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

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF BUTTE**

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

Plaintiff,

v.

AUTOMOTIVE ELITE INVESTMENTS,
INC., a California corporation, d/b/a
CHICO VOLKSWAGEN and CHICO
MAZDA and DOES 1 through 10,
inclusive,

Defendants.

Case No. 22CV00032

Assigned to the Hon. Stephen E. Benson, Dept. 6

**DECLARATION OF DANIEL F. GAINES IN
SUPPORT OF MOTION FOR AN ORDER
APPROVING SETTLEMENT OF CLAIMS
BROUGHT PURSUANT TO THE PRIVATE
ATTORNEYS GENERAL ACT OF 2004,
AWARDING ATTORNEYS’ FEES, COSTS,
ENHANCEMENT AWARD, AND
REIMBURSEMENT OF SETTLEMENT
ADMINISTRATION EXPENSES, AND
ENTERING JUDGMENT**

Date: August 31, 2022

Time: 9:00 a.m.

Dept.: 6

Complaint Filed: January 6, 2022

1 I, DANIEL F. GAINES, hereby declare and state as follows:

2 1. I am an attorney duly admitted to the practice of law in the State of California. I am
3 a shareholder of Gaines & Gaines, APLC, counsel for Plaintiff Rick Brower (“Plaintiff”) in this
4 action. I have personal knowledge of the facts set forth herein and if called as a witness to testify
5 to them, I could and would do so competently.

6 **Counsel’s Experience and Recommendation:**

7 2. I obtained my BS degree from the University California at Berkeley in 2003. I
8 majored in Business Administration at the Haas School of Business.

9 3. Thereafter, I attended the University of Virginia School of Law. At Virginia, I was
10 a member of the editorial board of the Virginia Tax Review. I was also the recipient of the Lacy
11 Armour Scholarship, awarded to recognize academic excellence. At Virginia, I focused my studies
12 on tax and real estate. I earned my JD and became a member of the California Bar in 2007.

13 4. Since becoming a member of the Bar, and until his recent retirement, I practiced law
14 with my father, Kenneth, at Gaines & Gaines, APLC. Our practice specializes in litigation, with
15 an emphasis in employment disputes like this one. Over 95% of my practice is devoted to complex
16 employment litigation similar to the instant action.

17 5. My firm has represented employees in complex employment matters such as this
18 one, with an emphasis in wage and hour issues. I have participated in and have been certified as
19 Court-approved class and representative counsel in hundreds of class and representative action
20 matters since my admission to the Bar. Attached hereto as **Exhibit A** is a true and correct list of
21 the cases in which I have represented employees in wage and hour matters and been appointed as
22 class and representative counsel.

23 **Background and Procedural History**

24 6. Defendant Automotive Elite Investments, Inc. d/b/a Chico Volkswagen and Chico
25 Mazda (“Defendant”) operates Volkswagen and Mazda car dealerships in Butte County, California,
26 where it employed Plaintiff as a non-exempt employee from January 2021 through September 2021.

27 7. Plaintiff asserts claims that Defendant failed to pay Plaintiff and Aggrieved
28 Employees all minimum and overtime wages due, in violation of Labor Code §§ 510, 558 and 1194;

1 failed to pay premium wages to Plaintiff and Aggrieved Employees who were denied rest periods,
2 in violation of Labor Code §§ 226.7 and 558 and IWC Wage Order 7-2001; failed to pay premium
3 wages to Plaintiff and Aggrieved Employees who were denied meal periods, in violation of Labor
4 Code §§ 226.7, 512, and 558 and IWC Wage Order 7-2001; failed to provide Plaintiff and
5 Aggrieved Employees with wage statements that fully and accurately itemized the requirements set
6 forth in Labor Code § 226(a); and failed to timely pay Plaintiff and certain Aggrieved Employees
7 all wages due at the separation of their employment based on the time frames required by Labor
8 Code §§ 201 and 202.

9
10 8. On October 27, 2021, Plaintiff complied with the administrative prerequisites set
11 forth in the Private Attorneys General Act (“PAGA”) by sending a letter by online submission to
12 the Labor and Workforce Development Agency (“LWDA”) and by certified mail to Defendant
13 outlining the facts and theories underlying his claims. A true and correct copy of the October 27,
14 2021 LWDA letter is attached hereto as **Exhibit B**.

15 9. After the LWDA declined to investigate his allegations, Plaintiff filed a
16 Representative Action Complaint on January 6, 2022. On or about February 24, 2022, Defendant
17 filed its Answer to Plaintiff’s complaint.

