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Attorneys for Plaintiff ADAM DAVIDSON, as representative of the State of California and the Labor and Workforce Development Agency, and on behalf of himself and other current and former employees.

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

ADAM DAVIDSON, an individual,

Plaintiff,

v.

LOS ANGELES TRUCK CENTERS, LLC, a
California limited liability company, dba
VELOCITY VEHICLE GROUP; and DOES 1
to 50 inclusive,

Defendant,

Case No. **20STCV41572**

REPRESENTATIVE ACTION
COMPLAINT FOR CIVIL FINES

1. Civil Penalties under the Private Attorneys
General Act (PAGA)

DEMAND FOR JURY TRIAL

Plaintiff, ADAM DAVIDSON, as a representative of the State of California and the Labor and Workforce Development Agency (LWDA), and on behalf of Plaintiff and other current and former employees, complains and alleges as follows:

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1 **INTRODUCTION**

2 1. This is a representative action brought by Plaintiff, as a representative of the State
3 of California and the LWDA, and on behalf of Plaintiff and other aggrieved employees, to collect
4 civil penalties for Defendant's Labor Code violations.

5 2. Defendant and employer, LOS ANGELES TRUCK CENTERS, LLC. violated
6 numerous wage and hour laws with respect to Plaintiff and other aggrieved employees by failing
7 to provide, for example: accurate and itemized wages statements, payment for all hours worked
8 (including regular wages and overtime), failure to provide a minimum wage lawful meal periods,
9 lawful rest periods, timely payment during employment, failure to reimburse for expenses
10 incurred during the course and scope of employment, and payment upon separation of
11 employment.

12 **PARTIES**

13 **The Plaintiff**

14 3. Plaintiff is, and at all times herein mentioned was, a resident of the County of Los
15 Angeles.

16 **The Defendant**

17 4. Defendant LOS ANGELES TRUCK CENTERS, LLC. is a limited liability
18 corporation which, at all-time relevant hereto, existing, doing business and employing individuals
19 in the County of Los Angeles, State of California.

20 5. The true names and capacities, whether individual, corporate, associate, or
21 otherwise of Defendants named herein as DOES 1-50, inclusive, are unknown to Plaintiff at this
22 time and therefore said Defendants are sued by such fictitious names. Plaintiff will seek leave to
23 amend this Complaint to insert the true names and capacities of said Defendants when the same
24 become known to Plaintiff. Plaintiff is informed and believes and thereupon alleges that each of
25 the fictitiously-named Defendants are responsible for the wrongful acts alleged herein and is
26 therefore liable to Plaintiff as alleged hereinafter.

27 6. Plaintiff is informed and believes, and based thereupon alleges, that at all times
28 relevant hereto, Defendants, and each of them, were the agents, employees, managing agents,

supervisors, conspirators, parent corporation, joint employers, alter ego, and/or joint ventures of the other Defendants, and each of them, and in doing the things alleged herein, were acting at least in part within the course and scope of said agency, employment, conspiracy, joint employment, alter ego status, and/or joint venture and with the permission and consent of each of the other Defendants.

7. Plaintiff is informed and believes, and based thereupon alleges, that Defendants, and each of them, including those Defendants named DOES 1-50, acted in concert with one another to commit the wrongful acts alleged therein, and aided, abetted, incited, compelled, and/or coerced one another in the wrongful acts alleged herein, and/or attempted to do so. Plaintiff is further informed and believes, and based thereupon alleges, that the Defendants, and each of them, including those Defendants named as DOES 1-50, formed and executed a conspiracy or common plan pursuant to which they would commit the unlawful acts alleged herein, with all such acts alleged herein done as part of and pursuant to said conspiracy, intended to and actually causing Plaintiff harm.

8. Whenever and wherever reference is made in this Complaint to any act or failure to act by a defendant or co-defendant, such allegations and references shall also be deemed to mean the acts and/or failures to act by each defendant acting individually, jointly and severally.

JURISDICTION AND VENUE

9. Venue is proper in Los Angeles County, because Defendants maintain its locations and transacts business in this county, the obligations and liability primarily arise in this county, and work was primarily performed by Plaintiff and other aggrieved employees in this county.

10. The California Superior Court has jurisdiction over this matter. The individual claims are under the seventy-five thousand dollar (\$75,000.00) jurisdictional threshold for federal court and PAGA penalties cannot be aggregated to meet the minimum jurisdictional amount required for diversity removal. Further, there is no federal question at issue as the issues

herein are based solely on California statutes and law, including, but not limited to, the California Labor Code, Industrial Welfare Commission Wage Orders, California Code of Civil Procedure, and California Rules of Court.

