

1 HAROUT MESSRELIAN (SBN: 272020)
2 MESSRELIAN LAW INC.
3 500 N. Central Ave., Suite 840
4 Glendale, CA 91203
5 Telephone: (818) 484-6531
6 Facsimile: (818) 956-1983

7 Attorneys for Plaintiff JONATHAN HENRY

8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
9 **FOR THE COUNTY OF ORANGE**

10 JONATHAN HENRY,

11 *Plaintiff,*

12 vs.

13 DWWCM, INC. dba SOUTH COAST
14 TOYOTA and DOES 1 to 25, inclusive

15 *Defendant(s).*

Case No.: 30-2020-01145799-CU-OE-CXC

**DECLARATION OF HAROUT
MESSRELIAN IN SUPPORT OF MOTION
FOR APPROVAL OF PAGA SETTLEMENT
AND RELEASE**

Action filed: 5/26/2020

Hearing
Date/Time:
Reservation ID:

Department: CX105, Hon. Randall
Sherman

Submitted Herewith Under Separate Cover:
1. Motion for Approval of PAGA Settlement and
Release; and
2. [Proposed] Order

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DECLARATION OF HAROUT MESSRELIAN IN SUPPORT OF
MOTION FOR APPROVAL OF PAGA SETTLEMENT AND RELEASE

I, HAROUT MESSRELIAN, declare and state as follows:

1. I am an attorney duly licensed to practice before all the Courts of the State of California. I am the managing attorney of Messrelian Law Inc. and the attorney of record for Plaintiff Jonathan Henry (individually, "Henry" or "Plaintiff") in his lawsuit against Defendant DWWCM, INC. dba SOUTH COAST TOYOTA ("South Coast" or "Defendant").

2. I am experienced in handling employment law matters and specifically wage and hour cases, including PAGA claims. I have been practicing law since 2010. In my representation of employees, I have handled hundreds of individual and representative cases on behalf of employees with claims of minimum wages, overtime violations, as well as other wage claims, including meal breaks and rest breaks.

3. Except as otherwise indicated, I have personal knowledge of all matters set forth herein and, if called as a witness, could and would competently testify thereto under oath.

Factual and Procedural Background

4. Defendant DWWCM, INC. dba SOUTH COAST TOYOTA is in the automotive dealer industry. Plaintiff was hired to work for Defendant as a service technician on or around February 4, 2019. Plaintiff's employment with Defendant ended on or around early 2020. At all times during his employment, Plaintiff was considered an hourly, non-exempt employee.

5. Plaintiff complied with the procedures of Labor Code § 2699.3 for bringing suit under the Labor Code Private Attorneys General Act of 2004, Labor Code §§ 2698, *et seq.* ("PAGA"). On January 23, 2020, Plaintiff, on behalf of himself and Defendants' other California non-exempt hourly employees (hereafter collectively the "Aggrieved Employees") gave written notice by electronic service to the California Labor and Workforce Development Agency ("LWDA") and via certified mail to Defendants of his claims against Defendants. In his notice to the LWDA, Plaintiff asserted on behalf of himself and the Aggrieved Employees that Defendant (1) failed to compensate twice the minimum wage (Industrial Welfare Commission Wage Order 7-2001 section 9(B); (2) failed to compensate employees for rest and recovery periods (Labor Code section 226.2); (3) failed to pay overtime compensation (Labor Code Section 510); (4) failed to provide rest breaks (Labor Code Section 226.7); (5) failed to provide meal breaks (Labor Code Sections 512, 226.7); (6) failed to timely pay wages due

1 during employment (Labor Code Section 204); (7) failed to provide accurate itemized wage
2 statements (Labor Code Section 226); (8) failed to keep accurate and complete payroll records
3 (Labor Code Section 1174/1174.5); (9) failed to pay wages at the end of employment (Labor
4 Code section 203); and (10) failed to reimburse business expenses (Labor Code Sections 2800,
5 2802). Plaintiff's initial PAGA letter is attached to this Declaration as **Exhibit 1**. Plaintiff filed
6 his initial lawsuit on May 26, 2020 in the Superior Court for the State of California, County of
7 Orange, Case no. 30-2020-01145799-CU-OE-CXC with one cause of action for penalties
8 under PAGA based on the same legal theories as set forth in the PAGA notice as described
above.

