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FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN BERNARDINO
SAN BERNARDINO DISTRICT

NOV 03 2021

BY Karina Venegas
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Attorneys for Plaintiff
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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF SAN BERNARDINO

Martin Valdivia, individually, and on
behalf of other aggrieved employees
pursuant to the California Private
Attorneys General Act;

Plaintiff,

vs.

Martin Saturn of Ontario, Inc., a Delaware
corporation; and DOES 1-50, inclusive,

Defendants.

Case No.: **CIV SB 2131234**

**COMPLAINT FOR CIVIL PENALTIES
AND ENFORCEMENT UNDER THE
PRIVATE ATTORNEYS GENERAL ACT**

**(1) VIOLATION OF CALIFORNIA
LABOR CODE § 2698, ET SEQ.
(CALIFORNIA PRIVATE
ATTORNEYS GENERAL ACT OF
2004)**

DEMAND FOR JURY TRIAL

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1 Plaintiff MARTIN VALDIVIA (“Plaintiff”), individually, and on behalf of other
2 aggrieved employee pursuant to the California Private Attorneys General Act, hereby brings this
3 complaint, demanding a trial by jury, against the above-named Defendants and states and alleges
4 as follows:

5 **THE PARTIES**

6 1. At all times mentioned herein, Plaintiff was an individual and a resident of the State
7 of California.

8 2. At all times mentioned herein, Defendant MARTIN SATURN OF ONTARIO, INC.
9 (“Defendant”) was, upon information and belief, a Delaware corporation, doing business in the
10 State of California, County of San Bernardino at 1195 Auto Center Drive, Ontario, California
11 91761. At the time the causes of action arose, Defendants MARTIN SATURN OF ONTARIO,
12 INC. and DOES 1 through 50 were Plaintiff’s employers (collectively referred to as
13 “Defendants”).

14 3. The true names and capacities, whether individual, corporate, associate or otherwise
15 of DOES 1 through 50 are unknown to Plaintiff who therefore sues these defendants under
16 fictitious names. Plaintiff is informed and believes that each of the Doe defendants are legally
17 responsible in some manner for the events referred to in this Complaint, and are/were the agents,
18 partners, joint venturers, joint employers, representatives, servants, employees, successors-in-
19 interest, co-conspirators and/or assigns, each of the other, and at all times relevant hereto were
20 acting within the course and scope of their authority as such agents, partners, joint venturers, joint
21 employers, representatives, servants, employees, successors, co-conspirators and/or assigns, and
22 all acts or omissions alleged herein were duly committed with the ratification, knowledge,
23 permission, encouragement, authorization and/or consent of each defendant designated as a DOE
24 herein. Plaintiff will in the future seek leave of this court to show the true names and capacities
25 of these Doe defendants when it has been ascertained.

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5. This representative action is brought pursuant to the California Code of Civil Procedure section 382. The monetary damages and restitution Plaintiff seeks exceed the minimal jurisdiction limits of the Superior Court and will be established according to proof at trial.

6. Pursuant to the California Constitution, Article VI, Section 10, which grants the superior court “original jurisdiction in all other causes” except those given by statute to other courts, this Court has jurisdiction over this representative action. The statutes under which this representative action is brought do not specify any other basis for jurisdiction.

7. This Court has jurisdiction over Defendant because, upon information and belief, Defendant is a citizen of California, has sufficient minimum contacts in California, or otherwise intentionally avails itself of the California market so as to render the exercise of jurisdiction over it by California courts consistent with traditional notions of fair play and substantial justice.

8. Venue is proper in this Court because, upon information and belief, Defendant maintains offices, has agents, employs individuals, and/or transacts business in the State of California, County of San Bernardino. The majority of acts and omissions alleged herein relating to Plaintiff and the other aggrieved employees took place in the State of California, including the County of San Bernardino. At all relevant times, Defendant maintained its headquarters within the State of California, County of San Bernardino.

9. At all times mentioned herein, Defendants employed Plaintiff and other aggrieved employees within the State of California, including the County of San Bernardino.

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1 10. Defendants, jointly and severally, employed Plaintiff as a Service Advisor from
2 approximately September 1, 2020 to approximately June 2, 2021 in the State of California,
3 County of San Bernardino.

4 11. Defendants paid wages and benefits to Plaintiff and the other aggrieved employees,
5 had the authority to hire and terminate them, set the rules and conditions governing their
6 employment, and supervised their daily employment activities. Defendants exercised sufficient
7 authority over the terms and conditions of Plaintiff's and the other aggrieved employees'
8 employment for them to be their joint employers.

