERS*, Case No. 2011-00102161)."

28 ///

1 53. This action is brought and is maintained properly as a class action under Code of
2 Civil Procedure section 382 because:

- 3 (a) The questions and issues of law and fact raised herein are of a
4 common and general interest affecting the class;
- 5 (b) The plaintiff class is estimated to contain in excess of 1,000
6 individuals, and it is impractical to bring all members of the class
7 individually before the court;
- 8 (c) The questions of law or fact common to the class are substantially
9 similar and predominate over those questions that affect individual
10 members. These common questions include:
- 11 (i) What is the nature and extent of the duties that were owed
12 by SDCERS (and the DOE defendants) to the members of
13 the class?
- 14 (ii) Did various acts and omissions of SDCERS (and the DOE
15 defendants) breach fiduciary duties owed to the class?
- 16 (iii) Were the acts and omissions of SDCERS (and the DOE
17 defendants) below the standard of care required by the
18 California Constitution (art. XVI, § 17(c))?
- 19 (iv) Did SDCERS (and the DOE defendants) cause damages to
20 members of the class?
- 21 (v) What is the proper method of calculating damages caused
22 by SDCERS (and the DOE defendants)?
- 23 (vi) What are the appropriate remedies?
- 24 (vii) Is the plaintiff class entitled to prejudgment interest?
- 25 (viii) What are the proper in limine rulings and evidentiary
26 rulings?
- 27 (d) The claims of the representative plaintiffs are typical of those of
28 the class;

1 (e) The representative plaintiffs will fairly and adequately protect the
2 interests of the class, have no interests which conflict with the
3 class, and have retained attorneys experienced in the prosecution of
4 class and multi-plaintiff litigation to represent the class herein;

5 (f) The prosecution of separate actions by individual members of the
6 class will create a risk of: (1) inconsistent or varying adjudications
7 with respect to individual members of the class which would
8 establish incompatible standards of conduct for defendants; or (2)
9 adjudications with respect to some individual members which
10 would, as a practical matter, be dispositive of the interest of the
11 other members not parties to the adjudications; or (3) adjudications
12 which would substantially impair or impede the ability of
13 individual members to protect their interests;

14 (g) A plaintiff class action is superior to other available methods for
15 the fair and efficient adjudication of the claims presented in this
16 complaint, and will prevent the undue financial, administrative and
17 procedural burdens on the parties and on this Court which
18 individual litigations would impose.

19 54. Proof of a common or single practice or factual pattern, of which the named
20 plaintiffs' experiences are representative, will establish the right of each of the members of the
21 plaintiff classes to recover on the causes of actions herein alleged.

22 55. All of the plaintiffs were subject to a systematic course and pattern of practice and
23 were thereby treated by the defendants in a similar manner, as is specifically alleged elsewhere in
24 this complaint.

25 ///

26 ///

27 ///

28 ///

1 **FIRST CAUSE OF ACTION**

2 **BREACH OF COMMON LAW AND CONSTITUTIONAL FIDUCIARY DUTIES**
3 **AGAINST SDCERS AND DOES 1-10**

4 56. Plaintiffs incorporate paragraphs 1-57 as if fully set forth here.

5 57. On November 16, 2007, defendants, including SDCERS, breached their common
6 law fiduciary duties to the plaintiffs by taking unnecessary action to affirm an existing actuarial
7 practice and thereby restarting the statute of limitations on the City's claim that service credits
8 purchased during the window period were unlawful.

9 58 On November 16, 2007, defendants, including SDCERS, breached their
10 constitutional, fiduciary duties to the plaintiffs under section 17 of article 16 of the California
11 Constitution by taking unnecessary action to affirm an existing actuarial practice and thereby
12 restarting the statute of limitations on the City's claim that service credits purchased during the
13 window period were unlawful.

14 59. SDCERS' actions in breach of its fiduciary duty and duty of loyalty constituted a
15 breach of trust entitling Plaintiffs to an order setting aside SDCERS' acts in accordance with
16 Probate Code section 16420, subdivision (a)(6) and common law, and/or for the payment of
17 money by SDCERS in accordance with Probate Code section 16420, subdivision (a)(3) and
18 common law. Additionally, as a result of these common law and constitutional-based breaches
19 of fiduciary duty, Plaintiffs have suffered economic damages compensable under Civil Code
20 section 3333.

21
22 **SECOND CAUSE OF ACTION**

23 **BREACH OF COMMON LAW AND CONSTITUTIONAL FIDUCIARY DUTIES**
24 **AGAINST SDCERS AND DOES 11-21**

25 60. Plaintiffs incorporate paragraphs 1-55 as if fully set forth here.

26 61. Defendants, including SDCERS, breached their common law fiduciary duties to
27 the plaintiffs by failing to raise in the City's second PSC lawsuit:

28 (a) a plea in abatement pursuant to Code of Civil Procedure section 430.10,

- 1 subdivision (c);
- 2 (b) the rule of exclusive concurrent jurisdiction; and
- 3 (c) the defense of the City's unclean hands.

4 SDCERS' failure to raise these defenses in the City's second PSC lawsuit was adverse to its trust
5 beneficiaries, including the plaintiffs.

6 62. Defendants, including SDCERS, breached their constitutional, fiduciary duties to
7 the plaintiffs under section 17 of article 16 of the California Constitution by failing to raise, in
8 the City's second PSC lawsuit:

- 9 (a) a plea in abatement pursuant to Code of Civil Procedure section 430.10,
10 subdivision (c);
- 11 (b) the rule of exclusive concurrent jurisdiction; and
- 12 (c) the defense of the City's unclean hands.

13 SDCERS' failure to raise these defenses in the City's second PSC lawsuit was adverse to its trust
14 beneficiaries, including the plaintiffs.

15 63. SDCERS' actions in breach of its fiduciary duty and duty of loyalty constituted a
16 breach of trust entitling Plaintiffs to an order setting aside SDCERS' acts in accordance with
17 Probate Code section 16420, subdivision (a)(6) and common law, and/or for the payment of
18 money by SDCERS in accordance with Probate Code section 16420, subdivision (a)(3) and
19 common law. Additionally, as a result of these common law and constitutional-based breaches
20 of fiduciary duty, Plaintiffs have suffered economic damages compensable under Civil Code
21 section 3333.

22 WHEREFORE, plaintiffs pray for judgment as follows:

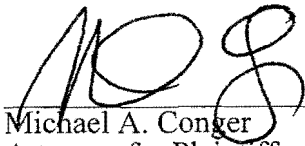
- 23 1. for damages according to proof;
- 24 2. for payment of money by SDCERS in accordance with Probate Code section
25 16420, subdivision (a)(3) and common law;
- 26 3. for an order setting SDCERS' acts in accordance with Probate Code section
27 16420, subdivision (a)(6) and common law;
- 28 4. for prejudgment interest;

- 1 5. for attorney fees;
- 2 6. for costs of suit; and
- 3 7. for such other and further relief as the court deems just and proper.

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

Dated: January 23, 2013

LAW OFFICE OF MICHAEL A. CONGER

By: 

Michael A. Conger
Attorney for Plaintiffs, both individually and on
behalf of those similarly situated

Jury trial demanded.