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IN THE SUPERIOR COURT OF CALIFORNIA

COUNTY OF RIVERSIDE, RIVERSIDE HISTORIC COURTHOUSE

CEEJA LYNNE BARR, an individual,

Plaintiff,

vs.

TRIANGLE MOTORS, INC. dba BROWNING
DODGE CHRYSLER JEEP RAM, a California
corporation, MATTHEW BROWNING, an
individual, KENT C. BROWNING, an
individual, SCOTT DICKINSON, an individual,
SHAKEEL AMEEN, an individual, and DOES 1
through 20 inclusive,

Defendants.

Case No. CVRI2100242

**COMPLAINT AND ENFORCEMENT
ACTION UNDER THE PRIVATE
ATTORNEYS GENERAL ACT**

1. Plaintiff CEEJA LYNNE BARR is informed and believes and thereon alleges as follows:

PARTIES, VENUE AND JURISDICTION

2. Plaintiff CEEJA LYNNE BARR was at all times relevant hereto a resident of Lake Elsinore, California.

3. At all relevant times herein, Defendant TRIANGLE MOTORS, INC. was a California Corporation with its principal place of business in Norco, California.

4. Defendants MATTHEW BROWNING, KENT C. BROWNING, SCOTT DICKINSON, and SHAKEEL AMEEN were at all times relevant herein the principals, officers and directors, respectively, of TRIANGLE MOTORS, INC.

5. Plaintiff is informed and believes, and based thereon alleges, that there exists such a unity

1 of interest and ownership between TRIANGLE MOTORS, INC., MATTHEW BROWNING, KENT C.
2 BROWNING, SCOTT DICKINSON, and SHAKEEL AMEEN and DOES 1-20 that the individuality and
3 separateness of defendants have ceased to exist.

4 6. Plaintiff is informed and believes, and based thereon alleges, that despite the formation of
5 purported corporate existence, TRIANGLE MOTORS, INC., MATTHEW BROWNING, KENT C.
6 BROWNING, SCOTT DICKINSON, SHAKEEL AMEEN, and DOES 1-20 are, in reality, one and the
7 same.

8 7. TRIANGLE MOTORS, INC., MATTHEW BROWNING, KENT C. BROWNING,
9 SCOTT DICKINSON, SHAKEEL AMEEN, and DOES 1-20 do not comply with all requisite corporate
10 formalities to maintain a legal and separate existence.

11 8. The business affairs of TRIANGLE MOTORS, INC., MATTHEW BROWNING, KENT
12 C. BROWNING, SCOTT DICKINSON, SHAKEEL AMEEN, and DOES 1-20 are, and at all times
13 relevant were, so mixed and intermingled that the same cannot reasonably be segregated, and the same
14 are in inextricable confusion. TRIANGLE MOTORS, INC. is, and at all times relevant hereto was, used
15 by DOES 1-20, MATTHEW BROWNING, KENT C. BROWNING, SCOTT DICKINSON, and
16 SHAKEEL AMEEN as a mere shell and conduit for the conduct of certain of Defendants' affairs, and is,
17 and was, the alter ego of DOES 1-20. The recognition of the separate existence of TRIANGLE MOTORS,
18 INC. would not promote justice, in that it would permit Defendants to insulate themselves from liability
19 to Plaintiff for violations of state law. The corporate existence of TRIANGLE MOTORS, INC. and DOES
20 1-20 should be disregarded in equity and for the ends of justice because such disregard is necessary to
21 avoid fraud and injustice to Plaintiff herein.

22 9. Accordingly, TRIANGLE MOTORS, INC., MATTHEW BROWNING, KENT C.
23 BROWNING, SCOTT DICKINSON, SHAKEEL AMEEN, and DOES 1-20 are the alter egos of one
24 another, and the fiction of their separate corporate existence must be disregarded.

25 10. As a result of the aforementioned facts, Plaintiff is informed and believes, and based
26 thereon alleges that TRIANGLE MOTORS, INC., MATTHEW BROWNING, KENT C. BROWNING,
27 SCOTT DICKINSON, SHAKEEL AMEEN, and DOES 1-20 are joint employers by virtue of a joint
28 enterprise, and that the employees and agents of TRIANGLE MOTORS, INC. were also employees of

1 MATTHEW BROWNING, KENT C. BROWNING, SCOTT DICKINSON, SHAKEEL AMEEN, and
2 DOES 1-20. TRIANGLE MOTORS, INC. employees performed services for each and every one of
3 Defendants, and to the mutual benefit of all Defendants, and all Defendants shared control of them as
4 employees, either directly or indirectly, and the manner in which Defendants' business was and is
5 conducted.

