

DANIEL F. GAINES, ESQ. SBN 251488
daniel@gaineslawfirm.com
ALEX P. KATOFISKY, ESQ. SBN 202754
alex@gaineslawfirm.com
EVAN S. GAINES, ESQ. SBN 287668
evan@gaineslawfirm.com
GAINES & GAINES, APLC
27200 Agoura Rd., Suite 101
Calabasas, CA 91301
Telephone: (818) 703-8985
Facsimile: (818) 703-8984

Attorneys for Plaintiff Terry Hiatt, on behalf of himself and all “aggrieved employees” pursuant to Labor Code § 2698 *et seq.*

[Additional counsel on following page]

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES**

TERRY HIATT, on behalf of himself and
all “aggrieved employees” pursuant to
Labor Code § 2698 *et. seq.*,

Plaintiff,

v.

TNH MOTORS, INC., a California
corporation, d/b/a NORTH
HOLLYWOOD TOYOTA.; and DOES 1
through 50, inclusive,

Defendants.

OSCAR RUIZ-GARCIA, Aggrieved
Employee of Defendants, for the State of
California’s Labor and Workforce
Development Agency on behalf of all
Aggrieved Employees of Defendants

Plaintiff,

v.

TNH MOTORS, INC., a California
corporation; and DOES 1 through 100,
inclusive,

Defendants.

CASE NO. 19BBCV00974 (Lead)
CASE NO. 20STCV25676 (Related)

Assigned to John Kralik, Dept. B

**STIPULATION AND [PROPOSED] ORDER
CONSOLIDATING RELATED ACTIONS
FOR ALL PURPOSES, APPROVING
SETTLEMENT OF PRIVATE ATTORNEYS
GENERAL ACT CLAIMS, AND DISMISSING
ACTIONS WITH PREJUDICE**

Hiatt Action Filed: October 29, 2019

Ruiz-Garcia Action Filed: July 8, 2020

1 Raymond P. Boucher, Esq. SBN 115364
ray@boucher.la

2 Maria L. Weitz, Esq. SBN 268100
weitz@boucher.la

3 Alexander Gamez, Esq. SBN 309708
gamez@boucher.la

4 **BOUCHER LLP**

21600 Oxnard Street, Suite 600

Woodland Hills, CA 91367

Telephone: (818) 340-5400

Facsimile: (818) 340-5401

7 SAHAG MAJARIAN II, ESQ. SBN. 146621

sahagii@aol.com

8 **LAW OFFICES OF SAHAG MAJARIAN II**

18250 Ventura Boulevard

Tarzana, California 91356

Telephone: (818) 609-0807

Facsimile: (818) 609-0892

11 Attorneys for Plaintiff OSCAR RUIZ-GARCIA

12 ANTHONY A. MOLINO, ESQ. SBN 156661

molino@molinolawfirm.com

13 STEVEN R. BERARDINO, ESQ. SBN 075820

sberardino@molinolawfirm.com

14 MICHELLE COOPER, ESQ. SBN 093668

mcooper@molinolawfirm.com

15 BENJAMIN JOHN CARTER, ESQ. SBN 287462

bcarter@molinolawfirm.com

16 **MOLINO & BERARDINO, A Professional Law Corporation**

4751 Wilshire Blvd., Suite 125

Los Angeles, CA 90010-3838

Telephone: (323) 692-4010

Facsimile: (323) 692-4015

19 Attorneys for Defendant TNH MOTORS, INC. dba NORTH HOLLYWOOD TOYOTA

1 This Joint Stipulation for an Order Consolidating Related Actions for All Purposes,
2 Approving Settlement of Private Attorneys General Act Claims, and Dismissing Actions with
3 Prejudice is submitted by Plaintiffs Terry Hiatt and Oscar Ruiz-Garcia, (“Plaintiffs”), and
4 Defendant TNH Motors, Inc., a California corporation, d/b/a North Hollywood Toyota
5 (“Defendant”) (Plaintiffs and Defendant shall be referred to collectively as the “Parties”), by and
6 through their respective undersigned counsel of record. The Parties hereby stipulate and agree as
7 follows:

