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SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN BERNARDINO
SAN BERNARDINO DISTRICT

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By: Janelle Martinez, DEPUTY

Attorneys for Plaintiff ANDREW PADILLA
on behalf of himself and current and former aggrieved employees

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN BERNARDINO**

ANDREW PADILLA, on behalf of himself and
current and former aggrieved employees

Plaintiff,

vs.

TOYOTA MOTOR SALES, U.S.A., INC.; and
DOES 1 to 100, inclusive,

Defendants.

Case No.: CIVSB2408116

PAGA ACTION

**PLAINTIFF ANDREW PADILLA'S
COMPLAINT FOR:**

- CIVIL PENALTIES PURSUANT
TO THE PRIVATE ATTORNEYS
GENERAL ACT OF 2004
("PAGA"), LABOR CODE
SECTIONS 2698, ET SEQ.**

COMES NOW Plaintiff ANDREW PADILLA ("Plaintiff"), who alleges and complains
against Defendants TOYOTA MOTOR SALES, U.S.A., INC.; and DOES 1 to 100, inclusive
(collectively "Defendants") as follows:

I. INTRODUCTION

1. This is a Private Attorneys General Act of 2004, Labor Code §§ 2698, *et seq.*
("PAGA") representative action brought by Plaintiff on behalf of the State of California, himself
and other current and former aggrieved employees of Defendants who worked as hourly non-
exempt employees in California during the relevant time period seeking civil penalties associated
with Defendants' violation of the Labor Code based on Defendants' failure to pay wages for all

1 hours worked at the employees' minimum wage rate or overtime rate, failure to provide all legally
2 required and legally compliant meal and rest periods, failure to timely pay earned wages during
3 employment, failure to provide complete and accurate wage statements, and failure to timely pay
4 all unpaid wages following separation of employment. Plaintiff seeks on a representative basis,
5 following notice to the Labor and Workforce Development Agency, civil penalties, reasonable
6 attorneys' fees pursuant to Labor Code section 2699(g)(1) and costs brought on behalf of Plaintiff,
7 the State of California, and others aggrieved.

8 **II. JURISDICTION AND VENUE**

9 2. This Court has jurisdiction over the claims of Plaintiff and all other current and
10 former aggrieved California-based hourly non-exempt employees because Plaintiff's lawsuit seeks
11 civil penalties on behalf of himself, all other current and former aggrieved California-based hourly
12 non-exempt employees, and the State of California in excess of twenty-five thousand dollars
13 (\$25,000); Defendants employed Plaintiff and all other current and former aggrieved California-
14 based hourly non-exempt employees; and the injuries to Plaintiff and all other current and former
15 aggrieved California-based hourly non-exempt employees occurred in locations throughout
16 California, including but not limited to San Bernardino County, at 1425 Toyota Way, Ontario, CA
17 91761.

18 **III. PARTIES**

19 3. Plaintiff brings this action as a representative of the Labor and Workforce
20 Development Agency on behalf of himself and other current and former employees subject to
21 violations of the Labor Code. The named Plaintiff and the persons on whose behalf this action is
22 filed include current, former and/or future employees of Defendants who work, worked, or will
23 work for Defendants as direct employees as well as temporary employees employed through temp
24 agencies as hourly non-exempt employees in California. At all times mentioned herein, the
25 currently named Plaintiff is and was domiciled and a resident and citizen of California and was
26 employed by Defendants in an hourly position at Defendants' location in Ontario from
27 approximately July 17, 2006, until on or about August 31, 2023.

28 4. Plaintiff is informed and believes and thereon alleges that Defendant TOYOTA

1 MOTOR SALES, U.S.A., INC. is authorized to do business within the State of California and is
2 doing business in the State of California and/or that Defendants DOES 1-50 are, and at all times
3 relevant hereto were persons acting on behalf of Defendant TOYOTA MOTOR SALES, U.S.A.,
4 INC. in the establishment of, or ratification of, the aforementioned illegal wage and hour practices
5 or policies. Defendant TOYOTA MOTOR SALES, U.S.A., INC. operates in San Bernardino
6 County and employed Plaintiff and aggrieved employees in San Bernardino County, including but
7 not limited to, at 1425 Toyota Way, Ontario, CA 91761.