18 **Compliance with Procedural Requirements of PAGA:**

19 10. Plaintiff submitted the Settlement Agreement, together with this Motion and all
20 supporting documents, to the LWDA via online upload on July 27, 2022, concurrently with the
21 filing of this Motion. Service of the LWDA is reflected on the Declaration of Service submitted
22 herewith.

23 **Counsel’s Diligence In Advance of, and In Connection With, Settlement Negotiations:**

24 11. My office engaged in informal discovery of Defendant’s alleged Labor Code
25 violations, which specifically targeted evaluating the strength and value of the PAGA claims in
26 preparation for a resolution of this Action.

27 12. My office obtained and reviewed multiple documents, including (i) Plaintiff’s
28 employee file and wage statements, (ii) policy documents relating to the employment of Plaintiff

1 and other Aggrieved Employees, and (iii) data relating to the number of alleged violations and the
2 value of the recoverable penalties.

3 13. Based on the information received, as well as through discussions with Defendant's
4 Counsel, my office was able to (i) determine the total number of distinct individuals falling within
5 the definition of "Aggrieved Employee" for the relevant statutory period, and (ii) construct a
6 damage model that calculated the maximum realistic amount of PAGA penalties that could be
7 levied against Defendant within the Settlement Period. Defendant, however, disputed Plaintiff's
8 claims and disputed both the existence of and extent of liability as alleged by Plaintiff.

9 14. Based on our experience in litigating similar representative wage and hour claims,
10 the degree of investigation that was conducted and the amount of data that was obtained was
11 sufficient to determine the potential value of the PAGA claim, and to evaluate the strength of this
12 claim for purposes of settlement.

13 15. On May 26, 2022, the Parties participated in a mediation session with respected
14 mediator Daniel J. Turner, Esq. During the mediation, the Parties engaged in arm's-length
15 negotiations. At the conclusion of the mediation, Mr. Turner successfully brought the Parties to
16 agree on a resolution of the PAGA claims asserted in the action.

17 **Analysis of Claims For Settlement:**

18 16. This case addresses alleged violations of important employee protections embodied
19 in the California Labor Code – namely, that Defendant failed to pay all minimum and overtime
20 wages due (Labor Code §§ 510, 558, and 1194); failed to provide legally compliant meal and rest
21 periods, or compensation in lieu thereof (Labor Code §§ 226.7, 512, and 558); failed to issue
22 accurate and complete wage statements (Labor Code § 226(a)); and failed to pay all wages due and
23 owing upon separation of employment (Labor Code §§ 201-202).

24 17. Defendant contends it acted within the requirements of California law at all times
25 as to all Aggrieved Employees. It further contends that not every pay period at issue involved an
26 alleged Labor Code violation subject to civil penalties. Moreover, it maintained that even if the
27 Court did award penalties, the Court could and would substantially reduce the penalties awarded
28

1 based on the discretionary factors contained in Labor Code § 2699(e)(2). Defendant also argued
2 that it had a valid and enforceable arbitration agreement, which could preclude the litigation of
3 PAGA claims on a representative basis altogether, given the United States Supreme Court's ruling
4 in *Viking River Cruises v. Moriana*, 142 S.Ct. 734 (2022).

5 18. Based on these disputes, which had the potential to completely eliminate Plaintiff's
6 recovery, the range of realistic "litigation outcomes" on Plaintiff's PAGA claim was defined by a
7 "maximum possible liability" amount of approximately \$99,200 based on 992 aggregate pay
8 periods in the Settlement Period, without stacking claims, at \$100 per violation, and a net-zero
9 recovery based on the defenses asserted by Defendant.

10 19. Notwithstanding the existence of such issues, the Settlement achieves a significant
11 benefit. As such, this factor weighs very heavily in favor of resolution by way of the compromise
12 set forth in the Settlement.

13 **Settlement Terms:**

14 20. The Parties jointly prepared and executed the Private Attorneys General Act (Labor
15 Code § 2698 et seq.) Settlement Agreement ("Settlement Agreement"). A true and correct copy of
16 the Settlement Agreement is attached hereto as **Exhibit C**. The Settlement Agreement sets forth
17 the terms of the Settlement reached by the Parties, including the following key points:

18 21. All Aggrieved Employees will receive a pro rata share of \$12,086.04, which shall
19 be distributed based on the number of pay periods each Aggrieved Employee worked for Defendant
20 in California during the Settlement Period.