9 6. According to Defendant's records, it has employed 157 Aggrieved Employees
10 from March 15, 2019 through August 12, 2021 and that there are paychecks issued for a total of
11 approximately 4733 pay periods worked for that same time period.

12 7. Defendant denies any liability or wrongdoing of any kind whatsoever associated
13 with the lawsuit and the Representative PAGA Claim. It is the desire of the Parties to fully,
14 finally, and forever compromise, and discharge all claims known or unknown related to those
alleged in Plaintiff's lawsuit.

15 8. On August 12, 2021, the Parties attended a full day mediation session with
16 Experienced wage-and-hour mediator Gig Kyriacou, Esq. At the mediation, the Parties agreed
17 to settle the Representative PAGA claim for violation of Labor Code § 2698, *et seq.* Before
18 agreeing to the terms of the Settlement, the Parties engaged in informal discovery regarding
19 Defendant's policies, practices, operations, time and payroll information and other topics. In
20 advance of mediation, Defendant produced Plaintiff's personnel file, including time and payroll
21 data for Plaintiff and also produced the time records and payroll records for a sample of 22
22 aggrieved employees. Through extensive arm's length negotiations at the mediation and only
after discovery and investigation were performed, the Parties agreed to settlement terms.

23 9. The Parties conducted investigation of the facts and law both before and after the
24 lawsuit was filed. Counsel for the Parties have further investigated the applicable law as applied
25 to the facts discovered regarding Plaintiff's claims, the defenses thereto, and the Labor Code
26 violations claimed by Plaintiff. Based on their own independent investigations and evaluations,
27 the Parties and their respective counsel are of the opinion that the Settlement for the
28 consideration and on the terms set forth in the PAGA settlement agreement are fair, reasonable

1 and adequate and are in the best interests of Plaintiff, the Aggrieved Employees, and Defendant
2 in light of all known facts and circumstances and the risks inherent in litigation, especially in
3 this pandemic era when most businesses are struggling to remain afloat, much less prosper and
4 make a large profit.

5 10. The Parties further recognize that the issues presented in the Representative
6 PAGA Claim are likely only to be resolved with extensive and costly pretrial and trial
7 proceedings, and that further litigation will cause inconvenience, distraction, disruption, delay,
8 and expense disproportionate to the maximum potential benefits, especially in light of the
9 pandemic era and the business climate.

10 11. Plaintiff alleges that the strongest claims, especially on paper, is that Plaintiff and
11 other Aggrieved Employees were not provided timely, uninterrupted meal breaks and were not
12 reimbursed for all business expenses. In terms of Plaintiff's other claims for failure to pay double
13 the minimum wage and failure to pay overtime, those claims are tied to the expense
14 reimbursement claim. In terms of rest breaks, there was nothing observed in the data that
15 indicated any facial violations. Furthermore, Defendant had written meal and rest break policies
16 and they were compliant. Additionally, the other associated PAGA claims are derivative to the
17 meal break allegations for which Defendant would not have additional liability for inaccurate
18 pay stubs, failure to pay all wages owed, failure to keep accurate payroll records, and failure to
19 pay wages at the end of employment.

20 12. Plaintiff contends that the civil penalty statutes applicable to the Representative
21 PAGA Claim are Labor Code §§ 210, 226.3, 558, 1174.5, 1197.1, 2802 and 2699(f)(2). Under
22 these civil penalty statutes, an employee who suffers a Labor Code violation, may be awarded a
23 sum of money for each pay period in which he or she was underpaid. However, under Labor
24 Code § 2699(e)(2), the Court can reduce an award of civil penalties if the award is unjust,
25 arbitrary, oppressive, or confiscatory.