6 11. The true names and capacities, whether individual, corporate, the associate, or otherwise,
7 of the Defendants named herein as DOES 1-20, inclusive, are unknown to Plaintiff at this time and
8 therefore these Defendants are sued by such fictitious names. Plaintiff will seek leave to amend this
9 Complaint to insert the true names and capacities of these Defendants when they become known to
10 Plaintiff. Plaintiff is informed and believes and based thereupon alleges, that each of the fictitiously named
11 Defendants are responsible for the wrongful acts alleged herein and are therefore liable to Plaintiff as
12 alleged hereinafter.

13 12. Plaintiff is informed and believes and based thereupon alleges, that at all times relevant
14 hereto, Defendants were the agents, employees, managing agents, supervisors, coconspirators, parent
15 corporation, joint employers, alter egos, successors, and/or joint ventures of the other Defendants, and
16 each of them, and in doing the things alleged herein, were acting at least in part within the course and
17 scope of said agency, employment, conspiracy, joint employer, alter ego status, successor status and/or
18 joint venture and with the permission and consent of each of the other Defendants.

19 13. Plaintiff is informed and believes and based thereupon alleges, that Defendants, including
20 those defendants named as DOES 1-20 acted in concert with one another to commit the wrongful acts
21 alleged herein, and aided, abetted, incited, compelled and/or coerced one another in the wrongful acts
22 alleged herein, and/or attempted to do so. Plaintiff is further informed and believes, and based thereupon
23 alleges, that Defendants, including those defendants named as DOES 1-20 formed and executed a
24 conspiracy or common plan pursuant to which they would commit the unlawful acts alleged herein, with
25 all such acts alleged herein done as part of and pursuant to said conspiracy, intended to cause and actually
26 causing Plaintiff's harm.

27 14. Whenever and wherever reference is made in this Complaint to any act or failure to act by
28 a Defendant or co-Defendant, such allegations and references shall also be deemed to mean the acts and/or

1 failures to act by each Defendant acting individually, jointly and severally.

2 **FACTUAL ALLEGATIONS**

3 15. CEEJA LYNNE BARR worked as a Car Salesperson for Defendants from October 5, 2019
4 to March 2, 2020.

5 16. Pursuant to Defendants' Salesperson Commission Pay Plan, Ms. Barr's agreed upon
6 compensation was commission payments for sales activity, with a guarantee that she would be paid at
7 least the applicable minimum wage.

8 17. At the Norco dealership location where Ms. Barr worked, there were approximately 50
9 employees, consisting of sales professionals, cashiers, receptionists, service advisors and technicians.

10 18. Ms. Barr alleges that the underpayment violations made against her were committed
11 against the other salespeople at Triangle Motors Inc. She additionally alleges that such violations were
12 committed against other aggrieved employees including, technicians, cashiers, receptionists, and service
13 advisors employed by Defendants.

14 19. At all relevant times, Matthew Browning, Kent C. Browning, Scott Dickinson and Shakeel
15 Ameen were Officers and/or Directors of one or more of the following entities: (1) Triangle Motors, Inc.,
16 dba Browning Dodge Chrysler Jeep Ram, (2) Dav, Inc. dba Valley Hi Honda, (3) Vahi, Inc. dba Valley
17 Hi Toyota, (4) Victorville Nissan, Inc. dba Valley Hi Nissan, (5) Dick Browning, Inc. dba Browning
18 Mazda, (6) Auto Squares Autos, Inc. dba Cerritos Acura, (7) Cerritos Dodge, Inc. dba Cerritos Dodge
19 Chrysler Jeep Ram, (8) High Desert Autos, Inc. dba Valley Hi Kia and (9) KMS Automotive, Inc. dba
20 Browning Mazda of Alhambra.

21 20. At all relevant times, Matthew Browning, Kent C. Browning, Scott Dickinson and Shakeel
22 Ameen violated and caused to be violated Labor Code Sections 203, 226, 226.7, 1193.6, 1194, or 2802 as
23 to the combined 600+ employees of (1) Triangle Motors, Inc., dba Browning Dodge Chrysler Jeep Ram,
24 (2) Dav, Inc. dba Valley Hi Honda, (3) Vahi, Inc. dba Valley Hi Toyota, (4) Victorville Nissan, Inc. dba
25 Valley Hi Nissan, (5) Dick Browning, Inc. dba Browning Mazda, (6) Auto Squares Autos, Inc. dba
26 Cerritos Acura, (7) Cerritos Dodge, Inc. dba Cerritos Dodge Chrysler Jeep Ram, (8) High Desert Autos,
27 Inc. dba Valley Hi Kia and (9) KMS Automotive, Inc. dba Browning Mazda of Alhambra as further
28 detailed below. As such, pursuant to California Labor Code § 558.1, they are individually liable for all

1 damages, civil and statutory penalties that arise out of violations of these Labor Code sections.

2 21. Throughout and at various times during her employment with Defendants, Ms. Barr and
3 other aggrieved employees worked more than 40 hours in a week, as reflected in their time sheets. In fact,
4 Plaintiff worked more than 40 hours per week more than half the weeks during her tenure with Defendants.

