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SUPERIOR COURT OF STATE OF CALIFORNIA

COUNTY OF LOS ANGELES

WILLIAM MARTINEZ, an individual, on
behalf of himself and all others similarly
aggrieved,

Plaintiff,

v.

PATRIOT HYUNDAI OF EL MONTE LLC, a
California limited liability company; REZA
MAZAHARI, an individual; and DOES 1-50,
inclusive,

Defendants.

CASE NO. **21STCV25134**

**PRIVATE ATTORNEYS GENERAL
ACT ("PAGA") REPRESENTATIVE
COMPLAINT**

JURY TRIAL DEMANDED

1 Plaintiff WILLIAM MARTINEZ (“Plaintiff”), an individual, on behalf himself and all other
2 similarly aggrieved employees (“Aggrieved Employees”), hereby files this Complaint against
3 Defendant PATRIOT HYUNDAI OF EL MONTE LLC, Defendant REZA MAZAHERI
4 (collectively referred to hereinafter as “Defendant”) and DOES 1-50, inclusive, Plaintiff alleges as
5 follows:

6 **THE PARTIES**

7 1. Plaintiff is, and at relevant times was, an individual domiciled in the State of California
8 and a citizen of the State of California who worked as a non-exempt employee for Defendant
9 PATRIOT HYUNDAI OF EL MONTE LLC, in the State of California, from approximately May
10 2019 until July 15, 2020.

11 2. Defendant PATRIOT HYUNDAI OF EL MONTE LLC is a California limited liability
12 company that, at all relevant times, was authorized to do business within the State of California and
13 is doing business in the State of California.

14 3. On information and belief, Defendant REZA MAZAHERI is a natural person residing
15 in the State of California and is, and at all relevant times has been, the owner, director, officer,
16 employee, and/or managing agent of Defendant PATRIOT HYUNDAI OF EL MONTE LLC, and
17 had direct control and power over the working conditions and the violations at issue in this
18 Complaint and at all relevant times was acting on behalf of Defendant PATRIOT HYUNDAI OF
19 EL MONTE LLC. On information and belief, REZA MAZAHERI devised and implemented the
20 policies at issue in this complaint and “caused” these violations to occur and, under Labor code §§
21 558.1 and 1197.1, REZA MAZAHERI may be held liable as the employer for such violations.

22 4. The true names and capacities of the DOE Defendants sued herein as DOES 1 through
23 50, inclusive, are currently unknown to Plaintiff, who therefore sues each such Defendant by said
24 fictitious names. Each of the Defendants designated herein as a DOE is legally responsible for the
25 unlawful acts alleged herein. Plaintiff will seek leave of Court to amend this Complaint to reflect
26 the true names and capacities of the Doe Defendants when such identities become known.

27 5. Plaintiff is further informed and believes that, at all relevant times, each Defendant
28 was the principal, agent, partner, joint venturer, joint employer, officer, director, controlling

1 shareholder, subsidiary, affiliate, parent corporation, successor in interest and/or predecessor in
2 interest of some or all of the other Defendants, and was engaged with some or all of the other
3 defendants in a joint enterprise for profit, and bore such other relationships to some or all of the
4 other Defendants so as to be liable for their conduct with respect to the matters alleged in this
5 complaint. Plaintiff is further informed and believes and thereon alleges that each Defendant acted
6 pursuant to and within the scope of the relationships alleged above, and that at all relevant times,
7 each Defendant knew or should have known about, authorized, ratified, adopted, approved,
8 controlled, aided and abetted the conduct of all other Defendants.

9 6. At all relevant times, Defendant was and is legally responsible for all of the unlawful
10 conduct, policies, practices, acts and omissions complained of herein. Further, Defendant is
11 responsible for each of the unlawful acts or omissions complained of herein under the doctrine of
12 respondent superior. The conduct of Defendant's managers and supervisors was at all relevant
13 times undertaken as employees of Defendant, acting within the scope of their employment or
14 authority in all of the unlawful activities described herein.