26 13. Under the civil penalty formulas applicable under PAGA, Plaintiff estimated a
27 maximum exposure of approximately \$234,650 for civil penalties for Plaintiff's strongest
28 disputed claims of failure to provide meal periods and failure to reimburse all business expenses.
Plaintiff's analysis, which Defendant vehemently disputes, revealed a 23% violation rate for
either late, short, or interrupted meal periods. As such, with the 23% violation rate, the maximum
exposure would be \$54,450, which is calculated as \$50 penalty multiplied by 1089 pay periods

(23% of the 4733 pay periods). It is important to note that Defendant refutes Plaintiff's above analysis and calculations. Assuming that Plaintiff's calculations and analysis is accurate, the maximum exposure presumes that the Court will not reduce the penalty award as unjust, arbitrary, oppressive, or confiscatory. As far as the claim for business expense reimbursement, Plaintiff's theory is that Defendant's did not provide hand tools to service technicians in order for them to effectuate their job duties. Alternatively, Plaintiff's position is that even if Defendant did provide tools, there were not enough tools for all of the technicians and so the technicians had to bring and utilize their own personal tools. Defendant contends that prior to 2019, they had 3 sets of tools for the technicians and that in 2019, Defendant purchased an additional three sets of tools, bringing the total to 6 sets. **See Declaration of Maria Newson** attached to Plaintiff's Motion as **Exhibit B**. Since there were approximately 47 technicians in the PAGA period, which comprised approximately 1802 pay periods, the maximum exposure for the unreimbursed business expenses would be \$180,200, which is calculated as \$100 penalty multiplied by 1802 pay periods. Moreover, Plaintiff's estimate presumes that the Court will find Defendant liable for the maximum possible civil penalty for failure to reimburse business expenses for every paycheck Defendant issued to the Aggrieved Employees; and not reduce the penalty award as unjust, arbitrary, oppressive, or confiscatory. In addition, Plaintiff's estimate presumes that every single one of the 47 technicians brought their own hand tools and did not use the tools that Defendant made available. This is a highly unlikely result and not in line with reality, especially since Defendant declared under oath that they had 6 tool sets available for the technicians starting in 2019.

14. Moreover, Plaintiff is aware of no California state courts awarding Plaintiff multiple PAGA penalties for the same violation for the same pay period under different Labor Code provisions. As such, one of the risks Plaintiff faces is that the Court would refuse to "stack" civil penalties arising under the various Labor Code statutes. Furthermore, judges have awarded extremely small sums to PAGA claimants in the past. In addition, Defendant would make an argument under *Naranjo v. Spectrum Security Services, Inc.*, 40 Cal. App. 5th 444 (Cal. App. 2d Dist., Sept. 26, 2019) and other similar cases, that meal period or expense reimbursement violations are not a predicate for civil penalties for improper wage statements and untimely final wages under Labor Code secs.201-203, 226, 226.3, and 2699. Defendant also adamantly disputes all of Plaintiff's allegations in the operative Complaint.

15. The source of penalties available is under PAGA, which allows employees to seek civil penalties for certain violations of the Labor Code so long as the penalties are not unjust, arbitrary, oppressive, or confiscatory. There are no State Court decisions under the PAGA to date with substantial awards of civil penalties. There is a substantial risk that the Court could reduce civil penalties to an insignificant amount if it is unpersuaded by Plaintiff's evidence of willful and intentional conduct. The PAGA expressly counsels against such awards. *See Lab. Code* § 2699(e)(2) ("...a court may award a lesser amount than the maximum civil penalty amount specified by this part if, based on the facts and circumstances of the particular case, to do otherwise would result in an award that is unjust, arbitrary and oppressive, or confiscatory."). Further, although, class certification is not required for a PAGA claim, Defendant could contend that Plaintiff should show that the PAGA claims are manageable.