8 **STIPULATION**

9 **IT IS HEREBY STIPULATED BY AND BETWEEN THE PARTIES AS FOLLOWS:**

10 1. On August 14, 2019, Plaintiff Hiatt complied with the requirements set forth in
11 Labor Code § 2698 *et seq.*, the Labor Code Private Attorneys General Act (hereinafter, “PAGA”)
12 by sending a letter, by online submission to the Labor and Workforce Development Agency
13 (“LWDA”) and by certified mail to Defendant, setting forth the facts and theories of the violations
14 alleged against Defendant. Plaintiff Hiatt filed his Representative Action Complaint, thereby
15 commencing this Action, on October 29, 2019, seeking penalties pursuant to Labor Code § 2699(f)
16 for violations of Labor Code §§ 201, 202, 226(a), 226.7, 510, 512, 1194, and 2802 and pursuant to
17 Labor Code § 2699(a) for violations of Labor Code § 226.3 (the “*Hiatt Action*”). (Declaration of
18 Daniel F. Gaines [“Gaines Decl.”] at ¶ 6; Exhibit “A” to Gaines Decl.).

19 2. A separate action, *Oscar Ruiz-Garcia v. TNH Motors, Inc. dba North Hollywood*
20 *Toyota*, Los Angeles County Superior Court, case no.: 20STCV25676 (the “*Ruiz-Garcia Action*”),
21 was filed by Plaintiff Oscar Ruiz-Garcia on July 8, 2020 after he first complied with the
22 requirements of PAGA on May 1, 2020 and July 7, 2020. The *Ruiz-Garcia Action* seeks PAGA
23 penalties for Defendant’s alleged violations of Labor Code §§ 204, 226(a), 226.3, 226.7, 510, 512,
24 558, 1194, 1197, 1198, and 1199. Declaration of Raymond P. Boucher [“Boucher Decl.”] at ¶¶ 5-
25 6; Exhibits “C” and “D” to Boucher Decl.).

26 3. The *Hiatt Action* and the *Ruiz-Garcia Action* each allege similar wage and hour
27 claims on behalf of non-exempt employees and are similarly representative actions seeking the

1 recovery of civil penalties for alleged violations of the PAGA, and were deemed related cases by
2 this Court on or about October 13, 2020.

3 **A. CONSOLIDATION OF *HIATT* AND *RUIZ-GARCIA* ACTIONS**

4 4. The Parties hereby stipulate, agree, and jointly request that the Court enter an order
5 consolidating the *Hiatt* Action and the *Ruiz-Garcia* Action for all purposes. Plaintiffs' counsel will
6 serve as co-lead counsel following consolidation of the actions.

7 5. The Parties further request that a copy of the Court's consolidation order be filed in
8 the *Ruiz-Garcia* Action, but that no further documents or copies thereof need to be filed in the *Ruiz-*
9 *Garcia* Action.

10 6. The Parties further stipulate, agree, and jointly request that the Court deem the
11 Consolidated Complaint, attached hereto as Exhibit "A," filed as of the date the Court signs this
12 Order.

13 **B. APPROVAL OF PAGA SETTLEMENT AND DISMISSAL WITH PREJUDICE**

14 7. In advance of a mediation, the Parties conducted informal discovery to ascertain the
15 size of the aggrieved employee group, the number of affected pay periods at issue among them, and
16 the strength of Plaintiffs' claims. (Gaines Decl. at ¶ 8).

17 8. Being fully apprised of the value and strength of Plaintiffs' claims, the Parties
18 participated in a global mediation with Mariam Zadeh, Esq. on February 22, 2021 in an attempt to
19 resolve the claims asserted in the Action. (Gaines Decl. at ¶ 9; Boucher Decl. at ¶ 7).

20 9. The Parties engaged in arm's-length negotiations and reached a resolution of the
21 PAGA claims asserted in the Consolidated Complaint. Based on the information and documents
22 obtained through informal discovery and during mediation, Plaintiffs assessed the realistic
23 maximum value of the PAGA claims to be approximately \$384,000 (at the rate of a \$100 penalty
24 for 3,840 pay periods at issue for approximately 167 aggrieved employees during the applicable
25 time frame, without stacking multiple violations). (Gaines Decl. at ¶ 10; Boucher Decl. at ¶ 8).

1 10. The amount of the settlement is \$319,200, which represents over 83% of the realistic
2 maximum recoverable discretionary penalties and includes an apportionment of attorneys' fees and
3 costs and general release payments to Plaintiffs Hiatt and Ruiz-Garcia. (Gaines Decl. at ¶ 11).