8 5. Plaintiff is informed and believes and thereon alleges that Defendants DOES 1
9 through 50 are corporations, or are other business entities or organizations of a nature unknown to
10 Plaintiff that employed Plaintiff and aggrieved California non-exempt employees, permitted
11 Plaintiff and aggrieved employees to work, and exercised control over the wages, hours and
12 working conditions of employment of Plaintiff and aggrieved employees.

13 6. Plaintiff is informed and believes and thereon alleges that Defendants DOES 51
14 through 100 are individuals unknown to Plaintiff. Each of the individual defendants is sued
15 individually and in his or her capacity as an agent, shareholder, owner, representative, manager,
16 supervisor, independent contractor and/or employee of each defendant who violated or caused to
17 be violated the minimum wage and overtime provisions of the Labor Code and/or any provision of
18 the Industrial Welfare Commission's wage orders regulating hours and days of work.

19 7. Plaintiff is unaware of the true names of Defendants DOES 1 through 100. Plaintiff
20 sues said defendants by said fictitious names, and will amend this complaint when the true names
21 and capacities are ascertained or when such facts pertaining to liability are ascertained, or as
22 permitted by law or by the Court. Plaintiff is informed and believes that each of the fictitiously
23 named defendants is in some manner responsible for the events and allegations set forth in this
24 complaint.

25 8. Plaintiff makes the allegations in this complaint without any admission that, as to
26 any particular allegation, Plaintiff bears the burden of pleading, proving, or persuading and
27 Plaintiff reserves all of Plaintiff's right to plead in the alternative.

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1 **FIRST CAUSE OF ACTION**

2 **CIVIL PENALTIES PURSUANT TO THE PRIVATE ATTORNEYS GENERAL ACT OF**
3 **2004, LABOR CODE SECTIONS 2698, ET SEQ.**

4 **(Against all Defendants by Plaintiff)**

5 9. Plaintiff incorporates all paragraphs above as though fully set forth herein.

6 10. During Plaintiff's employment and continuing through the present, Plaintiff alleges
7 Defendants violated Labor Code sections 201, 202, 203, 204, 226, 226.7, 510, 512, 1194, 1197,
8 and the applicable Wage Orders.

9 11. Specifically, Defendants have committed the following violations of California
10 Labor Code:

11 12. **Failure to pay wages for all hours worked at the legal minimum wage:**
12 Defendants employed many of their employees, including Plaintiff, as hourly non-exempt
13 employees. In California, an employer is required to pay hourly employees for all "hours worked,"
14 which includes all time that an employee is under control of the employer and all time the
15 employee is suffered and permitted to work. This includes the time an employee spends, either
16 directly or indirectly, performing services which inure to the benefit of the employer.

17 13. Labor Code sections 1194 and 1197 require an employer to compensate employees
18 for all "hours worked" at least at a minimum wage rate of pay as established by the IWC and the
19 Wage Orders.

20 14. In this case, Plaintiff and other current and former aggrieved California-based
21 hourly non-exempt employees worked more minutes per shift than Defendants credited them with
22 having worked. Specifically, Defendants failed to pay Plaintiff and other current and former
23 aggrieved California-based hourly non-exempt employees all wages at the applicable minimum
24 wage for all hours worked due to Defendants' policies, practices, and/or procedures including, but
25 not limited to:

26 a) requiring Plaintiff and other current and former aggrieved California-based hourly non-
27 exempt employees to undergo medical screenings, including but not limited to temperature checks,
28 prior to being permitted to clock in for the start of their shift.

1 15. Therefore, Defendants suffered, permitted, and required Plaintiff and other current
2 and former aggrieved California-based hourly non-exempt employees to be subject to Defendants'
3 control without paying wages for that time. This resulted in Plaintiff and other current and former
4 aggrieved California-based hourly non-exempt employees working time for which they were not
5 compensated any wages, in violation of Labor Code sections 1194 and 1197 and the applicable
6 Wage Order.

7 16. **Failure to pay wages for overtime hours worked at the overtime rate of pay:**
8 Defendants employed many of their employees, including Plaintiff, as hourly non-exempt
9 employees. In California, an employer is required to pay hourly employees for all "hours worked,"
10 which includes all time that an employee is under control of the employer and all time the
11 employee is suffered and permitted to work. This includes the time an employee spends, either
12 directly or indirectly, performing services that inure to the benefit of the employer.'