16. As such, Defendant could also convince the Court to dismiss the claims due to unmanageability. *Wesson v. Staples The Office Superstore, LLC* (2021) 68 Cal.App.5th 746 ("*Wesson*"); *Feltz v. Cox Communs. Cal.* (October 21, 2021) 2021 U.S. Dist. LEXIS 207087. On September 9, 2021, the California Court of Appeal issued the significant decision in *Wesson v. Staples the Office Superstore, LLC*, holding that courts have authority to ensure that PAGA claims are manageable, and that courts may limit or strike unmanageable PAGA claims. Defendant contends that Plaintiff's allegations require a host of individualized inquiries which would arguably devolve into a series of mini-trials based on whether each employee voluntarily elected to unilaterally waive a provided meal period or authorized rest break, based on position titles, job duties and the type of work they perform or based on whether each technician used Defendant's tools or whether they brought and utilized their own hand tools to effectuate their job duties. (*See, e.g., Brinker*, 53 Cal.4th at 1004.) In *Ortiz v. CVS Caremark Corp.*, the court dismissed a PAGA claim because it was unmanageable. 2014 WL 1117614, at *3–4 (N.D. Cal. 2014). The Ortiz court cited the "multitude of individualized assessments" that case would have required in ordering dismissal. *Id.* at *4. Several other courts have adopted *Ortiz*, and dismissed PAGA claims where, as here, there are a large number of allegedly aggrieved individuals whose claims require individual assessments. *See, e.g., Litty v. Merrill Lynch & Co.*, 2014 WL 5904904, at *3 (C.D. Cal. 2014); *Bowers v. First Student, Inc.*, 2015 WL 1862914, at *4 (C.D. Cal. 2015); *see also Stafford v. Dollar Tree Stores, Inc.*, 2014 WL 6633396, at *2–4 (E.D. Cal. 2014) (bifurcating trial of plaintiff's claim from representative claims: "in light of the

1 number of potential aggrieved employees, judicial economy favors deferring the representative
2 portion of the PAGA claim”); *Amey v. Cinemark USA Inc.*, 2015 WL 2251504, at *16 (N.D. Cal.
3 May 13, 2015). DS, ¶ 24. The risk of an unmanageable trial is heightened in a representative
4 PAGA claim because the burden of proof rests with the plaintiff to establish violations of the
5 Labor Code “with respect to each and every individual on whose behalf [they] seek[] to recover
6 civil penalties.” *Molina v. Dollar Tree Stores, Inc.*, 2013 U.S. Dist. LEXIS 138642, at *33-34
7 (C.D. Cal. Aug. 9, 2013); *Hibbs-Rines v. Seagate Techs, LLC*, 2009 WL 513496, at *4 (N.D. Cal.
8 Mar. 2, 2009). Moreover, in a PAGA case the plaintiff must prove liability with respect to “each
9 and every individual” through representative evidence – but without sacrificing the defendant’s
10 due process right to present proof of their affirmative defenses. *Elkins v. Superior Court*, 41 Cal.
11 4th 1337, 1357 (2007); *Walmart Stores, Inc. v. Dukes*, 131 S. Ct. 2541, 2561 (2011); *Duran v.*
12 *U.S. Bank Nat’l Ass’n*, 59 Cal. 4th 1, 33-34 (2014). Plaintiff is required to establish a violation
13 of the Labor Code in each pay period of each and every one of the approximately 157 employees.
14 The Court could find that this is an impractical task and require the Eligible Employees to bring
15 individual claims instead of a PAGA representative claim.

16 17. The Parties further recognize that the issues presented in the Representative
17 PAGA Claim are likely only to be resolved with extensive and costly pretrial and trial
18 proceedings, and that further litigation will cause inconvenience, distraction, disruption, delay,
19 and expense disproportionate to the maximum potential benefits to the Subject Employees and
20 Plaintiff from continued litigation, especially in the pandemic era where further and extensive
21 litigation may cause businesses to shut down, resulting in no monetary compensation to Plaintiff,
22 Plaintiff’s attorneys, other Aggrieved Employees, and the State of California.

23 18. The settlement of the Representative PAGA Claim involves monetary relief to all
24 Aggrieved Employees, Plaintiff, his attorneys, and the State of California.