4 11. The settlement amount represents a fair compromise of the claims. (Gaines Decl. at
5 ¶ 12); (Boucher Decl. at ¶¶ 9-11).

6 12. Based on their extensive experience litigating a substantial number of PAGA
7 representative actions like these, counsel for Plaintiffs believe the settlement here is fair and
8 reasonable and warrants approval by the Court. (Gaines Decl. at ¶¶ 2-5; Exhibit "B" to Gaines
9 Decl.); (Boucher Decl. at ¶¶ 3-4; Exhibit "A" and Exhibit B to Boucher Decl.).

10 13. On April 6, 2021, Plaintiffs submitted the proposed Settlement Agreement to the
11 LWDA through the State of California, Department of Industrial Relations Website at
12 <https://www.dir.ca.gov/Private-Attorneys-General-Act/Private-Attorneys-General-Act.html>,
13 pursuant to Labor Code § 2699(l)(2). (See Gaines Decl. at ¶ 14); (Boucher Decl. at ¶ 12).

14 14. The Parties request that the Court enter the accompanying order, approving their
15 settlement (attached to the Gaines Declaration as Exhibit "C"), as permitted by Labor Code §
16 2699(l), and dismissing this Action and the *Ruiz-Garcia* Action with prejudice. (Gaines Decl. at ¶
17 13).

18 **IT IS SO STIPULATED.**

19 Dated: April 6, 2021

20 For Plaintiff Terry Hiatt:

For Defendant:

21 GAINES & GAINES, APLC

22 MOLINO & BERARDINO, A Professional Law
23 Corporation

24 By: *Daniel F. Gaines*
25 DANIEL F. GAINES

By: _____
MICHELLE COOPER

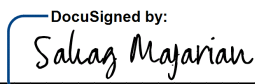
For Plaintiff Oscar Ruiz Garcia:
BOUCHER, LLP

By:


RAYMOND P. BOUCHER

LAW OFFICES OF SAHAG MAJARIAN II

By:

DocuSigned by:

SAHAG MAJARIAN II

1 10. The amount of the settlement is \$319,200, which represents over 83% of the realistic
2 maximum recoverable discretionary penalties and includes an apportionment of attorneys' fees and
3 costs and general release payments to Plaintiffs Hiatt and Ruiz-Garcia. (Gaines Decl. at ¶ 11).

4 11. The settlement amount represents a fair compromise of the claims. (Gaines Decl. at
5 ¶ 12); (Boucher Decl. at ¶¶ 9-11).

6 12. Based on their extensive experience litigating a substantial number of PAGA
7 representative actions like these, counsel for Plaintiffs believe the settlement here is fair and
8 reasonable and warrants approval by the Court. (Gaines Decl. at ¶¶ 2-5; Exhibit "B" to Gaines
9 Decl.); (Boucher Decl. at ¶¶ 3-4; Exhibit "A" and Exhibit B to Boucher Decl.).

10 13. On April 6, 2021, Plaintiffs submitted the proposed Settlement Agreement to the
11 LWDA through the State of California, Department of Industrial Relations Website at
12 <https://www.dir.ca.gov/Private-Attorneys-General-Act/Private-Attorneys-General-Act.html>,
13 pursuant to Labor Code § 2699(l)(2). (See Gaines Decl. at ¶ 14); (Boucher Decl. at ¶ 12).

14 14. The Parties request that the Court enter the accompanying order, approving their
15 settlement (attached to the Gaines Declaration as Exhibit "C"), as permitted by Labor Code §
16 2699(l), and dismissing this Action and the *Ruiz-Garcia* Action with prejudice. (Gaines Decl. at ¶
17 13).

18 **IT IS SO STIPULATED.**

19 Dated: April 6, 2021

20 For Plaintiff Terry Hiatt:

For Defendant:

21
22 GAINES & GAINES, APLC

MOLINO & BERARDINO, A Professional Law
Corporation

23
24 By: _____

25 DANIEL F. GAINES

26
27 By:  _____

28 MICHELLE COOPER

ORDER

The Court, having reviewed the parties' Private Attorneys General Act (Labor Code § 2698 et. seq.) Settlement Agreement (the "Settlement" or "Settlement Agreement") attached as Exhibit "C" to the concurrently-filed Declaration of Daniel F. Gaines, together with the Stipulation of the Parties and the Declarations of Daniel F. Gaines and Ray P. Boucher and exhibits attached thereto, hereby ORDERS as follows:

1. The *Hiatt* Action (Case No. 19BBCV00974) and the *Ruiz-Garcia* Action (Case No. 20STCV25676) are hereby consolidated for all purposes. Plaintiffs' counsel will serve as co-lead counsel following consolidation of the Actions.