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

18 **JURISDICTION AND VENUE**

19 8. This court possesses original subject matter jurisdiction over this matter. Venue is proper
20 in Los Angeles County, California, because Defendant PATRIOT HYUNDAI OF EL MONTE
21 LLC has its principal place of business in Los Angeles County.

22 **FACTUAL ALLEGATIONS**

23 9. During the one-year and sixty-five day period preceding filing of this Complaint, Plaintiff
24 was employed by Defendant as a non-exempt employee in the State of California. Defendant, at
25 all relevant times, exercised control over Plaintiff and the other aggrieved employees (as defined
26 below) and suffered and/or permitted them to work.

27 10. Plaintiff worked for Defendant as a non-exempt sales representative from approximately
28 May 2019 until he resigned from his employment on July 15, 2020. Plaintiff typically worked

1 ten to twelve hours per day, five (5) to six (6) days per week. Plaintiff was paid hourly and
2 compensated with commission and bonus pay.

3 11. Plaintiff was consistently unable to take timely, off-duty, uninterrupted thirty-minute meal
4 periods. Plaintiff was often forced to work through his meal periods or forced to take late,
5 shortened, interrupted and/or on-duty meal periods due to his workload/commentary from
6 supervisors pressuring Plaintiff to take improper meal periods or skip meal periods completely.
7 Plaintiff was required to constantly monitor his cell phone/other communication devices to
8 respond to customer inquiries and attend to walk-in customers during meal periods, rendering any
9 meal periods on duty. Plaintiff did not execute a written on-duty meal period waiver agreement.
10 Also, second meal periods were never provided for those shifts that Plaintiff worked more than
11 ten (10) hours. Defendant failed to pay Plaintiff an additional hour of pay at Plaintiff's regular
12 rate of pay for each missed or improper meal period, and if Defendant did pay a meal period
13 premium it was not paid at the proper rate of pay because Defendant failed to include all non-
14 discretionary remunerations, including but not limited to, commission and/or bonus pay, into the
15 regular rate of pay for purposes of calculating the owed meal period premiums.

16 12. Plaintiff did not receive compliant, timely 10 (ten)- minute rest periods for every four
17 (4) worked hours or major fraction thereof. Plaintiff was often required to work through all or
18 part of his rest periods due to his workload/commentary from supervisors pressuring Plaintiff to
19 take improper rest periods or skip his rest periods completely. Plaintiff was required to constantly
20 monitor his cell phone/other communication devices to respond to customer inquiries and attend
21 to walk-in customers during any rest periods and had to remain on the work premises during any
22 rest periods, thus remaining under employer control and rendering said rest periods improper.
23 Notably, Plaintiff was never provided any sort of third rest period for shifts during which he
24 worked more than ten hours. Plaintiff was not paid rest period premiums for these
25 missed/improper rest periods.

26 13. During Plaintiff's employment, Plaintiff was forced to perform off-the-clock work, *to wit*:
27 When paid on a commission-only basis, Plaintiff was not compensated separately for non-
28 commission generating/non-sales activities, including but not limited to, rest periods, meetings,

1 training, waiting/standby time, setting up/closing down time, among other job activities integral
2 and indispensable to his employment. This resulted in the underpayment of minimum wages and
3 overtime pay.

4 14. Defendant further violated California's overtime wage laws by failing to incorporate all
5 non-discretionary remunerations, including but not limited to, commission and/or bonus pay, into
6 the regular pay rate for purposes of calculating the owed overtime rate of pay, during those pay
7 periods when compensating Plaintiff on an hourly and commission/bonus basis. This resulted in
8 the miscalculation and underpayment of owed overtime wages as well as record-keeping
9 violations.

10 15. Defendant failed to reimburse Plaintiff for all necessary business-related expenditures
11 incurred by Plaintiff in direct discharge of his duties, including, cell phone expenses. Plaintiff
12 was regularly required to use his personal cell phone to perform his job duties, including but not
13 limited to, for scheduling and sales calls but was not reimbursed for the expenses associated with
14 this cell phone use.