25 19. Furthermore, Plaintiff recognizes that continued litigation presents significant
26 risks that support a significant downward departure from Plaintiff’s estimated civil penalties
27 amount. In view of the risks, the Settlement represents a fair, adequate, and reasonable
28 compromise amount for these claims and is in the best interest of Plaintiff and Eligible
Employees and thus, warrants approval. *See Laguna v. Coverall N. Am., Inc.*, Case No. 12-55479
(9th Cir. June 3, 2014) 2014 WL 2465049, * 3. The PAGA settlement and its terms are fair, just,

1 reasonable, adequate, and equitable to Defendant, Plaintiff, and the State, especially in light of
2 the current economic climate, and are the product of good faith, and informed arms-length
3 negotiations between the Parties consistent with public policy and fully comply with applicable
4 provisions of law.

6 20. As such, the settlement of PAGA penalties in the gross sum of \$89,500.00, of
7 which 75% of the net amount after attorney's fees, attorney costs, and settlement administrator
8 fees (\$35,190.35) will be paid to the LWDA and 25% (\$11,730.12) will be distributed to the
9 Aggrieved Employees, is reasonable and appropriate under the circumstances.

11 ***Attorneys' Fees and Costs***

12 21. I represent Plaintiff on a straight contingency basis. My request for \$29,833.33
13 in attorney fees and \$9,996.20 in litigation costs is fair and reasonable. "Empirical studies show
14 that, regardless of whether the percentage method or the lodestar method is used, fee awards in
15 class actions average around one-third of the recovery. Chavez v. Netflix, Inc. (2008) 162
16 Cal.App.4th 43, 47 fn. 11 (quoting Shaw v. Toshiba America Information Systems, Inc. (E.D.
17 Tex. 2000) 91 F.Supp.2d 942, 972; *See also* Lafitte v. Robert Half Int'l Inc. (Cal. Aug. 11,
18 2016) 1 Cal.5th 480, 503, 376 P.3d 672, 686 (holding that courts can use the percentage method
19 for the calculation of attorneys' fees). This is also consistent with my experience in cases
20 involving PAGA claims. This award is justified here because I achieved a strong result for the
21 Aggrieved Employees and the State while bearing the substantial burdens of contingency
22 representation. The litigation costs expended to aid in the representation of the Aggrieved
23 Employees include the following : lawsuit filing fee of \$1,447.20, PAGA initial filing fee of
24 \$75.00, a mediation fee of \$7,500.00 (for Plaintiff's portion of the mediation); expert data
25 analysis fee of \$750.00; service of lawsuit fee of \$110.00; court call fee of \$94.00; and
26 stipulation and order filing fee of \$20.00. All of these costs are documented and reasonably
incurred.

27 ***Plaintiff's Additional Released Claims***

28 22. Plaintiff entered into a confidential individual settlement agreement with
Defendant to settle his individual claims. As part of this confidential agreement, Plaintiff also

1 provided Defendant with a general release of all claims, whether known or unknown, including
2 unknown claims covered by Civil Code Section 1542. Plaintiff will provide the individual
3 settlement to the Court upon request.

4 *Notice of Settlement to the LWDA*

5 23. Pursuant to Lab. Code § 2699(l)(2), Plaintiff submitted a copy of the Settlement
6 with the LWDA at the same time the Settlement is being filed with the Court. True and correct
7 copies of Plaintiff's submission with the LWDA and the confirmation email are collectively
8 attached as **Exhibit 2** to this declaration.

9 I declare under the penalty of perjury of the laws of the State of California that the
10 foregoing is true and correct to the best of my knowledge.

11 Executed on December 29, 2021, at Glendale, California.

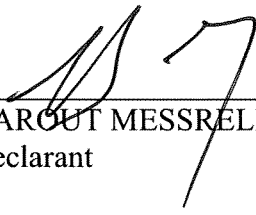
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15 HAROUT MESSRELIAN,
16 Declarant
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EXHIBIT 1



MESSRELIA LAW
ATTORNEYS AT LAW

500 N. Central Avenue, Suite 840
Glendale, California 91203

Tel: (818) 484-6531

Fax: (818) 956-1983

VIA ELECTRONIC FILING

January 23, 2020

California Labor & Workforce Development Agency (LWDA)
Attn. PAGA Administrator
800 Capitol Mall, MIC-55
Sacramento, California 95814

VIA U.S. CERTIFIED MAIL (RETURN RECEIPT REQUESTED)