21 22. Although these calculations will not be made until after approval, a rough estimation
22 of the value to the 49 individuals falling within the definition of "Aggrieved Employee" may be
23 gleaned from the fact that an equal division would provide about \$246.65 to each Aggrieved
24 Employee, net of payments to the LWDA, to the Settlement Administrator, attorneys' fees and
25 costs. The LWDA will be paid a substantial \$36,258.10.

26 23. Settlement administration, which is to be paid from the Maximum Settlement
27 Amount, will not exceed \$3,500. Phoenix Class Action Administration Solutions, a reputable
28

1 settlement administration company, has agreed to administer the settlement within this amount,
2 submitting a competitive bid.

3 24. Based on my experience as noted above, the Settlement represents a substantial
4 recovery in light of the claims alleged, the risk of prevailing on the merits of the claims, the risk
5 the Court would apply its discretion to award less than the maximum potential penalty award, the
6 narrow scope of the release (only PAGA claims premised on specified Labor Code violations), and
7 the substantial payment to be made to the LWDA, which will be paid 75% of the net recovery of
8 civil penalties. Considering these factors, Plaintiff has obtained a solid result which is by any
9 measure fair and reasonable, thereby warranting approval by the Court.

10 **Attorneys' Fees:**

11 25. The results achieved by my office are significant, as Defendant shall pay \$98,000
12 pursuant to the Settlement. This is a significant recovery given the risk of success in obtaining any
13 recoverable penalties.

14 26. Such results were achieved in the face of significant risks. Defendant maintained
15 defenses to Plaintiffs' PAGA claims that very well could have resulted in a net-zero recovery at
16 trial.

17 27. Notwithstanding this risk of loss, my office undertook representation of the instant
18 PAGA claim for the benefit of the State of California on a contingency basis. This not only required
19 my office to personally assume the risk of nonpayment in securing the very substantial financial
20 benefit the State of California stands to receive, but constitutes a "loan" on my office's services –
21 both of which are factors warranting fee enhancement under applicable California Supreme Court
22 authority.

23 28. Plaintiffs' Counsel's fee request of \$32,666.66 (one-third of the Maximum
24 Settlement Amount) is fair and reasonable based on a percentage of the recovery. This is also
25 consistent with my office's experience in similar wage and hour class and representative action
26 matters.

1 29. Representative action work also requires specialized learning and the willingness to
2 take large risks. My office has extensive experience in representative action litigation, particularly
3 in the employment context, as detailed herein.

4 30. Furthermore, as described above, the Aggrieved Employees and the State of
5 California reaped significant benefits. The success achieved by the Settlement supports my firm's
6 fee request.

7 **Counsel's Costs:**

8 31. My firm's total costs will be approximately \$5,489.20 and include, among other
9 things, filing fees, mediation fees, service of process fees, mailing charges, and other charges
10 typical of litigation of this nature. A true and correct copy of an itemized list of costs incurred by
11 my firm in this action is attached hereto as **Exhibit D**. These costs were reasonably incurred in
12 litigating this matter.

13 **Plaintiff's Enhancement Award:**

14 32. The Parties have agreed that Plaintiff will be paid an enhancement award in the
15 amount of \$8,000. This payment is intended to recognize the time and effort that Plaintiff spent on
16 behalf of other Aggrieved Employees and the State and also compensates him for a general release
17 in favor of Defendant due to Plaintiff's valuable individual claims to be extinguished.

18 33. In this case, Plaintiff Brower performed the following tasks, among others: (1)
19 assisted Counsel in investigating and substantiating the claims alleged in this action, including
20 multiple interviews with counsel to review facts, documents, and Defendant's policies; (2) assisted
21 in the preparation of the complaint in this action; (3) produced evidentiary documents to Counsel;
22 and (4) assisted in the settlement of this litigation.

23 34. Plaintiff is also entering into a full general release against Defendant, which is far
24 broader than the release by other Aggrieved Employees. Specifically, Aggrieved Employees are
25 releasing only limited PAGA civil penalty claims, while Plaintiff is releasing all claims which he
26 asserts or could assert against Defendant. No other Aggrieved Employee is subject to this broad
27 form of release.

35. This broad release by Plaintiff was negotiated (and necessary) to resolve the Action. Plaintiff threatened to assert his individual claims and Defendant required that they be resolved in connection with the resolution of the Action. Without the resolution and release of Plaintiff's individual claims, litigation would continue in a piecemeal fashion. Defendant is buying peace with this settlement, such that its objectives would not be achieved absent the general release.

I declare, under penalty of perjury, under the laws of the State of California, that the foregoing is true and correct. Executed this 27th day of July, 2022 at Westlake Village, California.