15 16. Additionally, Defendant failed to provide wage statements that complied with Labor
16 Code section 226. Among other things, Plaintiff's paystubs did not accurately reflect, gross
17 wages earned, total hours worked, net wages earned, all applicable hourly rates in effect during
18 each pay period and all hours worked at each applicable hourly rate. Accordingly, Defendant has
19 violated Labor Code section 226 as to Plaintiff.

20 17. Upon separation of employment, Defendant failed to furnish Plaintiff with his final
21 paycheck containing all earned and owed wages. Plaintiff's final paycheck did not include all
22 remuneration owed to Plaintiff as it was devoid of, including but not limited to, all owed
23 minimum and overtime wages. Defendant also failed to furnish Plaintiff any final paycheck
24 within the time limits prescribed by law.

25 18. Plaintiff brings this complaint under the Private Attorneys General Act of 2004, Labor
26 Code sections 2698, *et seq.*, ("PAGA"), as a representative action on behalf of the State of
27 California, regarding violations of the Labor Code as to all similarly aggrieved individuals
28 employed by Defendant in the State of California as a non-exempt employee. This action is

1 brought solely pursuant to PAGA and seeks no relief beyond that available under PAGA.

2 19. During the period beginning one-year period preceding the filing of the required PAGA
3 notice with the Labor Workforce and Development Agency, and continuing through the present, as
4 alleged herein, Defendant violated Labor Code sections 201-202, 204, 216, 221-223, 226, 226.7,
5 510, 512, 558, 558.1, 1174, 1194, 1197, 1198, 1199, 2802, and all relevant sections of the
6 applicable Wage Orders, as to Plaintiff and all Aggrieved Employees employed by Defendant
7 who worked as non-exempt employees, whether paid on an hourly, commission, and/or piece-rate
8 basis. These violations subject Defendant to civil penalties as set forth in the foregoing
9 statutes as well as other provisions of the Labor Code, including without limitation Labor
10 Code sections 203, 225.5, 256, 210, 1174.5, 1197.1 and 2699.

11 **THE "AGGRIEVED EMPLOYEES"**

12 20. Plaintiff brings this action on behalf of himself and all similarly situated aggrieved
13 employees. The other Aggrieved Employees shall be defined as follows: "All non-exempt
14 employees, including those paid on an hourly, commission and/or piece-rate basis, who were
15 employed in California directly by Defendant at any time within the one year and sixty-five days
16 prior to the filing of the initial complaint."

17 **FIRST CAUSE OF ACTION**

18 **VIOLATION OF PRIVATE ATTORNEYS GENERAL ACT,**
19 **LABOR CODE SECTIONS 2698, ET SEQ.**

20 21. Plaintiff incorporates all preceding paragraphs as if fully alleged herein.

21 22. Under the Labor Code and IWC Wage Orders, Defendant was required to provide
22 Plaintiff and the Aggrieved Employees with one 30-minute meal break free from all duties for all
23 shifts longer than 5 hours, and a second 30-minute meal break free from all duties for all shifts
24 longer than 10 hours. Meal periods can be waived, but only under the following circumstances: (1)
25 if an employee's total work period in a day is over five (5) hours but no more than six (6) hours,
26 the required meal period may be waived by mutual consent of the employer and employee, and (2)
27 if an employee's total work period in a day is over ten (10) hours but no more than twelve (12)
28 hours, the required second meal period may be waived by mutual consent of the employer and

1 employee, but only if the first meal period was not waived. Employers covered by the Wage Orders
2 have an obligation to both (1) relieve their employees for at least one meal period for shifts over
3 five hours (see above), and (2) to record having done so. If the employer fails to properly record a
4 valid meal period, it is presumed no meal period was provided.