GENERAL ALLEGATIONS

11. In or around September 2015, Defendants hired Plaintiff as a “ New Truck Salesperson.” Plaintiff was compensated on a commission basis only. He did not receive any hourly wages for his work. On many occasions, Plaintiff and aggrieved employees would work more than 8 hours per day or 40 hours per week at Defendant’s sales center without overtime compensation. Plaintiff and aggrieved employees would perform sales functions while working at Defendant’s offices and would also meet clients or potential clients outside Defendant’s offices to facilitate vehicle sales.

12. Plaintiff and aggrieved employees would use their personal cellular phone and personal vehicles to conduct business activities on behalf of Defendant. Plaintiff and aggrieved employees were not reimbursed for these expenses.

13. Employer regularly did not have enough employees to provide sufficient coverage to maintain their business operations so Complainant and similarly aggrieved employees could not take complete, timely and uninterrupted meal and rest breaks.

14. Pursuant to Labor Code section 2699, subdivision (a), any provision of the Labor Code that provides for a civil penalty to be assessed and collected by the LWDA or any of its departments, divisions, commissions, boards, agencies or employees for violation of the code may, as an alternative, be recovered through a civil action brought by an aggrieved employee on behalf of himself or herself and other current or former employees pursuant to the procedures specified in Labor Code section 2699.3.

15. For all provisions of the Labor Code except those for which a civil penalty is specifically provided, Labor Code section 2699, subdivision (f) imposes upon Defendant a penalty of one hundred dollars (\$100.00) for each aggrieved employee per pay period for the initial violation and two hundred dollars (\$200.00) for each aggrieved employee per pay period

1 for each subsequent pay period in which Defendant violated these provisions of the Labor Code.

2 16. Defendant's conduct during the PAGA period with respect to Plaintiff and the
3 aggrieved employees violates numerous Labor Code sections as detailed herein.

4 17. Plaintiff alleges that Defendant has engaged in a systematic pattern of wage and
5 hour violations under the California Labor Code and IWC Wage Orders.

6 18. At all relevant times herein, Defendant employed Plaintiff and other aggrieved
7 employees as non-exempt employees.

8 19. Plaintiff is informed and believes, and based thereon alleges, that Defendant knew
9 or should have known that Plaintiff and aggrieved employees were entitled to receive wages for
10 all hours worked, including the applicable minimum, regular, and overtime wages, and that they
11 were not receiving all wages earned for work that was required to be performed. In violation of
12 the Labor Code and IWC Wage Orders, Defendant failed to pay Plaintiff and aggrieved
13 employees' for all hours worked. Accordingly, Defendant failed to pay Plaintiff and aggrieved
14 employees all earned minimum, regular, and/or overtime compensation.

15 20. Plaintiff is informed and believes, and based thereon alleges, that Defendant knew
16 or should have known that Plaintiff and aggrieved employees were entitled to receive all required
17 meal periods or payment of one (1) additional hour of pay at Plaintiff and aggrieved employees'
18 regular rate of pay when they did not receive a timely, uninterrupted off-duty meal period. In
19 violation of the Labor Code and IWC Wage Orders, Defendant had a pattern, practice, and policy
20 of not providing timely meal periods. Defendant failed to pay an additional hour of pay to
21 Plaintiff and aggrieved employees for late meal periods. As a result of Defendant's unlawful
22 policy and practice, Plaintiff and aggrieved employees did not receive all meal periods or
23 payment of one (1) additional hour of pay at Plaintiff's and aggrieved employees' regular rate of
24 pay when they did not receive a timely, uninterrupted 30 minute off-duty meal period.

25 21. Plaintiff is informed and believes, and based thereon alleges, that Defendant knew
26 or should have known that Plaintiff and aggrieved employees were entitled to receive all required
27 rest periods or payment of one (1) additional hour of pay at Plaintiff and aggrieved employees'
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1 regular rate of pay when they did not receive a timely, uninterrupted off-duty rest period. In
2 violation of the Labor Code and IWC Wage Orders, Defendant had a pattern, practice, and policy
3 of not providing timely rest periods. Defendant failed to pay an additional hour of pay to Plaintiff
4 and aggrieved employees for each rest periods was not provided or was interrupted. As a result
5 of Defendant's unlawful policy and practice, Plaintiff and aggrieved employees did not receive
6 all required rest periods or payment of one (1) additional hour of pay at Plaintiff's and aggrieved
7 employees' regular rate of pay when they did not receive a timely, uninterrupted 10 minute off-
8 duty rest period.