Daniel F. Gaines
DANIEL F. GAINES

EXHIBIT A

Adams v. Newell Rubbermaid, USDC – Central District of California (Los Angeles), Case No. EDCV 08-1499 JTM (CTx)

Adams v. Sam's West, Inc., San Bernardino County Superior Court, Case No. CIVDS1403987

Agredano v. GS Brothers, Inc., Los Angeles County Superior Court, Case No. BC445561

Allen v. Toms Sierra Company, Nevada County Superior Court, Case No. CU18-082823

Allen v. Valley Inventory Service, Inc., Solano County Superior Court, Case No. FCS034682

Alvarez v. Pilot Travel Centers, LLC, San Joaquin County Superior Court, Case No. STK-CV-UOE-2018-4605

Alonzo v. Camblin Steel Service, Inc., Placer County Superior Court, Case No. SCV0034165

Amenhotep v. Google, Inc., Santa Clara County Superior Court, Case No. 17CV311528

Anaya v. Progressive Logistics Services, LLC, Riverside County Superior Court, Case No. RIC1308270

Andre v. Newell Rubbermaid, Inc., San Bernardino County Superior Court, Case No. CIVVS1200282

Anduha v. ABC Phones of North Carolina, Inc., Stanislaus County Superior Court, Case No. 2022729

Anslow v. Wellington Energy, Inc., USDC – Northern District of California (San Francisco), Case No. CV11-1596-JCS

Aranda, et al. v. Universal Lumpers of California, Inc., San Joaquin County Superior Court, Case No. STK-UOE-2017-7826

Armendariz v. Integrated Pain Management Medical Group, Inc., Kern County Superior Court, Case No. BCV-19-100267-SDS

Barrow, et al. v. Desmond Foods, L.P., Sacramento County Superior Court, Case No. 34-2015-00187227

Batmanghelich v. Sirius XM Radio Inc., USDC – Central District of California (Los Angeles), Case No. CV 09-9190 VBF (JCx)

Bosser v. Hooked on Solar, Yolo County Superior Court, Case No. CVCV-2016-876

Bourland v. Horizon Personnel Services, Inc., Sacramento County Superior Court, Case No. 34-2014-00161365-CU-OE-GDS

Bowen v. IMI Material Handling Logistics, Inc., San Joaquin County Superior Court, Case No. STK-CV-UOE-2016-0000192

Branson v. Mladen Buntich Construction, San Bernardino County Superior Court, Case No. CIVDS1609129

Brandt v. Sacramento Auto Insurance Center, Inc., San Joaquin County Superior Court, Case No. 39-2009-00202938-CU-OE-STK

Brown v. 22nd District Agricultural Association, United States District Court, Southern District of California, Case No. 15-cv-2578-DHB

Brown v. Sierra Central Credit Union, Sutter County Superior Court, Case No. CVCS18-0002161

Burgess v. Blue Cross and Blue Shield of South Carolina, San Joaquin County Superior Court, Case No. 39-2012-00277449-CU-BT-STK

Burgess v. Strategic Retail Solutions, LLC, Los Angeles County Superior Court, Case No. BC413791

Calhoun v. Celadon Trucking Services, Inc., USDC – Central District of California (Los Angeles), Case No. 5:16-cv-01351-PSG-FFM

Caporicci v. Owens & Minor Distribution, Inc., San Joaquin County Superior Court, Case No. 39-2013-00295662-CU-OE-STK

Carl v. Advanced Call Center Technologies, LLC, Sacramento County Superior Court, Case No. 34-2013-00148310

Carlisle, et al. v. Professional Technical Security Services, Inc., Case No. CGC18569791

Carrete v. Gamestop, Inc., Imperial County Superior Court, Case No. ECU08501

Carrillo v. Bimbo Bakeries, Inc., San Bernardino County Superior Court, Case No. CIVDS1606813

Caudillo v. Aegis Treatment Centers, LLC, Merced County Superior Court, Case No. 18CV-0744

Cerami v. Metlife, Inc., USDC – Central District of California (Orange County), Case No. 11-CV-00681-CJC (MLGx)

Charles v. Aaron's Inc., Los Angeles County Superior Court, Case No. BC431468

Charles v. Nursefinders, LLC, Imperial County Superior Court, Case No. ECU07422

Cheifer v. JetBlue Airways Corporation, Los Angeles County Superior Court, Case No. BC451887

Cheifer, et al. v. WHGM, Inc., Los Angeles County Superior Court, Case No. LC104900