5 23. Plaintiff and the Aggrieved Employees regularly worked periods of more than five (5) hours
6 in a workday without being provided a mandatory thirty-minute, duty-free meal period, and
7 regularly worked periods of more than ten hours in a workday without being provided a
8 mandatory second thirty-minute, duty-free meal period. Plaintiff and the Aggrieved Employees
9 were consistently unable to take timely, off-duty, uninterrupted thirty-minute meal
10 periods. Plaintiff and the Aggrieved Employees were often forced to work through their meal
11 periods or forced to take late, shortened, interrupted and/or on-duty meal periods due to their
12 workload/commentary from supervisors pressuring them to take improper meal periods or skip
13 meal periods completely. Plaintiff and the Aggrieved Employees were required to constantly
14 monitor their cell phones/other communication devices to respond to customer inquiries and
15 attend to walk-in customers during meal periods, rendering any meal periods on duty. Plaintiff
16 and the Aggrieved Employees did not execute written on-duty meal period waiver agreements.
17 Also, second meal periods were never provided for those shifts that Plaintiff and the Aggrieved
18 Employees worked more than ten (10) hours. Defendant failed to pay Plaintiff and the Aggrieved
19 Employees an additional hour of pay at their regular rates of pay for each missed or improper
20 meal period, and if Defendant did pay a meal period premium it was not paid at the proper rate of
21 pay because Defendant failed to include all non-discretionary remunerations, including but not
22 limited to, commission and/or bonus pay, into the regular rate of pay for purposes of calculating
23 the owed meal period premiums.

24 24. Defendant failed to provide Plaintiff and the Aggrieved Employees all required and/or
25 fully compliant rest periods, or compensation in lieu thereof. Defendant employed policies and
26 procedures that ensured Plaintiff and the Aggrieved Employees would not receive all legally
27 required rest periods, as Defendant did not authorize nor permit all required rest periods in
28 compliance with the timing requirements of all applicable Wage Orders. Plaintiff and the

1 Aggrieved Employees did not receive compliant, timely 10 (ten)- minute rest periods for every
2 four (4) hours worked or major fraction thereof. Plaintiff and the Aggrieved Employees were
3 often required to work through all or part of their rest periods due to their workload/commentary
4 from supervisors pressuring Plaintiff and the Aggrieved Employees to take improper rest periods
5 or skip their rest periods completely. Plaintiff and the Aggrieved Employees were required to
6 constantly monitor their cell phones/other communication devices to respond to customer
7 inquiries and attend to walk-in customers during any rest periods and had to remain on the work
8 premises during any rest periods and thus remained under employer control, thereby rendering
9 said rest periods improper. Notably, Plaintiff and the Aggrieved Employees were never provided
10 any sort of third rest period for shifts during which they worked more than ten hours. Plaintiff and
11 the Aggrieved Employees were not paid rest period premiums for these missed/improper rest
12 periods.

13 25. California law provides employees in California must be paid for all hours worked, up to
14 40 per week or eight (8) per day, at a regular time rate no less than the mandated minimum wage.
15 California law also provides employees in California must be paid overtime, equal to 1.5 times the
16 employee's regular rate of pay, for all hours worked in excess of 40 per week or eight (8) per day.
17 Plaintiff and the Aggrieved Employees regularly worked time for which they were not
18 compensated, *to wit*: Plaintiff and the Aggrieved Employees were not compensated separately for
19 non-commission generating/non-sales activities, including but not limited to, rest periods,
20 meetings, training, waiting/standby time, setting up/closing down time, among other job activities
21 integral and indispensable to their employment. This resulted in the underpayment of minimum
22 wages and overtime pay.

23 26. Defendant further violated California's overtime wage laws by failing to incorporate all
24 non-discretionary remunerations, including but not limited to, commission and/or bonus pay, into
25 the regular pay rate for purposes of calculating the owed overtime rate of pay and therefore
26 miscalculated and underpaid owed overtime wages.