9 12. Plaintiff is informed and believes, and based thereon alleges, that Defendants engaged
10 in a pattern and practice of wage abuse of, *inter alia*, misclassifying aggrieved employees and
11 failing to pay against their employees within the State of California all regular and/or overtime
12 wages earned and premiums owed due to missed meal periods and rest breaks in violation of
13 California law.

14 13. Plaintiff is informed and believes, and based thereon alleges, that Defendants knew
15 or should have known that Plaintiff and the other aggrieved employees were required to work
16 over eight (8) hours in a day, over forty (40) hours in a week, and/or more than six (6) days in a
17 workweek and were entitled to receive certain wages for overtime compensation and that they did
18 not receive such overtime wages for all overtime hours worked.

19 14. During the relevant time period, Defendants failed to pay properly pay all overtime
20 wages to Plaintiff and the other aggrieved employees for all overtime hours worked.

21 15. Plaintiff is informed and believes, and based thereon alleges, that Defendants knew
22 or should have known that Plaintiff and the other aggrieved employees were entitled to receive at
23 least minimum wages as compensation for all hours worked and that they did not receiving at
24 least minimum wages for all hours they worked.

25 16. During the relevant time period, Defendants failed to pay Plaintiff and the other
26 aggrieved employees at least minimum wages for all hours worked.

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1 17. Plaintiff is informed and believes, and based thereon alleges, that Defendants failed
2 to provide Plaintiff and the other aggrieved employees with compliant meal and rest periods
3 during the relevant time period as required under the Industrial Welfare Commission Wage
4 Orders and thus they are entitled to any and all applicable premium payments.

5 18. Plaintiff is informed and believes, and based thereon alleges, that Defendants knew
6 or should have known that Plaintiff and the other aggrieved employees were entitled to receive
7 compliant meal and rest periods or a premium payment in the amount of one additional hour of
8 pay at Plaintiff's and the other aggrieved employee's regular rate of pay when a meal or rest
9 period was missed, short, late, or interrupted (i.e., noncompliant), and they did not receive all
10 required meal and rest periods or premium payments in lieu thereof.

11 19. During the relevant time period, Defendants failed to provide Plaintiff and the other
12 aggrieved employees with every compliant, timely, and uninterrupted meal and rest periods they
13 were entitled to and/or premiums in lieu thereof.

14 20. Plaintiff is informed and believes, and based thereon alleges, that Defendants knew
15 or should have known that Plaintiff and the other aggrieved employees were entitled to receive
16 all wages owed to them upon discharge or resignation, including overtime and minimum wages
17 and meal and rest period premiums, and they did not receive all such wages and compensation
18 owed to them at the time of the termination of their employment with Defendants.

19 21. During the relevant time period, Defendants failed to pay Plaintiff and the other
20 aggrieved employees all wages within any time permissible under California law, including, *inter*
21 *alia*, California Labor Code section 204.

22 22. Plaintiff is informed and believes, and based thereon alleges, that Defendants knew
23 or should have known that Plaintiff and the other aggrieved employees were entitled to timely
24 receive all wages owed to them during their employment. Plaintiff and the other aggrieved
25 employees did not receive payment of all wages, including overtime and minimum wages and
26 meal and rest period premiums, within any time permissible under California Labor Code section
27 204.

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1 23. During the relevant time period, Defendants failed to pay Plaintiff and the other
2 aggrieved employees all wages and compensation owed to them upon discharge or resignation.

3 24. Plaintiff is informed and believes, and based thereon alleges, that Defendants knew
4 or should have known that Plaintiff and the other aggrieved employees were entitled to receive
5 complete and accurate wage statements in accordance with California law, but, in fact, they did
6 not receive complete and accurate wage statements from Defendants. The deficiencies included,
7 *inter alia*, the failure to include the name and address of the legal entity of the employer and the
8 total number of hours worked by Plaintiff, and the other aggrieved employees.

9 25. During the relevant time period, Defendants failed to provide compliant wage
10 statements to Plaintiff and the other aggrieved employees.

11 26. Plaintiff is informed and believes, and based thereon alleges, that Defendants knew
12 or should have known that Defendants were required to keep complete and accurate payroll
13 records for Plaintiff and the other aggrieved employees in accordance with California law, but
14 failed to maintain complete and accurate payroll records.

15 27. During the relevant time period, Defendants failed to keep complete and/or accurate
16 payroll records for Plaintiff and the other aggrieved employees.

17 28. Plaintiff is informed and believes, and based thereon alleges, that Defendants knew
18 or should have known that Plaintiff and the other aggrieved employees were entitled to
19 reimbursement for necessary business-related expenses they incurred in accordance with
20 California law, but knowingly failed to provide reimbursement to them.

21 29. During the relevant time period, Defendants failed to reimburse Plaintiff and the other
22 aggrieved employees for all necessary business-related expenses and costs.