2. The Clerk of the Court is directed to file a copy of this Order in Case No. 20STCV25676, but no further documents or copies thereof need to be filed in that action.

3. The Consolidated Complaint, attached hereto as Exhibit A, is hereby deemed filed as of the date the Court signs this Order.

4. The Court finds the Settlement was entered into in good faith, that the settlement is fair, reasonable and adequate, and that the settlement satisfies the standards and applicable requirements for approval of PAGA representative actions under California law.

5. The Court approves the penalties to be paid to the aggrieved employees and the State of California as set forth in the Settlement, pursuant to Labor Code § 2699(l). The Court further approves all payments to be made to Plaintiffs' counsel and Plaintiffs based on the terms of the Settlement.

6. This Action (Case No. 19BBCV00974) and the *Ruiz-Garcia* Action (Case No. 20STCV25676) are both hereby DISMISSED WITH PREJUDICE.

7. Upon entry of this Order, the Parties shall effectuate all terms of the Settlement based on the provisions and timelines set forth in the Settlement Agreement.

\\

\\

\\

1 8. This Court shall retain jurisdiction with respect to all matters related to the
2 administration and consummation of the Settlement, including but not limited to all matters related
3 to the settlement and the determination of all controversies relating thereto.

4 **IT IS SO ORDERED.**

5 Dated: _____

6 _____
JUDGE OF THE SUPERIOR COURT

Exhibit A

KENNETH S. GAINES, ESQ. SBN 049045
ken@gaineslawfirm.com
DANIEL F. GAINES, ESQ. SBN 251488
daniel@gaineslawfirm.com
ALEX P. KATOFISKY, ESQ. SBN 202754
alex@gaineslawfirm.com
EVAN S. GAINES, ESQ. SBN 287668
evan@gaineslawfirm.com
GAINES & GAINES, APLC
27200 Agoura Rd., Suite 101
Calabasas, CA 91301
Telephone: (818) 703-8985
Facsimile: (818) 703-8984

Attorneys for Plaintiff Terry Hiatt, on behalf of himself and all “aggrieved employees” pursuant to Labor Code § 2698 *et seq.*

[Additional attorneys on following page]

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES—NORTH CENTRAL DISTRICT**

TERRY HIATT, on behalf of himself and all
“aggrieved employees” pursuant to Labor
Code § 2698 *et seq.*,

Plaintiff,

v.

TNH MOTORS, INC., a California
corporation, d/b/a NORTH HOLLYWOOD
TOYOTA, INC., and DOES 1 through 10,
inclusive,

Defendants.

CASE NO: 19BBCV00974 (lead)
20STCV25676

*Assigned for all purpose to the Hon. John
Kralik, Dep. B6*

**FIRST AMENDED CONSOLIDATED
REPRESENTATIVE ACTION
COMPLAINT FOR PENALTIES
PURSUANT TO LABOR CODE § 2699(f)
FOR VIOLATIONS OF LABOR CODE
§§ 201, 202, 226(a), 226.7, 510, 512, 1194,
AND 2802 AND PURSUANT TO LABOR
CODE § 2699(a) FOR VIOLATIONS OF
LABOR CODE §§ 226.3 AND 558**

Complaint Filed: October 29, 2019

OSCAR RUIZ-GARCIA, Aggrieved
Employee of Defendants, for the State of
California's Labor and Workforce
Development Agency on Behalf of All
Aggrieved Employees of Defendants,

Plaintiff,

v.

TNH MOTORS, INC., a California
corporation, and DOES 1 through 10,
Inclusive,

Defendants.