5 22. Additionally, Ms. Barr and other aggrieved employees frequently worked over 8 hours per
6 day and sometimes worked over 12 hours in one day.

7 23. Also, Ms. Barr and other employees of Defendants regularly and frequently worked 2 to 3
8 hours per day or more on their days-off by communicating via text and voice calls with customers and
9 potential customers; as well as communicating with Defendants managers regarding potential sales and
10 other work-related issues. The wages that they received every pay period also did not reflect compensation
11 for these additional off-the-clock hours worked.

12 24. Members of the management team were aware that employees were working on their days-
13 off because Ms. Barr would sometimes contact them via phone or text to ask if they could assist in closing
14 a sale by helping to arrange financing for a customer. However, Defendants did not pay her or their other
15 employees for their work during these extended periods.

16 25. Beginning in November, 2019 Ms. Barr began raising concerns with company management
17 regarding underpayment. Then on January 6, 2020, when she received her paycheck for \$90, at \$1.18 per
18 hour, she spoke about this with her manager, Ted Estel, about the substantial underpayment. Mr. Estel
19 said he would “figure it out,” but then he blamed the underpayment on Ms. Barr for taking a sick day – as
20 if she was not entitled to take a day off while sick, and as if taking a sick day would reduce her pay to
21 below minimum wage.

22 26. On February 2, 2020, Ms. Barr brought up the matter with James Ramos, the General
23 Manager of the dealership. But Mr. Ramos shrugged his shoulders and simply said, “Well that’s the car
24 business,” and he proceeded to show Ms. Barr out of his office.

25 27. As a result of company-wide understaffing of its facilities, Ms. Barr and other aggrieved
26 employees were not always permitted and authorized to take uninterrupted 30-minute meal periods during
27 shifts to which they were entitled to receive a meal period or to take a second 30-minute meal period on
28 days that they worked in excess of 10 hours. Ms. Barr and other aggrieved employees frequently worked

1 more than 8, 10, and even 12 hours per day. However, these employees never received more than one
2 meal period a day; and never waived any of their meal periods. For example, Ms. Barr and other employees
3 regularly worked through meal periods and had meal periods interrupted by supervisors and by work to
4 meet expected targets. When employees would clock out for 30 minutes during a meal period, they would
5 continue working and serving customers.

6 28. Defendants did not pay minimum wages for meal periods Ms. Barr and other aggrieved
7 employees worked through – which qualified them for premium payment; nor did Defendants pay them
8 any premium payments. Defendants did not pay Ms. Barr or other aggrieved employees for the time they
9 continued to perform their duties during their meal periods.

10 29. In between what should have been their meal periods, employees did not take rest breaks
11 because the demands of the job and expectations of the managers prevented it. According to Ms. Barr, if
12 someone was sitting at the desk, they had to be doing something – making phone calls, updating their
13 product knowledge, or taking FCA training. If they were upstairs in the break area, management would
14 be walking in and out making comments that they were sitting around doing nothing.

15 30. Ms. Barr's wage statements reflected that she was paid on a commission draw. However,
16 due to omissions and inaccuracies on her wage statement, as discussed below, it is impossible to tell
17 whether she was paid on a Recoverable Draw or Non-Recoverable Draw. Further it is impossible to tell
18 whether deductions were made from Ms. Barr's commission, in subsequent pay periods to when a Draw
19 was paid, in order for Defendant employer to recoup payment of a previous Recoverable Draw. If, in fact,
20 it turns out according to proof, that this did occur, then Ms. Barr's and other aggrieved employees'
21 compensation for previous months effectively would have fallen below the minimum wage and overtime
22 that was due to them.

23 31. Plaintiff and Defendants' other employees received three wage statements per month. One
24 wage statement was given on the 20th of the month, and two wage statements were given on the 5th of
25 the month. However, the wage statements were incomplete, inaccurate, and not in compliance with the
26 applicable sections of Lab. Code § 226(a). The wage statements did not accurately list hours worked; and
27 in some cases, Hours Worked and Rate of Pay were not listed at all in violation of Labor Code section
28 226 (a)(2) and (9). For example, on one of Ms. Barr's wage statements given on March 5, 2020 and listing

1 an applicable pay period of February 16, 2020 to February 29, 2020, her Gross Hours for that pay period
2 were displayed as being 6.17 hours. However, Ms. Barr actually worked 68.36 hours during this period of
3 time, as is reflected on her company timesheets. Such inaccuracies were standard and repeated on various
4 wage statements of all employees during the relevant time period.

5 32. In many cases, wage statements did not reflect any of hours actually worked within a given
6 category of earnings, and yet - interestingly enough – it did reflect that employees earned some
7 compensation in the given category. For example, on Ms. Barr’s wage statement distributed on March
8 5, 2020 and for the time period of February 1, 2022 to February 29, 2020, there is a category listed as
9 “Reg OT Prem Amt” which reflects that she was compensated in the amount of \$101.34. However, neither
10 her “Rate” of pay nor the applicable number of hours that she worked within that given category were
11 listed on the corresponding row of the wage statement.