DWWCM, INC. dba South Coast Toyota
c/o GLENN M QUINTOS
37 KENWORTH
IRVINE, CA 92602

DWWCM, INC. dba South Coast Toyota
1966 HARBOR BLVD.
COSTA MESA, CA 92627

JONATHAN HENRY v. DWWCM, INC. dba South Coast Toyota

RE: PRIVATE ATTORNEYS GENERAL ACT

To Whom It May Concern:

Please be informed that our client, Mr. Jonathan Henry (hereinafter “our client” or “Mr. Henry”) seeks penalties on behalf of the State of California and all current and former non-exempt or hourly paid employees (“aggrieved employees”), including but not limited to, service technicians, who worked for DWWCM, INC. dba SOUTH COAST TOYOTA (“SOUTH COAST TOYOTA”) during the relevant time period pursuant to California Labor Code section 2698, et. seq., the Labor Code Private Attorneys General Act of 2004 (“PAGA”). The purpose of this letter is to comply with the statutory requirements of California Labor Code section 2699.3 and shall constitute notice of the same.

Mr. Henry started working for SOUTH COAST TOYOTA as a technician in the Service Department on or around February 2019. Mr. Henry continues to be employed at SOUTH COAST TOYOTA. Mr. Henry was classified as an hourly, non-exempt employee and currently earns \$24/hour. Mr. Henry and other technicians were seemingly paid piece-rate compensation based on “flag hours” worked.

SOUTH COAST TOYOTA has committed the following labor code violations:

Pursuant to California Industrial Welfare Commission Order No. 4-2001/7-2001, Section 9(B), “When tools or equipment are required by the employer or are necessary to the performance of a



MESSRELIA LAW
ATTORNEYS AT LAW

500 N. Central Avenue, Suite 840
Glendale, California 91203

Tel: (818) 484-6531
Fax: (818) 956-1983

job, such tools and equipment shall be provided and maintained by the employer, except that an employee whose wages are at least two (2) times the minimum wage provided herein may be required to provide and maintain hand tools and equipment customarily required by the trade or craft." SOUTH COAST TOYOTA unequivocally required its employees, including Mr. Henry, to provide their own tools. The latter was company policy. As such, SOUTH COAST TOYOTA violated the aforementioned IWC Wage Order(s) in that SOUTH COAST TOYOTA required its technicians and other employees, including Mr. Henry, to provide and maintain hand tools and equipment customarily required by the trade but did NOT compensate these employees at least two (2) times the minimum wage. As of January 1, 2020, the minimum wage for large employers with more than 25 employees increased to \$13.00 per hour, the double of which would be \$26.00 per hour. Mr. Henry and others continue to get paid below twice the minimum wage despite having to use their own tools. As of late, SOUTH COAST TOYOTA tried to enforce a "Tools Agreement" by having technicians sign an agreement whereby they have the option of using hand tools provided by SOUTH COAST TOYOTA. The issue with the latter is that SOUTH COAST TOYOTA only provides three boxes of tools for well over 20 technicians, which is not efficient and doesn't change the situation since technicians can't be waiting for each other to finish their jobs in order to use the tools. As such, they continue to use their own personal hand tools.

Further, California Labor Code section 226.2, effective January 1, 2016, provides that employees shall be compensated for rest and recovery periods and other non-productive time separate from any piece-rate compensation. Section 226.2 further requires that employees must be compensated for these time periods at a rate no less than the highest federal, state, or local minimum wage that is applicable to the employment. SOUTH COAST TOYOTA did not fully and accurately compensate Mr. Henry and all similarly situated aggrieved employees for rest and recovery periods and other non-productive time separate from any piece-rate compensation.

SOUTH COAST TOYOTA violated Labor Code §§ 512 and 226.7 because it failed to provide our client and other similarly situated aggrieved employees the requisite 30-minute, uninterrupted meal periods for every five (5) hours of work (and before the fifth hour) throughout their employment, and our client did not validly waive said meal periods. SOUTH COAST TOYOTA did not completely relieve our clients of all duties during said meal periods. SOUTH COAST TOYOTA did not pay to our client one additional hour of pay at our client's regular rate of compensation for each workday that one or more statutory meal periods was not provided.