Chong, et al. v. Crescent Northwoods Inn, Inc., Del Norte County Superior Court, Case No. CVUJ-2018-1133

Church v. GameStop, Inc., et. al., USDC – Central District of California (Los Angeles), Case No. 11-CV-00132-VAP-RZ

Clothier v. Spar Marketing Services, Inc., Alameda County Superior Court, Case No: RG12-639317

Coleman v. Wireless Lifestyle, Inc., USDC – Western District of Missouri, Case No. 4:12-cv-00855-ODS

Colombo-Beyeler, et al. v. Viking River Cruises, Inc., San Bernardino County Superior Court, Case No. CIVDS1611608

Conlee v. Clark Pacific Corporation, Yolo County Superior Court, Case No. CV14-1409

Contreras v. Osmose Utilities Services, Inc., San Bernardino County Superior Court, Case No. CIVDS1513998

Contreras v. West American Service Corporation, Kings County Superior Court, Case No. 14C0280

Corona v. Yosemite Meat & Locker Service, Inc., Stanislaus County Superior Court, Case No. 2006828

Cortellessa v. Dotnext, Inc., Alameda County Superior Court, Case No. RG09429971

County v. Ingram Mirco, Inc., San Bernardino Superior Court, Case No. CIVRS 1304445

Covarrubias, et al. v. Petersendean Builder Group, Inc., Kern County Superior Court, Case No. BCV-16-101122

Cowen, et al. v. Evergreen Alliance Golf Limited, L.P., d/b/a Arcis Golf, San Bernardino County Superior Court, Case No. CIVDS1719283

Cruz-Garcia v. Lemonade Restaurant Group, LLC, Los Angeles County Superior Court, Case No. BC478205

Cunningham v. Performance Contracting, Inc., Contra Costa County Superior Court, Case No. C16-02157

Dabney v. Coneybeare, LLC, et al., Orange County Superior Court, Case No. 30-2018-00999989-CU-OE-CXC

Dabney, et al. v. Panera, LLC., San Bernardino County Superior Court, Case No. CIVDS1516030

Diaz, et al. v. Seaworld Entertainment, Inc., Imperial County Superior Court, Case No. ECU10046

Diggs v. Western Waterproofing Company, Inc., San Francisco County Superior Court, Case No. CGC-14-539281

Dismuke v. Rhodes Retail Services, Inc., Sacramento County Superior Court, Case No. 34-2011-00105001

Dorsette v. TA Operating, LLC, USDC – Central District of California (Los Angeles), Case No. EDCV 09-1350 PA (RZx)

Duran v. The Image of California, Inc., Kern County Superior Court, Case No. S-1500-CV-284056 DRL

Edwards v. Trans World Entertainment Corp., San Diego County Superior Court, Case No. 37-2010-00095123-CU-OE CTL

Esakhani v. Central Valley Gaming, Stanislaus County Superior Court, Case No. 2020667

Escobar v. SMSSI of California, Inc., San Francisco Superior Court, JCCP No. 4776

Espinosa v. Taltech Construction, et al., Los Angeles County Superior Court, Case No. BC590176

Espinosa v. Bodycote Thermal Processing, Inc., Los Angeles County Superior Court, Case No. BC501617

Espinoza v. Pabco Building Products, LLC, Los Angeles County Superior Court, Case No. VC065660

Estrada v. Net Source Communications, Inc., Los Angeles County Superior Court, Case No. BC431169

Estrada v. OS Restaurant Services, LLC, Santa Clara County Superior Court, Case No. 16CV293249

Estupinan v. Global Development Strategies, Inc., Santa Clara County Superior Court, Case No. 110CV178898

Fadhl. v. Siemens Healthcare Diagnostics Inc., Sacramento County Superior Court, Case No. 34-2017-00209518

Fernandez v. The Regents of the University of California, Los Angeles County Superior Court, Case No. BC656256

Ferrer v. Dish Network Corporation, Los Angeles County Superior Court, Case No. BC441354

Findora v. Barry Callebaut USA LLC, Napa County Superior Court, Case No. 19CV000219

Flores v. Cintas Corporation, Los Angeles County Superior Court, Case No. BC400422

Friel v. Midwest Construction Services, Inc., San Joaquin County Superior Court, Case No. 39-2015-00329204-CU-OE-STK

Gagnon v. Banc of California, Contra Costa County Superior Court, Case No. C 15-00196

Galarza v. Bayou Well Services, LLC, Kern County Superior Court, Case No. S-1500-CV-279372 DRL