12 33. Wage statements also did not reflect the commission rate, or the total value of sales for a
13 given time period such that an employee could promptly and easily ascertain whether she or he was
14 compensated properly for commission sales. For example, on one of Ms. Barr’s wage statements
15 distributed on February 5, 2020 and for the pay period of January 1, 2020 to January 31, 2020, it is
16 reflected that she was compensated \$688.95 in the “Earnings” row labeled “Comm New & Used”.
17 However, neither her commission rate nor the total value of her commission sales for that time period,
18 and upon which her ultimate compensation in that category was based, were listed. Commissions
19 inherently pay on a piece-rate basis insofar as each vehicle, and its attendant value, is factored into her
20 compensation. This, however, was not reflected on wage statements, in violation of Labor Code §
21 226(a)(3).

22 34. Further, none of the off-the-clock hours worked by employees, including time spent
23 working through meal periods and time spent communicating with customers and management on days
24 off, were ever recorded on employees’ wage statements in violation of Labor Code section 226 (a)(2) &
25 (9).

26 35. The use of cellular (“cell”) phones was an absolute necessity for Plaintiff, and every other
27 salesperson to perform and complete their job.

28 36. Cell phones were required to locate, unlock, and start the ignition of vehicles. If a

1 salesperson, like Ms. Barr, did not bring her personal phone to work for whatever reason, it would be
2 necessary for them to have another salesperson assist them with locating, unlocking, and starting the
3 ignition of vehicles that customers were interested in. When this happened, the salesperson that needed
4 help would most likely need to split the commission with the assisting salesperson who helped her or him.
5 In this way, having a personal cell phone for business use had a direct impact on the compensation of Ms.
6 Barr and every other salesperson.

7 37. Also, the use of the cell phone was the only way to communicate (via text and voice calls)
8 with Sales Managers, regarding business-related questions, when Ms. Barr or any other salesperson was
9 with customers on the other side of the sales lot and/or when she or he was with customers on a test drive
10 of a vehicle.

11 38. Salespersons were required to make between 30 to 100 calls per day to customers and
12 potential customers, depending on how many customers were physically at the store/auto sales lot, and
13 who required the attention of a salesperson.

14 39. Salespersons, like Ms. Barr, did not have access to their own desk and/or direct telephone
15 line. 4 desks/telephones ("phones") were shared between anywhere from 6 to 21 salespersons at any
16 given time, depending on the number of salespersons who were working on any given day. Saturdays and
17 Sundays were always busy days, on which a substantial amount of the sales staff was working in the
18 office. Therefore, it was especially difficult to use a telephone on these days.

19 40. Additionally, since salespersons, like Ms. Barr did not have a direct telephone line, it
20 became necessary, as a practical matter, to give customers and potential customers their personal cell
21 phone numbers so that customers and potential customers could contact salespersons directly to respond
22 to their calls, and regarding potential sales.

23 41. Ms. Barr, and all other salespersons, were encouraged, pressured, and instructed to text
24 message customers and potential customers from their personal cell phones.

25 42. In approximately her last month working for Defendants, Defendants initiated a Proprietary
26 Text Messaging / Instant Messaging feature that was accessible and usable from a desktop computer.
27 Despite this fact, Defendants' Sales Managers repeatedly Instructed and pressured Ms. Barr and other
28 salespersons to use their own cell phones to text message customers and potential customers.

1 43. Salespersons were also repeatedly instructed and pressured to download Defendants'
2 Proprietary Text Messaging App, so that they would use Defendants' proprietary Text Messaging System.

3 44. Defendants' Sales Managers gave multiple reasons to salespersons, including Ms. Barr, as
4 to why they needed to download and use Defendants' Proprietary Text Messaging Mobile App. They told
5 her, and other salespersons, that it was most convenient to use the Mobile App because they always had
6 their personal cell phones on them. Additionally, it was acknowledged by Defendants' Management that
7 there were not enough computers available for the salespersons to use.

8 45. In fact, there were only 3 computers available in the front office, 1 in the back office, and
9 1 at the Internet Sales Desk. The computer at the Internet Sales Desk was only available to use when a
10 member of the Internet Sales Team was not using it.

11 46. These computers needed to be shared among 6 to 21 Sales Associates at any given time.
12 As stated above, the number of salespersons working at the same time fluctuated depending on the day of
13 the week, and the number of customers that were physically on the sales lot or in the storefront at any
14 given time.

15 47. The Defendants' Managers who repeatedly instructed and pressured salespersons to use
16 the Proprietary Mobile Messaging Account were General Manager, James Ramos; the Training Manager
17 for "FCA" (believed to stand for 'Fiat-Chrysler Automotive'); and Head Managers, "Ray" aka "Clyde"
18 Whisman, Steve P., and Chris Muller.