13 17. Labor Code sections 510 and 1194 require an employer to compensate employees a
14 higher rate of pay for hours worked in excess of eight (8) hours in a workday, in excess of forty
15 (40) hours in a workweek, and on any seventh consecutive day of work in a workweek:

16 Any work in excess of eight (8) hours in one workday, any work in excess of forty (40)
17 hours in any one (1) workweek, and the first eight (8) hours worked on the seventh day of
18 work in any one (1) workweek, shall be compensated at the rate of no less than one-and-
19 one-half (1.5) times the regular rate of pay for an employee. Any work in excess of twelve
20 (12) hours in one (1) day shall be compensated at the rate of no less than twice the regular
rate of pay for an employee. In addition, any work in excess of eight (8) hours on any
seventh day of a workweek shall be compensated at the rate of no less than twice the
regular rate of pay of an employee.

21 Labor Code section 510.

22 18. In this case, Defendants failed to pay Plaintiff and other current and former
23 aggrieved California-based hourly non-exempt employees overtime wages for all overtime hours
24 worked due to Defendants' policies, practices, and/or procedures including, but not limited to:

25 (a) requiring Plaintiff and other current and former aggrieved California-based hourly
26 non-exempt employees to undergo medical screenings, including but not limited to temperature
27 checks, prior to being permitted to clock in for the start of their shift.

28 19. Overtime is based upon an employee's regular rate of pay. "The regular rate at

1 which an employee is employed shall be deemed to include all remuneration for employment paid
2 to, or on behalf, of the employee.” See Division of Labor Standards Enforcement – Enforcement
3 Policies and Interpretations Manual, Section 49.1.2.

4 20. In this case, Plaintiff alleges that when he and other current and former aggrieved
5 California-based hourly non-exempt employees earned overtime wages, Defendants failed to pay
6 them overtime wages at the proper overtime rate of pay due to Defendants’ failure to include all
7 remuneration when calculating the overtime rate of pay. Specifically, Defendants maintained a
8 policy, practice, and/or procedure of failing to include all remuneration such as “incentive pay”,
9 for example, when calculating Plaintiff’s and other current and former aggrieved California-based
10 hourly non-exempt employees’ regular rate of pay for the purpose of paying overtime.

11 21. The foregoing policies, practices, and/or procedures resulted in time during each
12 workday that Plaintiff and other current and former aggrieved California-based hourly non-exempt
13 employees were under the control of Defendants but were not compensated. To the extent that the
14 foregoing uncompensated time occurred when Plaintiff and other current and former aggrieved
15 California-based hourly non-exempt employees worked more than eight (8) hours in a workday,
16 more than forty (40) hours in a workweek, and/or seven (7) days in a workweek, Defendants failed
17 to pay them at their overtime rate of pay for overtime hours worked, in violation of Labor Code
18 sections 510 and 1194 and the applicable Wage Order.

19 22. **Failure to pay wages to hourly non-exempt employees for workdays that**
20 **Defendants failed to provide legally required and compliant meal periods:** Plaintiff and other
21 current and former aggrieved California-based hourly non-exempt employees regularly worked
22 shifts of more than five (5) hours in length and shifts of more than ten (10) hours in length.

23 23. California law requires an employer to authorize or permit an employee an
24 uninterrupted meal period of no less than thirty (30) minutes in which the employee is relieved of
25 all duties and the employer relinquishes control over the employee’s activities prior to the
26 employee’s sixth hour of work. Labor Code sections 226.7, 512; Wage Order 9 at §11; *Brinker*
27 *Rest. Corp. v. Super Ct. (Hohnbaum)* (2012) 53 Cal.4th 1004. An employer may not employ an
28 employee for a work period of more than ten (10) hours per day without providing the employee

1 with a second such meal period of not less than thirty (30) minutes prior to the start of the eleventh
2 hour of work. *Id.* If the employee is not relieved of all duty during a meal period, the meal period
3 shall be considered an “on duty” meal period and counted as time worked. A paid “on duty” meal
4 period is only permitted when: (1) the nature of the work prevents an employee from being
5 relieved of all duty; and (2) the parties have a written agreement agreeing to on-duty meal periods.