9 22. Plaintiff is informed and believes, and based thereon alleges, that Defendant knew
10 or should have known that Plaintiff and certain aggrieved employees were entitled to timely
11 payment of wages due upon separation of employment. In violation of the Labor Code, Plaintiff
12 and certain aggrieved employees did not receive payment of all wages due, within permissible
13 time periods, upon separation of employment.

14 23. Plaintiff is informed and believes, and based thereon alleges, that Defendant knew
15 or should have known that Plaintiff and aggrieved employees were entitled to receive itemized
16 wage statements that accurately showed their actual hours worked, total hours worked, number
17 of hours worked at each hourly rate, gross and net wages earned, and correct employer
18 information in accordance with California law. In violation of the Labor Code, Plaintiff and
19 aggrieved employees were not provided with accurate itemized wage statements that accurately
20 reported their gross and net wages earned, total hours worked, each applicable rate of pay in
21 effect during the pay period with the corresponding number of hours worked, and the address of
22 the legal entity that is the employer, among other things.

23 24. Plaintiff is informed and believes, and thereon alleges, that Defendant knew or
24 should have known that Defendant was required to maintain accurate records of the hours
25 worked by Plaintiff and aggrieved employees. In violation of the Labor Code, Defendant failed
26 to maintain accurate records of hours worked by Plaintiff and aggrieved employees due to its
27 unfair rounding practices, among other things.
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1 **FIRST CAUSE OF ACTION**

2 **(Civil Penalties Under the Private Attorneys General Act,**

3 **Labor Code § 2699 et seq., For Violations of the Labor Code)**

4 25. By this complaint, Plaintiff brings this case as a representative action seeking
5 penalties for himself, the aggrieved employees, and the State of California in a representative
6 capacity, as provided by the PAGA, Labor Code sections 2698 et seq. Plaintiff is an aggrieved
7 employee who was employed by Defendant and subject to at least one of the Labor Code
8 violations set forth in Labor Code section 2699.5. Plaintiff specifically alleged the following in
9 his notice to the LWDA and Defendants: violation of Labor Code sections 201, 202, 203, 204,
10 226, 226.3, 226.7, 510, 512, 558, 1174, 1174.5, 1182.12, 1194, 1194.2, 1197, 1197.1, and 1198.

11 26. Under Labor Code section 2699.3, subdivision (a), a plaintiff may bring a cause
12 of action under PAGA only after giving the LWDA and the employer notice of the Labor Code
13 sections alleged to have been violated, and after receiving notice from the LWDA of its intention
14 not to investigate, or after 65 days have passed without notice from the LWDA.

15 27. Prior to filing this complaint, on August 11, 2020, Plaintiff gave written notice of
16 the specific provisions alleged to have been violated, including the facts and theories to support
17 the alleged violations, as required by Labor Code section 2699.3. The written notice was given
18 via certified mail to Defendants, and the LWDA by electronically filing the notice via the
19 Department of Industrial Relations website. Plaintiff was given an LWDA case number of
20 LWDA-CM-802082-20. A true and correct copy of Plaintiff's notice to the LWDA and
21 Defendant(s), dated August 11, 2020. is attached hereto as Exhibit A.

22 28. The LWDA has not provided Plaintiff with any notice that it intends to investigate
23 the violations as alleged in Plaintiff's August 11, 2020 notice, and more than 65 calendar days
24 have elapsed since the postmark date on the notice.

25 29. California Labor Code §§2698-2699.5, in relevant part provides, "any provision
26 of this code that provides for a civil penalty to be assessed and collected by the Labor and
27 Workforce Development Agency...for a violation of this code, may, as an alternative, be
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1 recovered through a civil action brought by an aggrieved employee on behalf of himself or
2 herself and other current or former employees pursuant to the procedures specified in Section
3 2699.3.”

4 30. As an aggrieved employee, Plaintiff brings this civil action to recover civil
5 penalties for Defendant’s Labor Code violations.

6 **FIRST VIOLATION**

7 **(Failure to Provide Meal Periods, in Violation of Labor Code Section 512)**

8 31. Under California Labor Code §512(a), “An employer may not employ an
9 employee for a work period of more than five hours per day without providing the employee
10 with a meal period of not less than 30 minutes, except that if the total work period per day of the
11 employee is no more than six hours, the meal period may be waived by mutual consent of both
12 the employer and employee.”