1 RAYMOND P. BOUCHER, ESQ. SBN 115364
ray@boucher.la
2 ALEXANDER GAMEZ, ESQ. SBN 309708
gamez@boucher.la
3 MALLORY WHITELAW, ESQ. SBN 318603
whitelaw@boucher.la
4 BOUCHER LLP
21600 Oxnard Street, Suite 600
5 Woodland Hills, California 91367-4903
Telephone: (818) 340-5400
6 Facsimile: (818) 340-5401

7 SAHAG MAJARIAN II, ESQ. SBN 146621
sahagii@aol.com
8 LAW OFFICES OF SAHAG MAJARIAN II
18250 Ventura Boulevard
9 Tarzana, California 91356
Telephone: (818) 609-0807
10 Facsimile: (818) 609-0892

11 Attorneys for Plaintiff Oscar Ruiz-Garcia, on behalf of himself and all “aggrieved employees”
12 pursuant to Labor Code § 2698 *et seq.*

1 Plaintiffs TERRY HIATT and OSCAR RUIZ-GARCIA (“Plaintiffs”), on behalf of
2 themselves and others as “aggrieved employees” under the Labor Code Private Attorneys General
3 Act of 2004, complains of TNH MOTORS, INC., a California corporation, d/b/a NORTH
4 HOLLYWOOD TOYOTA, INC., and/or any subsidiaries or affiliated companies (“Defendant”), as
5 follows:

6 **I.**

7 **INTRODUCTION AND FACTUAL BACKGROUND**

8 1. This is a Representative Action, pursuant to Labor Code § 2698 *et seq.*, on behalf of
9 Plaintiffs and other California employees who currently work or formerly worked for Defendants
10 (“Aggrieved Employees”).

11 2. For at least one (1) year prior to the filing of this action and at least one (1) year prior
12 to the date Plaintiffs began the process of exhausting the administrative requirements, pursuant to
13 Labor Code § 2698 *et seq.*, and continuing to the present (the “liability period”), Defendants have had
14 a consistent policy of:

15 a. Failing to pay Plaintiffs and other non-exempt Aggrieved Employees all wages
16 due during the course of their employment, including, but not limited to, all minimum and overtime
17 wages. Defendants paid Plaintiffs and other non-exempt Aggrieved Employees piece-rate wages for
18 each task completed and each task had an associated time and pay component for completing it.
19 However, Plaintiffs and other non-exempt Aggrieved Employees were not paid for time not
20 associated with a compensated piece-rate task (and other non-productive time and non-compensated
21 tasks) or if they exceeded the time allotted for the respective task—they would only be paid the
22 associated piece-rate regardless of the time it took them to complete the task. Plaintiffs and non-
23 exempt Aggrieved Employees were, therefore, not compensated for all hours worked (and thus, all
24 minimum wages due) when they performed tasks for which no piece-rate was associated, including
25 rest periods. Further, and also as a result of this compensation structure, Defendants failed to pay
26 Plaintiffs and other non-exempt Aggrieved Employees all overtime wages earned when they worked
27 more than eight (8) hours in a workday and more than forty (40) hours in a workweek. Defendants
28 also failed to pay at least twice the minimum wage due to Plaintiffs and other non-exempt Aggrieved

1 Employees who provided their own work tools and equipment. Plaintiffs and other non-exempt
2 Aggrieved Employees with the job title of “service technician” or “mechanic” purchased and supplied
3 their own tools and equipment, but were not paid at least twice the minimum wage for all hours
4 worked, as required by IWC Wage Order 7-2001, Section 9(B). This violates Labor Code §§ 510,
5 558, and 1194 and IWC Wage Order 7-2001;

6 b. Misclassifying Plaintiffs and Aggrieved Employees performing sales as
7 exempt from overtime under the inside sales exemption when they did not meet the 50%-commission-
8 earnings threshold by improperly lumping rest and recovery pay into a “commissions” line item, in
9 violation of Labor Code §§ 510, 558, and 1194. As a result, when sales employees worked overtime
10 during the pay period (which occurred every pay period), they were never properly compensated for
11 all overtime hours worked at the correct rate of pay;

12 c. Failing to pay all minimum wages due to Plaintiffs and Aggrieved Employees
13 performing sales, in violation of Labor Code §§ 510, 558, and 1194. When these employees were
14 paid an hourly wage, their rest period time was compensated at *less than minimum wage*. They were
15 also paid less than the minimum wage in every pay period where they received back-pay for earnings
16 expressly attributed to the prior pay period. An employer may not satisfy the minimum earnings test
17 by reassigning wages from a different pay period;