6 24. If an employer fails to provide an employee a meal period in accordance with the
7 law, the employer must pay the employee one (1) hour of pay at the employee’s regular rate of pay
8 for each workday that a legally required and compliant meal period was not provided. Labor Code
9 section 226.7; Wage Order 9 at §11.

10 25. In this case, Defendants failed to authorize or permit legally required and compliant
11 meal periods to Plaintiff and other current and former aggrieved California-based hourly non-
12 exempt employees due to Defendants’ policies, practices, and/or procedures.

13 26. Additionally, Plaintiff alleges that Defendants maintained a policy, practice, and/or
14 procedure of failing to compensate Plaintiff and other current and former aggrieved California-
15 based hourly non-exempt employees one (1) hour of pay at their regular rate of pay for each
16 workday that Plaintiff and other current and former aggrieved California-based hourly non-exempt
17 employees did not receive legally required and compliant meal periods, in violation of Labor Code
18 section 226.7.

19 27. Finally, on occasions when Defendants paid Plaintiff and other current and former
20 aggrieved California-based hourly non-exempt employees a “premium” wage for late, missed,
21 short, on-premise, on-duty, and/or interrupted meal periods, Defendants failed to pay the one (1)
22 additional hour of pay at Plaintiff’s and other current and former aggrieved California-based
23 hourly non-exempt employees’ regular rate of compensation. Specifically, Defendants maintained
24 a policy, practice, and/or procedure of failing to include all remuneration such as incentive pay, for
25 example, when calculating Plaintiff’s and other current and former aggrieved California-based
26 hourly non-exempt employees’ regular rate of pay for the purpose of paying meal period premium
27 wages.

28 28. Defendants’ foregoing policies, practices, and/or procedures resulted in Plaintiff

1 and other current and former aggrieved California-based hourly non-exempt employees not
2 receiving wages to compensate them for workdays during which Defendants did not provide them
3 with meal periods in compliance with California law.

4 29. **Failure to pay wages to hourly non-exempt employees for workdays that**
5 **Defendants failed to provide legally required and compliant rest periods:** Plaintiff and other
6 current and former aggrieved California-based hourly non-exempt employees regularly worked
7 shifts of more than three-and-a-half (3.5) hours.

8 30. California law requires every employer to authorize and permit an employee a rest
9 period of ten (10) net minutes for every four (4) hours worked or major fraction thereof. Labor
10 Code section 226.7; Wage Order 9 at §12. Under California law, “[e]mployees are entitled to 10
11 minutes’ rest for shifts from three and one-half to six hours in length, 20 minutes for shifts of more
12 than six hours up to 10 hours, 30 minutes for shifts of more than 10 hours up to 14 hours, and so
13 on.” *Brinker Restaurant Corp. v. Sup. Ct. (Hohnbaum)* (2012) 53 Cal.4th 1004, 1029; Labor Code
14 section 226.7; Wage Order 9 at §12. Rest periods, insofar as practicable, shall be in the middle of
15 each work period. Wage Order 9 at §12. Additionally, the rest period requirement “obligates
16 employers to permit – and authorizes employees to take – off-duty rest periods.” *Augustus v. ABM*
17 *Security Services, Inc.*, (2016) 5 Cal.5th 257, 269. That is, during rest periods employers must
18 relieve employees of all duties and relinquish control over how employees spend their time. *Id.*

19 31. If the employer fails to authorize or permit a required rest period, the employer
20 must pay the employee one (1) hour of pay at the employee’s regular rate of pay for each workday
21 the employer did not authorize or permit a legally required rest period. Labor Code section 226.7;
22 Wage Order 9 at § 12.

23 32. In this case, Defendants failed to authorize or permit all legally required and
24 compliant rest periods to Plaintiff and other current and former aggrieved California-based hourly
25 non-exempt employees due to Defendants’ policies, practices, and/or procedures including, but not
26 limited to:

27 a) failing to authorize or permit Plaintiff and other current and former aggrieved
28 California-based hourly non-exempt employees a third uninterrupted duty-free rest period of a net

1 ten (10) minutes for shifts exceeding ten (10) hours.