SOUTH COAST TOYOTA violated Labor Code § 226.7 because it failed to provide our client and other similarly situated aggrieved employees 10-minute rest periods for every four hours of work, or majority portion thereof, throughout their employment. SOUTH COAST TOYOTA did not completely relieve our client of all duty during said rest periods. SOUTH COAST TOYOTA did not pay to our client one additional hour of pay at our client's regular rate of compensation for each workday that one or more statutory rest periods was not provided.

SOUTH COAST TOYOTA also violated Labor Code §510 because it failed to pay our client and other similarly situated aggrieved employees the correct amount of overtime (based on a base pay rate of twice the minimum wage), even though they worked more than 8 hours per day and/or 40 hours per week throughout their employment. Furthermore, SOUTH COAST TOYOTA did not



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500 N. Central Avenue, Suite 840
Glendale, California 91203

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Fax: (818) 956-1983

include bonuses and other forms of additional compensation in calculating the correct overtime rate of pay.

Furthermore, during the relevant time period, SOUTH COAST TOYOTA failed to pay our client and other similarly situated aggrieved employees all wages due to them within any time period specified by California Labor Code section 204. SOUTH COAST TOYOTA was also in violation of California Labor Code section 226(a) by failing to include pertinent information on the wage statements, including but not limited to, the correct hourly rate, all hours worked, overtime hours worked, correct overtime pay, correct amount of pay for non-productive time, gross wages earned, premium pay for missed meal and rest breaks, all deductions, net wages earned, and reimbursement for business expenses, among others. This is so partly because SOUTH COAST TOYOTA did not compensate its employees at least two (2) times the minimum wage despite requiring its employees to provide and maintain hand tools and equipment. As such, SOUTH COAST TOYOTA did not provide our client and other similarly situated aggrieved employees with complete, accurate itemized wage statements.

SOUTH COAST TOYOTA violated Labor Code § 203 because it willfully failed to pay other similarly situated aggrieved employees earned and due wages upon separation of employment, either immediately upon involuntary termination, or within 72 hours of resignation. These earned but unpaid wages include the unpaid minimum wages/compensation for all hours worked including non-productive time, overtime, premium pay for missed meal and rest breaks, and business expense reimbursement, among others.

During the relevant time period, SOUTH COAST TOYOTA also failed to keep accurate and complete payroll records showing the correct wages paid (twice the minimum wage and the correct overtime compensation) to Mr. Henry and other aggrieved employees pursuant to California Labor Code sections 1174(d).

Alternatively, during the relevant time period, Mr. Henry and other aggrieved employees incurred necessary, business-related expenses and costs that were not reimbursed by SOUTH COAST TOYOTA. These costs include, but are not limited to, the purchase of tools to use in carrying out their duties as technicians. Accordingly, SOUTH COAST TOYOTA was in violation of California Labor Code sections 2800 and 2802.

Each of the aforementioned violations, except the Labor Code section 226(a) violations, is among the enumerated serious violations set forth in Labor Code § 2699.5, for which there is no statutory right to cure.

Please take notice that, based upon the above-mentioned violations, and in addition to the penalties provided by those specific sections themselves, our clients also intend to seek penalties under the following Labor Code sections which themselves are inviolable but provide for recovery of penalties for violating one or more of the above-mentioned Labor Code sections: Labor Code §§ 558, 226.3.

Should your agency choose not to pursue this matter, this law office intends to vigorously prosecute the aforementioned Labor Code violations on its behalf and vindicate the rights of all



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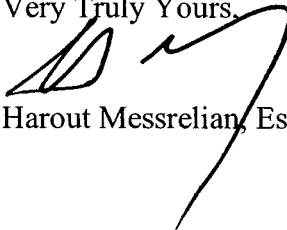
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employees who have been subjected to these same Labor Code violations by SOUTH COAST TOYOTA.

If you have any questions or require additional information, please do not hesitate to contact us.
Thank you in advance for your attention to this matter.

Very Truly Yours,



Harout Messrelian, Esq.

EXHIBIT 2