18 d. Failing to pay premium wages to Plaintiffs and all other non-exempt Aggrieved
19 Employees who were denied rest periods, in violation of Labor Code §§ 226.7 and 558 and IWC
20 Wage Order 7-2001. Defendants paid Plaintiffs and certain non-exempt Aggrieved Employees on a
21 bonus/commission/piece-rate basis for completing certain tasks. However, some tasks had no
22 compensable bonus/commission/piece-rate unit associated with that task, such that those tasks went
23 uncompensated, as discussed above. This includes rest periods, which must be separately paid;
24 however, Defendants failed to provide compensated rest periods and denied rest periods altogether.
25 Plaintiffs and non-exempt Aggrieved Employees were also simply too busy to take rest periods. An
26 employer must pay an employee one hour of pay at the employee’s regular rate of compensation for
27 each workday that a rest period is not properly provided. Defendants failed to do so and therefore
28 have violated Labor Code §§ 226.7 and 558 as a result of this failure;

1 e. Failing to pay premium wages to Plaintiffs and non-exempt Aggrieved
2 Employees who were denied proper meal periods, in violation of Labor Code §§ 226.7, 512, and 558
3 and IWC Wage Order 7-2001. Plaintiffs and non-exempt Aggrieved Employees were routinely
4 denied, and not authorized to take, a timely, uninterrupted, 30-minute meal period for every shift
5 worked that exceeded five hours in duration, or a second timely, uninterrupted, 30-minute meal period
6 for every shift worked that exceeded ten hours in duration, but were not paid premium wages of one
7 hour's pay for each missed first or second meal period. This violates Labor Code §§ 226.7, 512, and
8 558 and IWC Wage Order 7-2001;

9 f. Failing to provide Plaintiffs and Aggrieved Employees with wage statements
10 that fully and accurately itemized the requirements set forth in Labor Code § 226(a). Plaintiffs and
11 other non-exempt Aggrieved Employees were not paid all wages due, including all minimum and
12 overtime wages and premium wages for unauthorized and denied meal and rest periods, as stated
13 above. As such, the wage statements provided by Defendants to Plaintiffs and non-exempt
14 Aggrieved Employees failed to accurately state all gross wages earned, in violation of Labor Code §§
15 226(a)(1) and 226.3, total hours worked, in violation of Labor Code §§ 226(a)(2) and 226.3, net wages
16 earned, in violation of Labor Code §§ 226(a)(5) and 226.3, and all applicable hourly rates in effect
17 during the pay period and the corresponding number of hours worked at each rate, in violation of
18 Labor Code §§ 226(a)(9) and 226.3. Further, and in addition to the above allegations, the wage
19 statements issued to Plaintiffs and all Aggrieved Employees independently violate Labor Code §§
20 226(a)(8) and 226.3 because they fail to set forth the correct legal name of the employing entity. The
21 wage statements set forth the employing entity as North Hollywood Toyota, Inc., instead of the correct
22 entity, TNH Motors, Inc. Further, and also independent of the above allegations, the wage statements
23 issued to Plaintiffs and certain other Aggrieved Employees fail to set forth the total hours worked, in
24 violation of Labor Code §§ 226(a)(2) and 226.3, and all applicable hourly rates in effect during the
25 pay period and the corresponding number of hours worked at each hourly rate by the employee, in
26 violation of Labor Code §§ 226(a)(9) and 226.3. The wage statements simply fail to set forth the
27 applicable rates of pay worked during the pay period and the total number of hours actually worked
28

(the wage statements improperly total all hours associated with any wages earned during the pay period, including sick hours and rest/recovery time) and only set forth the commission earned;

g. Failing to reimburse Plaintiffs and Aggrieved Employees for out-of-pocket expenses incurred in the performance of their job duties, in violation of Labor Code § 2802. Plaintiffs and other Aggrieved Employees were required to use their own work gloves, tools, and equipment to perform work for Defendants, but were not fully reimbursed by Defendants for these expenses; and

h. Failing to timely pay Plaintiffs and non-exempt Aggrieved Employees all wages due at the separation of their employment based on the time frames required by Labor Code §§ 201 and 202. As stated above, Plaintiffs and non-exempt Aggrieved Employees were not paid all wages due during the course of their employment and, as a result of this failure, they were not timely paid all wages due at the separation of their employment. This violates Labor Code §§ 201-202 and is alleged on behalf of Plaintiffs and other non-exempt Aggrieved Employees who have ended their employment with Defendants.