19 48. Some salespersons, like Ms. Barr, complained about being required to use their own
20 personal cell phones. Some complained because their cell phones were too old, and therefore were not
21 equipped or capable to download Defendants Proprietary Mobile Messaging App. These salespersons
22 would have to resort to borrowing cell phones from family members or friends.

23 49. Others complained that if their battery died during the business day, which inevitably was
24 the case, they would be subject to the same repercussions as enumerated above. In fact, Ms. Barr found it
25 necessary to buy at least 3 external cell phone battery packs for herself, costing approximately \$20-\$30
26 each, in order to avoid having her phone power-off during the middle of the day, and forcing her to face
27 the results and repercussions.

28 50. Ms. Barr also spent approximately \$40-\$50 a month purchasing office supplies such as

1 pens, notepads, and a binder to write notes with. Ms. Barr also had to purchase a key-ring holder for her
2 belt. Such office supplies were not provided by Defendants, nor did they reimburse her for same.
3 Additionally, Defendants did not pay Ms. Barr, it its other aggrieved employees Double the Minimum
4 Wage, as required by the Labor Code and applicable IWC Wage orders, for employees that use their own
5 funds for necessary business tools and expenditures.

6 51. Ms. Barr found that she needed to purchase multiples of her supplies because when she left
7 her supplies in the storefront, while she was helping customers on the auto lot or on a test drive, her
8 supplies would be taken by other salespersons -who also did not receive any such office supplies from
9 Defendants. This was also the reason why she had to purchase multiple external batteries for her cell
10 phone.

11 52. Due to Defendants' company-wide scheduling practices and policies, Plaintiff and other
12 employees were forced to forego meal periods and/or have her meal periods interrupted by work, and
13 were not relieved of all duties for unpaid meal periods, in order to meet their deadlines and handle their
14 workload. Defendants did not pay minimum wages for meal periods Plaintiff and other aggrieved
15 employees worked through that qualified for premium payment. Defendants did not pay them for the
16 time they continued to perform their duties during their meal periods.

17 53. Defendants had no policy and/or practice for scheduling second meal periods for
18 employees or for authorizing and permitting employees to take second 30-minute meal periods on days
19 they worked in excess of 10 hours in one day. As a result, Defendants did not provide Plaintiff or other
20 aggrieved employees with all second 30-minute meal periods to which they were entitled.

21 54. Ms. Barr and other employees were not always permitted and authorized to take
22 uninterrupted 30-minute meal periods during shifts to which they were entitled to receive a meal period
23 or to take a second 30-minute meal period on days that they worked in excess of 10 hours. Ms. Barr and
24 Defendants' other employees frequently worked more than 8, 10, and even 12 hours per day. However,
25 these employees never received more than one meal period a day; and never waived any of their meal
26 periods. For example, Ms. Barr and other employees regularly worked through meal periods and had meal
27 periods interrupted by supervisors and by work to meet expected targets. When employees would clock
28 out for 30 minutes during a meal period, they would continue working and serving customers.

1 55. Defendants did not pay at least minimum wages for all hours worked by Plaintiff and other
2 aggrieved employees. To the extent that these off-the-clock hours did not qualify for overtime premium
3 payment, Defendants did not pay at least minimum wages for those hours they worked off-the-clock in
4 violation of California Labor Code sections 1182.12, 1194, 1197, 1197.1, and 1198. Accordingly,
5 Defendants regularly failed to pay at least minimum wages to Plaintiff and other aggrieved employees
6 for all of the hours worked. Defendants' failure to pay aggrieved employees violates California Labor
7 Code sections 1182.12, 1194, 1197, 1197.1, and 1198.

8 56. At all relevant times, Defendants willfully failed to pay all overtime wages owed to
9 Plaintiff and other aggrieved employees. At all relevant times, they were not paid overtime premiums for
10 all of the hours worked in excess of 8 hours in a day, in excess of 12 hours in a day, and/or in excess of
11 40 hours in a week.

12 57. To the extent that this off the clock time was performed after aggrieved employees had
13 already worked more than 40 hours per week, they are owed overtime for these hours worked. To the
14 extent that this off the clock time was performed after they worked 7 consecutive days or more than 12
15 hours in a day, they are owed double-time for these hours worked.

16 58. At all relevant times herein, Defendants had, and continue to have, a company-wide policy
17 of failing to implement any policies to authorize and permit employees to take compliant meal periods
18 and, instead, engaged in a practice of discouraging and impeding employees from taking meal periods by
19 assigning them a heavy workload, understaffing their facilities, requiring and permitting employees to
20 continue to serve customers even after they had clocked out for a meal period, and by permitting their
21 managers to verbally harass and harangue employees that took their meals in the breakroom.