23 **PAGA ALLEGATIONS**

24 30. At all relevant times herein set forth, PAGA was applicable to Plaintiff's employment
25 by Defendants.

26 31. At all relevant times herein set forth, PAGA provides that any provision of law under
27 the California Labor Code that provides for a civil penalty, to be assessed and collected by the
28 LWDA for violations of the California Labor Code may, as an alternative, be recovered through

1 a civil action brought by an aggrieved employee on behalf of himself and other current or former
2 employees pursuant to procedures outlined in California Labor Code section 2699.3.

3 32. Pursuant to PAGA, a civil action under PAGA may be brought by an “aggrieved
4 employee,” who is any person that was employed by the alleged violator and against whom one
5 or more of the alleged violations was committed.

6 33. Plaintiff was employed by Defendants and the alleged violations were committed
7 against him during his employment with Defendants and he is, therefore, an aggrieved employee.
8 Plaintiff and the other employees are “aggrieved employees” as defined by California Labor Code
9 section 2699(c) in that they are current or former employees of Defendants, and one or more of
10 the alleged violations were committed against them.

11 34. Pursuant to California Labor Code sections 2699.3 and 2699.5, an aggrieved
12 employee, including Plaintiff, may pursue a civil action arising under PAGA after the following
13 requirements have been met:

14 35. The aggrieved employee shall give written notice by certified mail (hereinafter
15 “Employee's Notice”) to the LWDA and the employer of the specific provisions of the California
16 Labor Code alleged to have been violated, including the facts and theories to support the alleged
17 violations.

18 36. The LWDA shall provide notice (hereinafter “LWDA Notice”) to the employer and
19 the aggrieved employer by certified mail that it does not intend to investigate the alleged violation
20 within sixty (60) calendar days of the postmark date of the Employee’s Notice. Upon receipt of
21 the LWDA Notice, or if the LWDA Notice is not provided within sixty-five (65) calendar days
22 of the postmark date of the Employee’s Notice, the aggrieved employee may commence a civil
23 action pursuant to California Labor Code section 2699 to recover civil penalties in addition to any
24 other penalties to which the employee may be entitled.

25 37. On August 18, 2021, Plaintiff provided written notice by online submission and
26 certified mail respectively to the LWDA and to Defendant of the specific provisions of the
27 California Labor Code alleged to have been violated, including the facts and theories to support
28 the alleged violations. Therefore, the administrative prerequisites under California Labor Code

1 section 2699.3(a) to recover civil penalties, in addition to other remedies, for violations of
2 California Labor Code sections 201, 202, 203, 204, 218, 226(a), 226.3, 226.7, 510, 512(a),
3 1174(d), 1194, 1194.2, 1197, 1197.1, 1198, 2800 and 2802 have been satisfied.

4 **FIRST CAUSE OF ACTION**

5 **VIOLATION OF CALIFORNIA LABOR CODE § 2698, ET SEQ.**

6 **(Against ALL Defendants)**

7 38. Plaintiff restates and incorporates by this reference as if fully set forth herein
8 paragraphs 1 through 37 of this Complaint.

9 39. PAGA expressly establishes that any provision of the California Labor Code which
10 provides for a civil penalty to be assessed and collected by the LWDA, or any of its departments,
11 divisions, commissions, boards, agencies, or employees for a violation of the California Labor
12 Code, may be recovered through a civil action brought by an aggrieved employee on behalf of
13 himself or herself, and other current or former employees.

14 40. Whenever the LWDA, or any of its departments, divisions, commissions, boards,
15 agencies, or employees has discretion to assess a civil penalty, a court in a civil action is
16 authorized to exercise the same discretion, subject to the same limitations and conditions, to assess
17 a civil penalty.

18 41. Plaintiff and the other employees are “aggrieved employees” as defined by California
19 Labor Code section 2699(c) in that they are all current or former employees of Defendants, and
20 one or more of the alleged violations was committed against them.

21 **Failure to Pay Overtime**

22 42. Defendants’ failure to pay overtime in violation of the Wage Orders and California
23 Labor Code sections 510 and 1198, as alleged above, constitutes unlawful and/or unfair activity
24 prohibited by California Labor Code sections 510 and 1198.

25 **Failure to Pay Minimum Wage**

26 43. Defendants’ failure to pay minimum wage in violation of the Wage Orders and
27 California Labor Code sections 1194, 1197, 1197.1, as alleged above, constitutes unlawful and/or
28 unfair activity prohibited by California Labor Code sections 1194, 1197, 1197.1.

1 **Failing to Provide Meal Periods**

2 44. Defendants' failure to provide compliant, legally required meal periods in violation
3 of the Wage Orders and California Labor Code sections 226.7 and 512(a), as alleged above,
4 constitutes unlawful and/or unfair activity prohibited by California Labor Code sections 226.7
5 and 512(a).