3. Plaintiffs, on behalf of themselves and all Aggrieved Employees pursuant to Labor Code § 2698 *et seq.*, seeks civil penalties for Defendants' violations of the California Labor Code.

4. Venue is proper in this judicial district, pursuant to Code of Civil Procedure § 395. The Labor Code violations alleged against Defendants herein arose in Los Angeles County, California.

II.

PARTIES

A. Plaintiff

5. Plaintiff TERRY HIATT is a resident of Los Angeles County, California. Plaintiff HIATT was employed by Defendants from November 2011 through March 2019 as a non-exempt employee in Los Angeles County, California.

6. Plaintiff OSCAR RUIZ-GARCIA is a resident of Los Angeles County, California. Plaintiff RUIZ-GARCIA was employed by Defendants from February 2018 through June 20, 2020 as a non-exempt employee in Los Angeles County, California.

\\

B. Defendant

7. Defendant TNH MOTORS, INC., is a California corporation, d/b/a NORTH HOLLYWOOD TOYOTA, INC. Defendant TNH MOTORS, INC., employed Plaintiffs and Aggrieved Employees throughout the State of California, including Los Angeles County, California.

8. The true names and capacities, whether individual, corporate, associate, or otherwise, of Defendants sued herein as DOES 1 to 10, inclusive, are currently unknown to Plaintiffs, who therefore sue Defendants by such fictitious names under Code of Civil Procedure § 474. Plaintiffs are informed and believe, and based thereon allege, that each of the Defendants designated herein as a DOE is legally responsible in some manner for the unlawful acts referred to herein. Plaintiffs will seek leave of court to amend this Complaint to reflect the true names and capacities of the Defendants designated hereinafter as DOES when such identities become known.

9. Plaintiffs are informed and believe, and based thereon allege, that each Defendant acted in all respects pertinent to this action as the agent of the other Defendant, carried out a joint scheme, business plan or policy in all respects pertinent hereto, and the acts of each Defendant is legally attributable to the other Defendants.

10. The Defendants named herein as DOE 1 through DOE 10 are and were persons acting on behalf of, or acting jointly with, Defendant, who violated, or caused to be violated, one or more provisions of the California Labor Code as alleged herein.

\\

\\

\\

\\

\\

\\

\\

\\

\\

\\

1
2
3
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

III.

CAUSES OF ACTION

FIRST CAUSE OF ACTION

**PLAINTIFFS AND ALL AGGRIEVED EMPLOYEES AGAINST ALL DEFENDANTS
PENALTIES PURSUANT TO LABOR CODE § 2699(f) FOR VIOLATIONS OF LABOR
CODE §§ 201, 202, 226(a), 226.7, 510, 512, 1194, AND 2802 AND PURSUANT TO LABOR
CODE § 2699(a) FOR VIOLATIONS OF LABOR CODE § 226.3**

11. Plaintiffs incorporate paragraphs 1 through 10 of this Complaint as though fully set forth herein.

12. As a result of the acts alleged above, including the Labor Code violations set forth in paragraph 2 above, Plaintiffs seek civil penalties pursuant to Labor Code §§ 2698 *et seq.*

13. For each such violation, Plaintiffs and all other Aggrieved Employees are entitled to penalties and other relief in an amount to be shown at the time of trial subject to the following formula:

a. Pursuant to Labor Code § 2699(f), \$100 for each initial violation and \$200 for each subsequent violation of Labor Code §§ 201, 202, 226(a), 226.7, 510, 512, 1194, and 2802; and

b. Pursuant to Labor Code § 2699(f), \$250 for each violation of Labor Code § 226.3.

14. Civil penalties recovered will be allocated 75% to the Labor and Workforce Development Agency, and 25% to the affected employees.

15. On August 14, 2019, Plaintiff HIATT sent a letter, by online submission to the LWDA and by certified mail, return receipt requested, to Defendants setting forth the facts and theories of the violations alleged against Defendant, as prescribed by Labor Code § 2698 *et seq.* Pursuant to Labor Code § 2699.3(a)(2)(A), no notice was received by Plaintiff HIATT from the LWDA within sixty-five (65) calendar days of August 14, 2019.