2 33. Additionally, Plaintiff alleges that Defendants maintained a policy, practice, and/or
3 procedure of failing to compensate Plaintiff and other current and former aggrieved California-
4 based hourly non-exempt employees with one (1) hour of pay at their regular rate of pay for each
5 workday they did not receive legally required and compliant rest periods, in violation of Labor
6 Code section 226.7.

7 34. Finally, on occasions when Defendants did pay Plaintiff and other current and
8 former aggrieved California-based hourly non-exempt employees a “premium” wage for late,
9 missed, short, on-premise, on-duty, and/or interrupted rest periods, Defendants failed to pay the
10 one (1) additional hour of pay at Plaintiff’s and other current and former aggrieved California-
11 based hourly non-exempt employees’ regular rate of compensation. Specifically, Defendants
12 maintained a policy, practice, and/or procedure of failing to include all remuneration such as
13 “incentive pay”, for example, when calculating Plaintiff’s and other current and former aggrieved
14 California-based hourly non-exempt employees’ regular rate of pay for the purpose of paying rest
15 period premiums.

16 35. Defendants’ foregoing policies, practices, and/or procedures resulted in Plaintiff
17 and other current and former aggrieved California-based hourly non-exempt employees not
18 receiving wages to compensate them for workdays in which Defendants did not provide them with
19 rest periods in compliance with California law.

20 36. **Failure to timely pay earned wages during employment:** In California, wages
21 must be paid at least twice during each calendar month on days designated in advance by the
22 employer as regular paydays, subject to some exceptions. Labor Code section 204(a). Wages
23 earned between the 1st and 15th days, inclusive, of any calendar month must be paid between the
24 16th and the 26th day of that month and wages earned between the 16th and the last day, inclusive,
25 of any calendar month must be paid between the 1st and 10th day of the following month. *Id.* Other
26 payroll periods such as those that are weekly, biweekly, or semimonthly, must be paid within
27 seven (7) calendar days following the close of the payroll period in which wages were earned.
28 Labor Code section 204(d).

1 37. As a derivative of Plaintiff's claims above, Plaintiff alleges that Defendants failed
2 to timely pay Plaintiff's and other current and former aggrieved California-based hourly non-
3 exempt employees' earned wages (including minimum wages, overtime wages, meal period
4 premium wages and/or rest period premium wages), in violation of Labor Code section 204.
5 Defendants' aforementioned policies, practices, and/or procedures resulted in their failure to pay
6 Plaintiff's and other current and former aggrieved California-based hourly non-exempt employees'
7 their earned wages within the applicable time frames outlined in Labor Code section 204.

8 38. **Failure to provide complete and accurate wage statements:** Labor Code section
9 226, subdivision (a). Labor Code section 226(a) provides, *inter alia*, that, upon paying an
10 employee his or her wages, the employer must "furnish each of his or her employees ... an
11 itemized statement in writing showing (1) gross wages earned, (2) total hours worked by the
12 employee, except for any employee whose compensation is solely based on a salary and who is
13 exempt from payment of overtime under subdivision (a) of Section 515 or any applicable order of
14 the Industrial Welfare Commission, (3) the number of piece-rate units earned and any applicable
15 piece rate if the employee is paid on a piece-rate basis, (4) all deductions, provided, that all
16 deductions made on written orders of the employee may be aggregated and shown as one item, (5)
17 net wages earned, (6) the inclusive dates of the pay period for which the employee is paid, (7) the
18 name of the employee and his or her social security number, (8) the name and address of the legal
19 entity that is the employer, and (9) all applicable hourly rates in effect during the pay period and
20 the corresponding number of hours worked at each hourly rate by the employee."

21 39. As a derivative of Plaintiff's allegations above, Defendants' failure to pay Plaintiff
22 and other current and former aggrieved California-based hourly non-exempt employees all wages
23 earned (including minimum wages, overtime wages, meal period premium wages, and/or rest
24 period premium wages) rendered Plaintiff's and other current and former aggrieved California-
25 based hourly non-exempt employees' wage statements inaccurate, in violation of Labor Code
26 section 226.

27 40. **Failure to pay employees all wages due at time of termination/resignation:** An
28 employer is required to pay all unpaid wages timely after an employee's employment ends. The

wages are due immediately upon termination (Labor Code section 201) or within seventy-two (72) hours of resignation (Labor Code section 202).