22 59. Additionally, Defendants, on a company-wide basis, failed to schedule meal periods even
23 though they are aware that employees are entitled to such meal periods. As a result of this company-wide
24 understaffing of its facilities and failure to schedule meal periods, Plaintiff and other aggrieved employees
25 were not always authorized and permitted to take uninterrupted 30-minute meal periods during shifts to
26 which they were entitled to receive a meal period. For example, Plaintiff regularly worked through meal
27 periods and had meal periods interrupted by supervisors and by work to meet expected targets.

28 60. At all relevant times, Defendants had no policy for scheduling second meal periods and no

1 practice of permitting Plaintiff to take second 30-minute meal periods. As a result, on days that Plaintiff
2 worked in excess of 10 hours, she was not provided with second 30-minute meal periods.

3 61. Defendants knew or should have known that, as a result of their policies and practices,
4 Plaintiff and other aggrieved employees were performing some of their assigned duties off-the-clock
5 and/or during unpaid meal periods, and were suffered or permitted to perform work for which they were
6 not paid. Because Plaintiff and other aggrieved employees worked shifts in excess of 8 hours a day or
7 more and 40 hours a week or more, much of this off-the-clock work qualified for overtime premium pay.
8 Therefore, Plaintiff and other aggrieved employees were not paid overtime wages for all of the overtime
9 hours actually worked. To the extent that they worked shifts in excess of 12 hours a day, or in excess of
10 8 hours on the seventh consecutive day of a work in a workweek, they were not paid double time wages
11 for all overtime hours actually worked.

12 62. Defendants' company-wide policy and/or practice of understaffing their locations while
13 simultaneously assigning demanding workloads; requiring or permitting employees to assist customers
14 even when they had clock out for their meal period; and allowing managers to harass and harangue
15 employees when they were taking their meal period in company break areas upstairs had the combined
16 effect of preventing employees from taking all timely, uninterrupted meal periods to which they were
17 entitled. Additionally, Defendants had no policy and/or practice of scheduling meal periods for
18 employees. As a result of Defendants' policies and/or practices, employees had to work through some or
19 all of their meal periods, have their meal periods interrupted to return to work, and/or wait extended
20 periods of time before taking meal periods.

21 63. At all relevant times, the aggrieved employees regularly worked more than five hours per
22 day, and were thereby entitled to take uninterrupted 30-minute meal periods on each day of work.

23 64. At all relevant times, Defendants failed and refused to provide Plaintiff and other aggrieved
24 employees with uninterrupted meal periods during their work shifts, and failed to compensate them for
25 missed meal periods, as required by Labor Code §§ 226.7, 512, and 1198 as well as the applicable sections
26 of the Code of Regulations and Industrial Welfare Commission Orders.

27 65. Defendants did not provide Plaintiff or other aggrieved employees with second 30-minute
28 meal periods on days that they worked in excess of 10 hours in one day. They worked 10 or more hour

1 shifts and, at times, up to 12 or more hours in a shift without being permitted or authorized to take a
2 second 30-minute meal period.

3 66. Defendants' systematic, company-wide practice and/or policy of not paying meal period
4 premiums to employees regardless of whether they were able to take a compliant meal break, in violation
5 of the applicable IWC Wage Order and Labor Code sections 226.7 and 512 (a) resulted in a failure to
6 provide Plaintiff and other aggrieved employees compliant meal periods in violation of California
7 Labor Code sections 226.7 and 512 and failure to pay the full meal period premiums due.

8 67. Defendants' company-wide policy and practice of understaffing while simultaneously
9 assigning demanding workloads; and allowing managers to harass and harangue employees when they
10 were taking their rest period in company break areas upstairs prevented employees from being relieved of
11 all duty in order to take compliant rest periods. Additionally, employees were expected and required to
12 be working whenever they were at their desk, even if they were trying to take a rest period. They were
13 expected to either be contacting customers and potential customers, reviewing documentation to increase
14 their product knowledge, or engage in FCA training.

15 68. Defendants' uniform policy of failing to schedule rest breaks resulted in employees
16 missing their rest breaks, taking them late, or having them interrupted. Employees were prevented from
17 being relieved of all duty in order to take compliant rest periods and instead would be required to continue
18 working.

19 69. Plaintiff and other aggrieved employees worked shifts in excess of 3 ½ hours, in excess
20 of 6 hours, and/or in excess of 10 hours without receiving all uninterrupted 10-minute rest periods to
21 which they were entitled.

22 70. Defendants have also engaged in a systematic, company-wide practice and/or policy of not
23 paying rest period premiums owed when rest periods are not authorized or permitted. Thus, Defendants
24 denied Plaintiff and other aggrieved employees rest periods and failed to pay them rest period premium
25 wages due, in violation of Labor Code section 226.7 and the applicable IWC Wage Order.

26 71. As alleged herein, Plaintiff and other aggrieved employees are not exempt from the rest
27 period requirements of the applicable Code of Regulations and Industrial Welfare Commission Orders.