Galarza v. C & H Testing Service LLC, Kern County Superior Court, Case No. BCV-15-100008 SPC

Garcia v. Old Dominion Freight Line, Inc., San Bernardino County Superior Court, Case No. CIVDS1404636

Geer v. Applied Aerospace Structures Corp., San Joaquin County Superior Court, Case No. 39-2014-00313702-CU-OE-STK

Getz v. California Cinema Investments, Inc., Ventura County Superior Court, Case No. 56-2013-00437706-CU-MC-VTA

Gibbs v. M. Lehmann Enterprises, Orange County Superior Court, Case No. 30-2013-00678538-CU-OE-CXC

Gilles v. Schaefer Ambulance Service Inc., Imperial County Superior Court, Case No. ECU07970

Goldman, et al. v. Defender's, Inc., San Joaquin County Superior Court, Case No. STK-CV-UOE-2018-0009973

Gomez v. Low Desert Empire Pizza, Inc., San Bernardino County Superior Court, Case No. CIVVS900392

Gomez v. Pizza Hut of Southeast Kansas, Inc., San Bernardino County Superior Court, Case No. CIVVS900679

Gonzalez v. Harris Farms, Inc., USDC – Eastern District of California (Fresno), Case No. 1:14-cv-00038-LJO-SAB

Guerrero v. Main Electric Supply Company LLC, Ventura County Superior Court, Case No. 56-2019-00525427-CU-OE-VTA

Gutierrez v. Asset Management Specialists, Inc., Fresno County Superior Court, Case No. 12CECG03577

Gutierrez v. Linkus Enterprises, Inc., Madera County Superior Court, Case No. MCV065774

Gutierrez v. Shiekh, LLC, San Bernardino County Superior Court, Case Nos. CIVRS1206525, CIVRS1303408

Hairston v. Stanislaus Surgical Hospital, Stanislaus County Superior Court, Case No. CV-19-000651

Hindman v. Service Quick, Inc., San Bernardino County Superior Court, Case No. CIVDS1724229

Hogan v. iMobile of CA LLC, San Bernardino County Superior Court, Case No. CIVDS1409263

Hogan v. Wireless Evolution Inc., Riverside County Superior Court, Case No. MCC1300669

Hogan v. Wireless That's It! LLC, Riverside County Superior Court, Case No. RIC1201997

Holmes v. Bottling Group, LLC, Stanislaus County Superior Court, Case No. 2022584

Hooper, et al. v. URS Midwest, Inc., et al., San Bernardino Superior Court, Case No. CIVDS1607489

Humphrey v. Freedomroads, LLC, Shasta County Superior Court, Case No. 178228

Hurtado v. Rush Truck Centers of California, Inc., Los Angeles County Superior Court, Case No. BC427672

Hyde v. Dent Wizard International Corporation, Sacramento County Superior Court, Case No. 34-2015-00173882

Ibrihim v. Imperfect Foods, Inc., San Joaquin County Superior Court, Case No. STK-VI-UOE-2019-0000846

Id-deen v. Educational Services of America, Solano County Superior Court, Case No. FCS040803

Isherwood v. Mason Dixon Intermodal, Inc., San Joaquin County Superior Court, Case No. 39-2012-00279891-CU-OC-STK

Jahanbin v. Pacific Mercantile Bank, Orange County Superior Court, Case No. 30-2011-00480705CU-OE-CXC

Jenkins v. Sedgwick Claims Management Services, Inc., Los Angeles Superior Court, Case No. LC101648

Job v. California Security Services, Yuba County Superior Court, Case No. 14-0000820

Johnson v. The Goodyear Tire & Rubber Company, USDC – Northern District of California (San Francisco), Case No. 3:13-cv-01069-MMC

Jolin v. Bay Cities Recovery, Inc., El Dorado County Superior Court, Case No. PC20100458

Jordan v. Sutter Memorial Hospital, Stanislaus County Superior Court, Case No. 2023344

Keebaugh v. Mike Thompson Recreational Vehicles, San Bernardino County Superior Court, Case No. CIV-DS-1500718

Kelly v. Robin's Enviro Vac, Inc., Kern County Superior Court, Case No. S-1500-CV-282277
DRL

King v. Levy Premium Foodservice Limited Partnership, Alameda County Superior Court, Case No. HG15786353

Kunsman v. Punch Bowl Sacramento, LLC, et al., Sacramento County Superior Court, Case No. 34-2018-00243175

LaFear v. Encore Education Corporation, San Bernardino County Superior Court, Case No. CIVDS1802251