41. As a derivative of Plaintiff's allegations above, because Defendants failed to pay Plaintiff and other current and former aggrieved California-based hourly non-exempt employees all their earned wages (including minimum wages, overtime wages, meal period premium wages, and/or rest period premium wages), Defendants failed to pay those employees timely after each employee's termination and/or resignation, in violation of Labor Code sections 201, 202, and 203.

42. Labor Code sections 2699, subdivisions (a) and (g) authorize an aggrieved employee, on behalf of himself or herself and other current or former employees, to bring a civil action to recover civil penalties against all Defendants pursuant to the procedures specified in Labor Code section 2699.3.

43. Plaintiff has complied with the procedures for bringing suit specified in Labor Code section 2699.3. On January 3, 2024, Plaintiff filed a PAGA Claim Notice with the LWDA and provided notice to Defendants by certified mail which provided notice of the specific provisions of the Labor Code alleged to have been violated, including the facts and theories to support the violations alleged.

44. Pursuant to Labor Code section 2699.3, the LWDA must give written notice by certified mail to the parties that it intends to investigate the alleged violations of the Labor Code within 60 days of the date of the complainant's written notice. The LWDA failed to provide the parties notice within 60 days of the date of Plaintiff's PAGA Claim Notice that the LWDA intends to investigate Plaintiff's claims.

45. Pursuant to Labor Code sections 2699(a) and (f), Plaintiff is entitled to recover civil penalties for Defendants' violations of Labor Code sections 201, 202, 203, 204, 226, 226.7, 510, 512, 1194, and 1197, During Plaintiff's employment and continuing through the present, preceding Plaintiff sending the initial PAGA Claim Notice to the LWDA to the present, in the following amounts:

a. For violations of Labor Code sections 201, 202, 203, 204, 226.7, and 512; one hundred dollars (\$100) for each aggrieved employee per pay period for the initial violation

1 and two hundred dollars (\$200) for each aggrieved employee per pay period for each subsequent
2 violation [penalty amounts established by Labor Code section 2699(f)(2)].

3 b. For violations of Labor Code section 226, two hundred fifty dollars (\$250)
4 for each employee for each pay period for the initial violation, and for each subsequent violation,
5 one thousand dollars (\$1000) for each underpaid employee for each pay period [penalty amounts
6 established by Labor Code section 226.3].

7 c. For violations of Labor Code section 510, fifty dollars (\$50) for each
8 employee for each pay period for the initial violation, and for each subsequent violation, one
9 hundred dollars (\$100) for each underpaid employee for each pay period [penalty amounts
10 established by Labor Code section 558].

11 d. For violations of Labor Code section 1194 and 1197, one hundred dollars
12 (\$100) for each underpaid employee for each pay period for the initial violation, and for each
13 subsequent violation, two hundred fifty dollars (\$250) for each underpaid employee for each pay
14 period [penalty amounts established by Labor Code section 1197.1].

15 46. Pursuant to Labor Code section 2699(g), Plaintiff is entitled to an award of
16 reasonable attorneys' fees and costs in connection with his claims for civil penalties.

17 **PRAYER FOR RELIEF**

18 **WHEREFORE, PLAINTIFF, ON BEHALF OF HIMSELF AND ON OTHER**
19 **AGGRIEVED EMPLOYEES, PRAYS AS FOLLOWS:**

20 **ON THE FIRST CAUSE OF ACTION:**

21 1. That Defendants be found to have violated the provisions of the Labor Code and
22 the IWC Wages Orders as to the Plaintiff and aggrieved employees;

23 2. For any and all legally applicable penalties during the relevant statute of limitations
24 subject to any permissible tolling, including but not limited to those recoverable under the
25 California Labor Code, including but not limited to section 2699(f);

26 3. For attorneys' fees and costs of suit, including but not limited to those recoverable
27 under California Labor Code section 2699(g); and

28 4. For such and other further relief, in law and/or equity, as the Court deems just or

1 appropriate

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3 Dated: March 11, 2024

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Respectfully submitted,
LAVI & EBRAHIMIAN, LLP

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Attorneys for Plaintiff

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ANDREW PADILLA

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on behalf of himself and current and former
aggrieved employees

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