28 72. At all times relevant herein, Defendants engaged in a practice of failing to pay Plaintiff and

1 other aggrieved employees by the seventh calendar day following the close of the payroll period. Indeed,
2 as discussed above, they are owed wages for unpaid minimum wage, overtime, meal periods, rest periods,
3 and unreimbursed business expenses. At no time during their employment were these outstanding sums
4 ever paid to them. Instead, these outstanding sums continued to accumulate every pay period. Therefore,
5 Plaintiff and other aggrieved employees were not paid all wages earned by the seventh calendar day
6 following the close of their pay periods.

7 73. Plaintiff and other aggrieved employees were not exempt from the requirements of Labor
8 Code §§ 201-203.

9 74. With respect to all persons whose employment separated from Defendants, they are owed
10 wages for unpaid minimum wages, unpaid overtime, meal periods, and rest periods. At no time since their
11 separation of employment were these outstanding sums ever paid to them. Further, Defendants knew or
12 should have known that they owed these outstanding sums to them and intentionally failed and refused to
13 pay these sums within the time periods required by law and continue to refuse to do so.

14 75. During the relevant period, Defendants' employees have been required to incur business
15 expenses and in fact did incur such expenses to perform their duties. Such necessary business expenditures
16 included cellular phones, iPhone watches; cellular phone service with a high speed and extra data plan;
17 extra cell phone charges, battery packs, chargers and various office supplies.

18 76. During the relevant period, various tool-using employees, including technicians and
19 service advisors, were required to supply and use their own hand tools and equipment to perform their
20 work. This includes wrenches, sockets, pliers, drills, hammers, and toolboxes. Despite that tool-using
21 employees were required to supply their own tools and equipment, Defendants have failed to reimburse
22 them for the cost of their tools and equipment, or pay them double minimum wage as required by relevant
23 Wage Order and California Codes of Regulation.

24 77. During the relevant period, Defendants have knowingly and intentionally furnished their
25 employees with uniform, incomplete, and inaccurate wage statements.

26 78. Plaintiff and Defendants' other employees received three wage statements per month. One
27 wage statement was given on the 20th of the month, and two wage statements were given on the 5th of
28 the month. However, the wage statements were incomplete, inaccurate, and not in compliance with the

1 applicable sections of Lab. Code § 226(a). The wage statements did not accurately list hours worked; and
2 in some cases, Hours Worked and Rate of Pay were not listed at all in violation of Labor Code section
3 226 (a)(2) and (9).

4 79. In many cases, wage statements did not reflect any of hours actually worked within a given
5 category of earnings, and yet - interestingly enough – it did reflect that employees earned some
6 compensation in the given category.

7 80. Because Defendants failed to document and deducted time worked from Plaintiff's and
8 other aggrieved employees' wage statements and employment records for meal periods they did not
9 actually receive, Defendants unlawfully deducted wages earned and meal period premiums that should
10 have been paid. Thus, Defendants did not furnish wage statements to Plaintiff and other aggrieved
11 employees containing the correct amount of gross wages earned in violation of Labor Code § 226 (a)
12 (1), accurate total hours worked in violation of Labor Code § 226 (a) (2), correct amount of net wages
13 earned in violation of Labor Code § 226 (a) (5), or accurate number of hours worked at each corresponding
14 hourly rate in violation of Labor Code § 226 (a) (9).

15 81. To the extent that Defendants paid any meal break premium and/or rest break premium
16 payments, Defendants failed to identify such payments on Plaintiff's and other aggrieved employees'
17 wage statements and employment records, and Defendants otherwise failed to provide information on
18 the wage statements sufficient to identify how many premium payments were paid during each pay
19 period, the specific dates worked giving rise to the premium payments owed, or to determine whether
20 such premium payments adequately and/or accurately compensated them for any and all premiums owed.

21 82. At all relevant times, Defendants willfully failed to keep records of meal period start and
22 stop times, shift start and stop times, total hours worked in the payroll period and applicable hourly rates
23 of pay for Plaintiff and other aggrieved employees as a result of failing to record the off-the-clock hours
24 they worked during their unpaid meal and rest periods in violation of section 1198 and 1174 (d).
25 Defendants are also in violation of Labor Code section 1174 (d) by failing to record aggrieved employees'
26 off-the-clock hours, when they regularly worked at least 2 to 3 hours on their days off, with Defendants'
27 Managers having knowledge of the same.

28 83. Ms. Barr resigned from her position as a Salesperson on March 3, 2020. On the immediate

1 Thursday or Friday before she resigned, she texted one of Defendants' Managers informing them that she
2 intended to quit because of the aforementioned facts. The manager implored her not to quit, and to come
3 into the office so that they could discuss the matter. When she came in, he offered her a lump sum
4 payment, which did not nearly cover her unpaid minimum wages, Double Minimum wage, meal and rest
5 time wages and/or penalties, or reimbursement for her necessary business expenditures. She, resultingly,
6 resigned from her position.