16. On August 14, 2019, Plaintiff RUIZ-GARCIA sent a letter, by online submission to the LWDA and by certified mail, return receipt requested, to Defendants setting forth the facts and theories of the violations alleged against Defendant, as prescribed by Labor Code § 2698 *et seq.*

1 Pursuant to Labor Code § 2699.3(a)(2)(A), no notice was received by Plaintiff RUIZ-GARCIA from
2 the LWDA within sixty-five (65) calendar days of August 14, 2019.

3 17. Plaintiffs may therefore commence this action to seek civil penalties pursuant to Labor
4 Code § 2698 *et seq.*

5 Wherefore, Plaintiffs and the Aggrieved Employees they seek to represent request relief as
6 described below.

7 **IV.**

8 **RELIEF REQUESTED**

9 WHEREFORE, Plaintiffs pray for the following relief:

10 1. For civil penalties pursuant to Labor Code § 2698 *et seq.* for Plaintiffs and all other
11 Aggrieved Employees;

12 2. An award providing for payment of costs of suit pursuant to Labor Code § 2699(g)(1)
13 and other applicable law;

14 3. An award of attorneys' fees pursuant to Labor Code § 2699(g)(1) and other applicable
15 law; and

16 4. Such other and further relief as this Court may deem just and proper.

17 Dated: April 28, 2021

18 Respectfully submitted,

19 GAINES & GAINES
20 A Professional Law Corporation

21 By: Daniel F. Gaines
22 DANIEL F. GAINES
23 EVAN S. GAINES
24 Attorneys for Plaintiffs
25
26
27
28

1 Dated: April 28, 2021

BOUCHER LLP

2
3 By:


RAYMOND P. BOUCHER
ALEXANDER GAMEZ
MALLORY WHITELAW
Attorneys for Plaintiffs

PROOF OF SERVICE

**Ruiz-Garcia v. TNH Motors, Inc.
Case No. 20STCV25676**

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

At the time of service, I was over 18 years of age and not a party to this action. I am employed in the County of Los Angeles, State of California. My business address is 21600 Oxnard Street, Suite 600, Woodland Hills, CA 91367-4903.

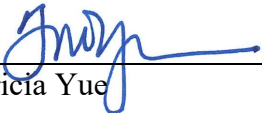
On April 28, 2021, I served true copies of the following document(s) described as **STIPULATION AND [PROPOSED] ORDER CONSOLIDATING RELATED ACTIONS FOR ALL PURPOSES, APPROVING SETTLEMENT OF PRIVATE ATTORNEYS GENERAL ACT CLAIMS, AND DISMISSING ACTIONS WITH PREJUDICE** on the interested parties in this action as follows:

SEE ATTACHED SERVICE LIST

BY E-MAIL OR ELECTRONIC TRANSMISSION: Pursuant to Code of Civil Procedure section 1010.6 and California Rule of Court 2.251, or pursuant to the Court's order authorizing electronic service, or by an agreement of the parties, I caused the document(s) to be sent from e-mail address Yue@boucher.la to the persons at the e-mail addresses listed in the Service List. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on April 28, 2021, at Woodland Hills, California.


Tricia Yue

SERVICE LIST
Ruiz-Garcia v. TNH Motors, Inc.
Case No. 20STCV25676

Michelle Cooper
MOLINO & BERARDINO
4751 Wilshire Blvd., Suite 207
Los Angeles, CA 90010
Tel: (323) 692-4010
Fax: (323) 692-4015
Email: mcooper@molinolawfirm.com

Attorneys for Defendant TNH Motors, Inc.

Sahag Majarian II
LAW OFFICES OF SAHAG MAJARIAN II
18250 Ventura Boulevard
Tarzana, California 91356
Tel: (818) 609-0807
Fax: (818) 609-0892
Email: saha~~gii~~@aol.com
jeankoper@majarianlaw.com

Co-counsel for Plaintiff Oscar Ruiz-Garcia

Kenneth S. Gaines
Daniel F. Gaines
Alex P. Katofsky
Evan S. Gaines
LAW OFFICE OF GAINES & GAINES,
APLC
27200 Agoura Road, Suite 101
Calabasas, CA 91301
Email: ken@gaineslawfirm.com
daniel@gaineslawfirm.com
alex@gaineslawfirm.com
evan@gaineslawfirm.com

Attorneys for Plaintiff Terry Hiatt

Labor and Workforce Development Agency
1515 Clay Street, Suite 801
Oakland, California 94612
PAGAfilings@dir.ca.gov