27 27. California law provides that, at the time of each payment of wages, the employer must
28 provide each employee with an itemized statement showing, *inter alia*, gross wages earned, total

1 hours worked, all deductions taken, net wages earned, the inclusive dates for which the employee
2 is being paid, the employee's name and last four digits of their social security number, the name
3 and address of the legal entity that it is the employer, and all applicable hourly rates in effect during
4 the pay period and all hours worked at each rate. Defendant knowingly and intentionally failed to
5 provide Plaintiff and the Aggrieved Employees with proper, itemized wage statements as the wage
6 statements provided by Defendant do not accurately reflect, *inter alia*, all gross wages earned, all
7 net wages earned, and all applicable hourly rates in effect during each pay period and all hours
8 worked at each applicable hourly rate.

9 28. California law requires employers to keep "accurate and complete" payroll records
10 showing, among other things, the hours worked daily by all non-exempt employees. Section 7 of
11 all applicable IWC Wage Orders similarly requires employers to keep time records showing, *inter-*
12 *alia*, when the employees begin and end each work period and reflecting the times during which
13 all owed meal periods are provided each day. At all relevant times, Defendant has failed, and
14 continues to fail, to keep the required time records, as Defendant did not record the true start and
15 stop times of Plaintiff and the Aggrieved Employees' workdays and failed to record employee meal
16 periods. Defendant's failure to keep "accurate and complete" payroll records for Plaintiff and the
17 Aggrieved Employees violates Labor Code sections 1174, 1198-99, and Section 7 of all applicable
18 IWC Wage Orders. These violations subject Defendant to civil penalties under the Labor Code,
19 including without limitation sections 1174.5 and 2699. Each violation of each Labor Code section
20 and Wage Order provision, for each aggrieved employee, results in a separate civil penalty.

21 29. California Labor Code section 204 requires an employer to pay employees all wages due
22 and payable at least twice each calendar month. Defendant failed to comply with Labor Code
23 section 204 by failing to timely pay twice during each calendar month all wages due and payable
24 to Plaintiff and the Aggrieved Employees. Defendant's violations of Labor Code section 204
25 subject Defendant to civil penalties, including but not limited to the penalties set forth in California
26 Labor Code sections 210 and 2699. Each violation results in a separate civil penalty, for each
27 Aggrieved Employee for each pay period during which the statutory provisions were violated.

28 30. Labor Code section 201 requires employers to pay all wages earned and unpaid at the time

1 of discharge, immediately upon discharge. Labor Code section 202 states similar provisions with
2 respect to employees who resign. For all Aggrieved Employees no longer employed by Defendant,
3 Defendant still has not paid such aggrieved employees all wages earned and unpaid at the time of
4 discharge, in that Defendant has not paid for, *inter alia*, all owed minimum and overtime wages.
5 Moreover, Defendant failed to provide the Aggrieved Employees with any final paycheck within
6 the time limits prescribed by law due to its policy of not furnishing its final paychecks until the pay
7 period subsequent to the employees' date of separation rather than immediately upon
8 termination/resignation or within 72 hours of resignation. These violations subject Defendant to
9 civil penalties under the Labor Code, including without limitation Labor Code sections 203, 256
10 and 2699. Each violation results in a separate civil penalty, for each Aggrieved Employee for each
11 pay period during which the statutory provisions were violated.

12 31. Labor Code section 216 declares unlawful an employer's refusal to pay wages due and
13 payable and/or denial of the validity of any claim to wages due. Defendant violated/violates this
14 section by failing to pay Plaintiff and the Aggrieved Employees for all hours worked at the proper
15 wage rate and by failing to pay Plaintiff and the Aggrieved Employees an additional hour of pay
16 for each meal/rest period not provided/that was invalid. These violations subject Defendant to
17 civil penalties under Labor Code section 225.5. Each violation results in a separate civil penalty,
18 for each aggrieved employee, for each pay period during which the statute provisions were
19 violated.

20 32. California Labor Code section 223 makes it unlawful for an employer to secretly pay
21 wages lower than required by statute while purporting to pay legal wages. As described above,
22 Defendant willfully and systematically denied Plaintiff and the Aggrieved Employees minimum
23 and overtime wage compensation for all hours worked which resulted in the payment of less than
24 statutorily required wages to them. Defendant acted with the intent to deprive them of statutory
25 wages, including, but not limited to, overtime wages and minimum wages, to which they were
26 entitled to under California law.