Lanzarin v. AWI Management Corporation, Solano County Superior Court, Case No. FCS041809

Lee, et al. v. Foster Dairy Farms, Stanislaus County Superior Court, Case Nos. 2006542, 2015679

Lemus, et al. v. Eastridge Workforce Technology, Inc., San Bernardino County Superior Court, Case No. CIV-DS-1611470

Lewis v. American Casino & Entertainment Properties LLC, San Bernardino County Superior Court, Case No. CIVDS1719094

Lemus v. On Assignment Staffing Services, San Bernardino County Superior Court, Case No. CIV-DS-1600497

Leon v. Piercey West Inc., Los Angeles County Superior Court, Case No. BC656874

Lopez v. Creative Communication Technologies, Inc., Imperial County Superior Court, Case No. ECU07851

Lopez v. Go Green Auto Spa Franchise, Inc., et al., Los Angeles County Superior Court, Case No. BC 562212

Lopez v. Truck Accessories Group, LLC, Yolo County Superior Court, Case No. CV13798

Ludlow v. Prince Telecom, LLC, Stanislaus County Superior Court, Case No. 684239

Luna v. Express Locations, LLC, Imperial County Superior Court, Case No. ECU09779

Macias v. American Tire Distributors, Inc., Kern County Superior Court, Case No. BCV-18-101586

Maldonado v. Hardwood Flooring Liquidators, Inc., Los Angeles County Superior Court, Case No. BC642170

Mansfield v. Cambridge Real Estate Services, Inc., Butte County Superior Court, Case No. 160175

Martinez v. DPI Specialty Foods West, San Joaquin County Superior Court, Case No. 39-2015-00327311-CU-OE-STK

Martinez v. Styles For Less, Inc., San Bernardino County Superior Court, Case No. CIVVS1203057

Mayne v. John Muir Behavioral Health, Contra Costa County Superior Court, Case No. C17-00998

Maze v. Bulldog Freightway, Inc., Imperial County Superior Court, Case No. ECU08716

McCormick v. G & O Body Shop, Inc., El Dorado Superior Court, Case No. PC20130291

McCrary v. Campbell Soup Supply Company, San Joaquin County Superior Court, Case No. 39-2013-00297698-CU-OE-STK

McDaniel v. Vancary, Inc., Tulare County Superior Court, Case No. 268036

Melgar-Farela v. Guardian Compliance, Inc., Los Angeles County Superior Court, Case No. BC481865

Mendiola v. Tyco Electronics Corporation, Riverside County Superior Court, Case No. RIC1400721

Mettler v. Les Schwab Tire Centers of California, Inc., San Joaquin County Superior Court, Case No. STK-CV-UOE-2018-476

Miller v. California Subshine, Inc., Los Angeles County Superior Court, Case No. BC637754

Miller v. Southwest Airlines Co., USDC – Northern District of California (San Francisco), Case No. 3:12-cv-05978-CRB

Mitchell v. Crossmark, Inc., USDC – Central District of California (Los Angeles), Case No. CV 11-2818-JAK (FMOx)

Moghrabi v. Vitaligent, Inc., San Joaquin County Superior Court, Case No. STK-CV-UOE-2018-1650

Molina v. Berkshire Hathaway Energy Company, et al., Imperial County Superior Court, Case No. ECU000522

Moore v. Horizon Solar Power, Inc., San Bernardino County Superior Court, Case No. CIVDS1410001

Murray v. Select Media Services, LLC, Los Angeles County Superior Court, Case No. BC424506

Myles v. Central Transport LLC, San Bernardino County Superior Court, Case No. CIVDS1401434

Navarro v. Mariana Packing Co., Inc., Solano County Superior Court, Case No. FCS045935

Nehrlich, et al. v. RPM Mortgage, Inc., Orange County Superior Court, Case No. 30-2013-00666783-CU-OE-CXC

Overton v. Hat World, Inc., USDC – Eastern District of California (Sacramento), Case No. 2:11-CV-01645-LKK-KJN

Perez v. Alcatel-Lucent USA Inc., Imperial County Superior Court, Case No. ECU07977

Perez v. Major Gloves and Safety, Inc., San Bernardino County Superior Court, Case No. CIVDS1710445

Perry v. Cardinal Health 200, LLC, Solano County Superior Court, Case No. FCS035303

Phraxayavong-Briones v. RSM, Inc., Sacramento County Superior Court, Case No. 34-2012-00117524