13 32. Defendant violated Labor Code § 512 by failing to provide Plaintiff, and other
14 qualifying employees who worked shifts of greater than five hours, meal periods within the first
15 five hours of the shifts worked. Defendant failed to pay Plaintiff one hour’s pay at Plaintiff’s
16 regular rate of pay for each day Defendant failed to provide a meal period in compliance with
17 section 512.

18 **SECOND VIOLATION**

19 **(Failure to Provide Complete and Accurate Wage Statements,**
20 **in Violation of Labor Code Section 226)**

21 33. Under California Labor Code §226(a), an employer is legally obligated to provide
22 its employees, semi-monthly or at the time of payment of wages, “an accurate itemized statement
23 in writing...”

24 34. Plaintiff, on behalf of the State of California and the LWDA, seeks civil penalties
25 for Defendant’s Labor Code violations alleged herein, as well as attorney’s fees and costs, under
26 Labor Code § 2699.
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1 following calendar month. In addition, California Labor Code § 204 provides that all wages
2 earned for labor in excess of the normal work period shall be paid no later than the payday of the
3 next regular payroll period.

4 40. Plaintiff, on behalf of the State of California and the LWDA, seeks civil penalties
5 for Defendant's Labor Code violations alleged herein, as well as attorney's fees and costs, under
6 Labor Code § 2699.

7 **SIXTH VIOLATION**

8 **(Failure to Pay All Wages Due to Discharged and Quitting Employees)**

9 41. Pursuant to California Labor Code § 201, 202, and 203, Defendants are required
10 to pay all earned and unpaid wages to an employee who is discharged. California Labor Code §
11 201 mandates that if an employer discharges an employee, the employee's wages accrued and
12 unpaid at the time of discharge are due and payable immediately.

13 42. Plaintiff, on behalf of the State of California and the LWDA, seeks civil penalties
14 for Defendant's Labor Code violations alleged herein, as well as attorney's fees and costs, under
15 Labor Code § 2699.

16 **SEVENTH VIOLATION**

17 **(Failure to Reimburse Business Expenses)**

18 43. Labor Code section 2802 provides that an employer shall indemnify his or her
19 employee for all necessary expenditures or losses incurred by the employee in direct
20 consequence of the discharge of his or her duties, or of his or her obedience to the directions of
21 the employer.

22 44. Defendant failed to indemnify Plaintiff and aggrieved employees for all necessary
23 expenditures or losses incurred by Plaintiff and aggrieved employees in direct consequence of
24 the discharge of their duties. Furthermore, Plaintiff and aggrieved employees were required to
25 use their personal cellphones in the course and scope of their employment to carry out their
26 employment duties, including without limitation contacting clients and communicating with
27 their supervisors for instructions or to provide status reports and communicating with current or
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1 potential customers regarding the status of their orders or potential orders. In addition, Plaintiff
2 and aggrieved employees would be required to meet Defendants clients or potential clients to
3 facilitate vehicle sales. Plaintiff and aggrieved employees were not provided reimbursement for
4 the reasonable usage of their personal cellphone and their vehicles by Defendant.

5 45. In violation of the Labor Code, Defendant failed to reimburse Plaintiff and
6 aggrieved employees for these business-related expenditures.

7 46. By virtue of Defendant's unlawful actions, Plaintiff and the aggrieved employees
8 have suffered, and will continue to suffer, damages in amounts which are presently unknown,
9 but will be ascertained according to proof at trial.

10 47. Plaintiff seeks recovery of civil penalties individually, on behalf of the aggrieved
11 employees and the State of California for violations of Labor Code section 2802 during the
12 PAGA period, in a sum as provided by the Labor Code and/or other statutes.

13 48. Plaintiff, individually and on behalf of the aggrieved employees and the State of
14 California also seeks attorneys' fees and costs pursuant to Labor Code section 2699, subdivision
15 (g) and Code of Civil Procedure section 1021.5.
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18 **PRAYER FOR RELIEF**

19 **WHEREFORE**, Plaintiff prays for the following relief:

- 20 1. For penalties in an amount according to proof;
21 2. For reasonable attorney's fees and costs pursuant to the PAGA; and
22 3. For such other and further relief as this Court may deem just and proper.
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24 Respectfully Submitted,

25 Dated: October 29, 2020

WORK LAWYERS, PC

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27 By: 
28 Justin Lo, Esq.
Attorney for Plaintiff