7
8 **FIRST CAUSE OF ACTION**
9 **CIVIL PENALTIES IN VIOLATION OF**
10 **LABOR CODE § 2699, ET SEQ.**
11 **(AGAINST ALL DEFENDANTS)**

12 84. Plaintiff incorporates, by reference, all allegations in the foregoing paragraphs as though
13 fully set forth herein.

14 85. Under Labor Code §2698, et seq., Plaintiff, as a aggrieved employee, may bring an action
15 against Defendants, on behalf of herself and other current or former employees, seeking civil penalties for
16 defendants' violations of the California Labor Code.

17 86. Plaintiff was an aggrieved employee within the meaning of Labor Code §2698, et seq. by
18 virtue of the numerous Labor Code violations she was subjected to as plead herein.

19 87. Defendants also subjected the aggrieved employees on whose behalf Plaintiff brings this
20 enforcement action to all of the Labor Code violations plead herein, including failing to reimburse for
21 necessary business expenditures in violation of Labor Code § 2802, failing to pay minimum wages in
22 violation of Labor Code §§ 1182.12, 1194, 1197, 1197.1, and 1198, failing to pay overtime in violation
23 Labor Code §§ 510 and 1198, failing to furnish compliant wage statements and maintain accurate pay
24 records in violation of § 226, 1174 (d), and 1198, failing to provide meal periods in violation of §§ 226.7,
25 512 (a), and 1198, failing to provide rest periods in violation of Labor Code §§ 226.7 and 1198, failure to
26 timely pay wages in violation of Labor Code § 204 and willful failure to pay wages in violation of Labor
27 Code § 201-203.

28 88. On July 3, 2020, Plaintiff provided written notice by online filing with the Labor and
Workforce Development Agency and by certified mail to Defendants Triangle Motors, Inc., doing

1 business as Browning Dodge and Chrysler Jeep Ram and Matthew Browning of the specific provisions of
2 the Labor Code alleged to have been violated, including the facts and theories to support the alleged
3 violation, as required by Labor Code § 2699.3 (a) (1) (A).

4 89. On October 20, 2020, Plaintiff provided written notice by online filing with the Labor and
5 Workforce Development Agency and by certified mail to all Defendants of the specific provisions of the
6 Labor Code alleged to have been violated, including the facts and theories to support the alleged violation,
7 as required by Labor Code § 2699.3 (a) (1) (A).

8 90. As of the filing of this Complaint, Plaintiff has received no notice from the Labor and
9 Workforce Development Agency of its intent to pursue an action against Defendants.

10 91. As a direct and proximate result of Defendants' California Labor Code violations as set
11 forth herein, Plaintiff is entitled to civil penalties of \$100 for each aggrieved employee per pay period for
12 the initial violation, and \$200 for each aggrieved employee per pay period for each subsequent violation,
13 pursuant to Labor Code §2699 (f), for those Labor Code sections not expressly providing for a penalty,
14 and civil penalties provided by the specific Labor Code sections that do expressly provide for a penalty.

15 92. Plaintiff is also entitled to reasonable attorney's fees and costs, and 25% of the recovered
16 civil penalties.

17 **PRAYER FOR RELIEF**

18 Plaintiff prays for relief and judgment against Defendants as follows:

19 1. For damages, unpaid wages, penalties, injunctive relief, and attorneys' fees in excess of
20 \$25,000, exclusive of interest and costs.

21 2. That the Court declare, adjudge, and decree that Defendants violated all California Labor
22 Code sections plead herein, including Labor Code §§ 201-204, 226, 226.7, 510, 512, 1174, 1182.12,
23 1194, 1197, 1197.1, 1198 and 2802;

24 3. For civil penalties pursuant to 210, 226.3, 256, 558, 1174.5, 1197.1, 2699 (a) and/or 2699
25 (a), (f) and (g), for violations of all California Labor Code sections plead herein, including Labor Code §§
26 201-204, 226, 226.7, 510, 512, 1174, 1182.12, 1194, 1197, 1197.1, 1198 and 2802;

27 4. For attorneys' fees and costs pursuant to California Labor Code § 2699 (g) (1), and any
28 and all other relevant statutes, for Defendants' violations of all California Labor Code sections plead

1 herein, including Labor Code §§ 201-204, 226, 226.7, 510, 512, 1174, 1182.12, 1194, 1197, 1197.1,
2 1198 and 2802;

3 5. For pre-judgment and post-judgment interest as provided by law; and

4 6. For such other and further relief as the Court deems just and appropriate.

5 **PIMENTEL LAW, P.C.**

6
7 Dated: January 25, 2021

8 By: Rochelle Reyes De Golier, Esq.
9 Rochelle R. De Golier, Esq.
10 Attorney for Plaintiff
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