6 **Failure to Provide Rest Periods**

7 45. Defendants' failure to provide compliant, legally required rest periods in violation of
8 the Wage Orders and California Labor Code section 226.7, as alleged above, constitutes unlawful
9 and/or unfair activity prohibited by California Labor Code section 226.7.

10 **Failure to Timely Pay Wages Upon Termination**

11 46. Defendants' failure to timely pay wages upon termination in violation of California
12 Labor Code sections 201 and 202, as alleged above, constitutes unlawful and/or unfair activity
13 prohibited by California Labor Code sections 201 and 202.

14 **Failure to Timely Pay Wages During Employment**

15 47. Defendants' failure to timely pay wages during employment in violation of California
16 Labor Code section 204, as alleged above, constitutes unlawful and/or unfair activity prohibited
17 by California Labor Code section 204.

18 **Failure to Provide Compliant Wage Statements**

19 48. Defendants' failure to provide compliant wage statements in violation of California
20 Labor Code section 226(a), as alleged above, constitutes unlawful and/or unfair activity
21 prohibited by California Labor Code section 226(a).

22 **Failure to Keep Complete or Accurate Payroll Records**

23 49. Defendants' failure to keep complete or accurate payroll records in violation of
24 California Labor Code section 1174(d), as alleged above, constitutes unlawful and/or unfair
25 activity prohibited by California Labor Code section 1174(d).

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Failure to Reimburse Necessary Business Expenses

50. Defendants' failure to reimburse all necessary business-related expenses and costs in violation of California Labor Code sections 2800 and 2802, as alleged above, constitutes unlawful and/or unfair activity prohibited by California Labor Code sections 2800 and 2802.

51. Pursuant to California Labor Code section 2699, Plaintiff, individually, and on behalf of all aggrieved employees, requests and is entitled to recover from Defendants and each of them, business expenses, unpaid wages, and/or untimely wages according to proof, interest, attorneys' fees and costs pursuant to California Labor Code section 218.5, as well as all penalties against Defendants, and each of them, including but not limited to:

- a. Penalties under California Labor Code section 2699 in the amount of a hundred dollars (\$100) for each aggrieved employee per pay period for the initial violation, and two hundred dollars (\$200) for each aggrieved employee per pay period for each subsequent violation;
- b. Penalties under California Code of Regulations Title 8 section 11010, *et seq.* in the amount of fifty dollars (\$50) for each aggrieved employee per pay period for the initial violation, and one hundred dollars (\$100) for each aggrieved employee per pay period for each subsequent violation;
- c. Penalties under California Labor Code section 210 in addition to, and entirely independent and apart from, any other penalty provided in the California Labor Code in the amount of a hundred dollars (\$100) for each aggrieved employee per pay period for the initial violation, and two hundred dollars (\$200) for each aggrieved employee per pay period for each subsequent violation; and
- d. Any and all additional penalties and sums as provided by the California Labor Code and/or other statutes.

52. Pursuant to California Labor Code section 2699(i), civil penalties recovered by aggrieved employees shall be distributed as follows: seventy-five percent (75%) to the Labor and Workforce Development Agency for the enforcement of labor laws and education of employers

1 and employees about their rights and responsibilities and twenty-five percent (25%) to the
2 aggrieved employees.

3 53. Further, Plaintiff is entitled to seek and recover reasonable attorneys' fees and costs
4 pursuant to California Labor Code sections 210, 218.5 and 2699 and any other applicable statute.

5 **PRAYER FOR RELIEF**

6 Wherefore, Plaintiff individually, and on behalf of other members of the general
7 public similarly situated, prays for relief and judgment against Defendants, jointly and severally,
8 as follows:

9 **AS TO THE FIRST CAUSE OF ACTION**

- 10 1. For civil penalties and wages pursuant to California Labor Code sections 2699(a), (f),
11 and (g) plus costs and attorneys' fees for violation of California Labor Code sections
12 201, 202, 203, 204, 218, 226(a), 226.3, 226.7, 510, 512, 1174(d), 1194, 1194.2, 1197,
13 1197.1, 1198, 2800, and 2802; and
14 2. For such other and further relief as the Court may deem just and proper.

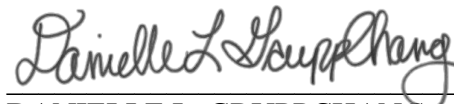
15 **DEMAND FOR JURY TRIAL**

16 Plaintiff, individually, and on behalf of other members of the general public similarly
17 situated, hereby demands a trial by jury

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19 DATED: October 21, 2021

BROCK & GONZALES, LLP

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22 By:


DANIELLE L. GRUPPCHANG

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24 Attorneys for Plaintiff
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