27 33. California Labor Code section 2802 requires employers to indemnify employees for all
28 necessary expenditures incurred by employees in the direct discharge of their duties. Defendant

1 failed to reimburse Plaintiff and the Aggrieved Employees for all necessary business-related
2 expenditures incurred by Plaintiff and the Aggrieved Employees in direct discharge of their
3 duties, including but not limited to, cell phone expenses. Plaintiff and the Aggrieved Employees
4 were regularly required to use their personal cell phones to perform their job duties, including but
5 not limited to, for scheduling and sales calls, but were not reimbursed for the expenses associated
6 with this cell phone use. In failing indemnify all business-related expenses incurred by Plaintiff
7 and the Aggrieved Employees, Defendant has violated Labor Code section 2802. This violation
8 subjects Defendant to civil penalties under Labor Code sections 2802, 558, 558.1 and 2699. Each
9 violation of each Labor Code section and Wage Order provision, for each aggrieved employee,
10 results in a separate civil penalty.

11 34. Under the provisions of PAGA and Labor Code sections 201-202, 204, 216, 221-223, 226,
12 226.7, 510, 512, 558, 558.1, 1174, 1194, 1197, 1198, 1199, and 2802, and all relevant sections of
13 the applicable Wage Orders, as well as all interpretations of these laws by California Courts and
14 administrative bodies, as well as any other law that is enforceable through PAGA, Defendant is
15 liable for all statutorily-specified penalties recoverable under PAGA as enumerated in the
16 relevant California Labor Code provisions listed herein, or for default PAGA penalties under
17 Labor Code Section 2699(f) for any violation of a Labor Code section without a specified civil
18 penalty.

19 35. Plaintiff complied with the procedures for bringing suit specified in Labor Code sections
20 2699.3 and 2699.5. On November 18, 2020, Plaintiff gave written notice to the California Labor
21 and Workforce Development Agency (“LWDA”) via electronic mail at PAGAfilings@dir.ca.gov
22 and to Defendant via certified mail 65 days prior to this Complaint of the specific provisions of
23 the Labor Code and Wage Orders allegedly violated, including the facts and theories to support
24 the alleged violations.

25 36. Under Labor Code section 2699.3, the LWDA must give written notice by certified mail
26 to the parties it intends to investigate the alleged violations within 65 days of the date of
27 Plaintiff’s written notice. As of the expiration of the statutory exhaustion period, the LWDA has
28 not provided the parties any notice of its intention to investigate Plaintiff’s claims on behalf of the

1 State of California and the Aggrieved Employees. As of the filing of this Complaint, Defendant
2 has not responded to Plaintiff's PAGA notice in an attempt to cure. Accordingly, Plaintiff has
3 exhausted all administrative remedies required by law.

4 37. Pursuant to Labor Code section 2699(g), and/or any and all other applicable laws,
5 Plaintiff is entitled to recover civil penalties, costs, plus reasonable attorney's fees and costs, all
6 in an amount to be proved.

7 **PRAYER**

8 WHEREFORE, Plaintiff, prays for judgment against each Defendant, jointly and severally,
9 as follows:

- 10 1. For civil penalties according to proof;
11 2 For reasonable attorney's fees and costs of suit; and
12 3. For such other and further relief as the Court deems just and proper.

13
14 Dated: July 8, 2021

CROSNER LEGAL, P.C.

15 

16 Michael R. Crosner
17 Zachary M. Crosner
18 Blake R. Jones
Attorneys for Plaintiff WILLIAM MARTINEZ

19
20 **DEMAND FOR JURY TRIAL**

21 Plaintiff WILLIAM MARTINEZ demands a trial by jury on all claims so triable.

22
23 Dated: July 8, 2021

CROSNER LEGAL, P.C.

24 

25 Michael R. Crosner
26 Zachary M. Crosner
27 Blake R. Jones
28 Attorneys for Plaintiff WILLIAM MARTINEZ