Pugh v. Wi Spa, LLC, Imperial County Superior Court, Case No. ECU07932

Quist v. Knight Transportation, Inc., San Bernardino Superior Court, Case No. CIVDS 1615414

Quitco v. Aviation Fuel Systems Repair, Inc., San Bernardino Superior Court, Case No. CIVRS1302311

Rambeau v. C.C.M. Corporation, et al., Sacramento County Court, Case No. 34-2018-00244842

Rankins v. Roman Empire Living Skills, Inc., Los Angeles County Superior Court, Case No. BC713399

Rees v. Advantel, Incorporated, Santa Clara County Superior Court, Case No. 16-CV-292219

Renfrow v. Janra Enterprises, Inc., Sacramento County Superior Court, Case No. 3402010-00080471

Reynolds v. Diamond Pet Food Processors of Ripon, San Joaquin County Superior Court, Case No. 39-2014-00310818

Richard v. A-Para Transit Corp., Alameda County Superior Court, Case No. HG17870373

Richardson v. TEC Equipment, Inc., et al., Los Angeles County Superior Court, Case No. VC065536

Robles v. North County Health Project Incorporated, San Diego Superior Court, Case No. 37-2014-00001751-CU-OE-NC

Rodas v. Monetary Management of California, Inc., USDC – Eastern District of California (Sacramento), Case No. 2:14 cv 01389 TLN AC

Rodriguez v. 20/20 Plumbing & Heating, Inc., San Bernardino County Superior Court, Case No. CIVDS1705362

Rodriguez v. Commerce Distribution Company, Los Angeles County Superior Court, Case No. BC656259

Rodriguez v. Valley Oak, San Joaquin County Superior Court, Case No. STK-CV-UOE-2016-7980

Roden v. Service Champions, San Bernardino County Superior Court, Case No. CIVDS1613183

Russell v. Bradshaw International, Imperial County Superior Court, Case No. ECU00853

Rutledge, et al. v. Healthport Technologies, LLC, Alameda County Superior Court, Case No. RG16835813

Sabala v. Econtactlive, Inc., Stanislaus County Superior Court, Case No. 684981

Sabatier v. Picture Perfect Installation, Inc., Riverside County Superior Court, Case No. RIC10004953

Salameh v. Sonomaidence OPCO, LLC, Sonoma County Superior Court, Case No. SVC264228

Salazar v. Tag-3 Medical Investment Group, LLC, Los Angeles County Superior Court, Case No. BC527698

Salbeck v. Ingredion Incorporated, San Joaquin County Superior Court, Case No. STK-UOE-2017-0012622

Sampson v. Healthnet of California Inc., Sacramento County Superior Court, Case No. 34-2015-00183785-CU-OE-GDS

Sanchez v. Don Roberto Jewelers, Inc., Imperial County Superior Court, Case No. ECU06819

Sanders v. Lionakis, Sacramento County Superior Court, Case No. 34-2017-00223601

Santana v. United Staffing Associates, LLC, Tulare County Superior Court, Case No. 249338

Schrader v. Adidas Promotional Retail Operations, Inc., Los Angeles County Superior Court, Case No. BC414168

Sebrell v. Pomeroy IT Solutions, San Bernardino County Superior Court, Case No. CIVDS1721560

Seymour v. Quest Service Group, LLC, Sacramento County Superior Court, Case No. 34-2017-00206917

Silva v. Trical, San Benito County Superior Court, Case No. CU-16-00218

Simler v. Polly's Inc., Riverside County Superior Court, Case No. RIC 1117862

Sipin, Scott v. Salesforce.com, Inc., San Joaquin County Superior Court, Case No. STK-CV-UOE-2019-0004629

Skuro v. BMW of North America, LLC, USDC – Central District of California (Los Angeles), Case No.: CV 10-8672-GW (FFMx)

Smith v. Steelcase, Inc., San Bernardino County Superior Court, Case No. CIVDS1725850

Sohal v. Foster Poultry Farms, Stanislaus County Superior Court, Case No. 2026605

Solomon v. City of Los Angeles, Los Angeles County Superior Court, Case No. BC570345

Solano v. Vozzcom, Inc., Imperial County Superior Court, Case No. ECU09519

Smith, et al. v. Sente Development, Inc., Sacramento County Superior Court, Case No. 34-2016-00196614

Solorzano v. FDS Manufacturing Corporation, Los Angeles County Superior Court, Case No. BC542532

Solowitz v. BakeMark USA LLC, Los Angeles County Superior Court, Case No. BC467838

Spampinato v. Wind & Sea Restaurants, Inc., San Bernardino County Superior Court, Case No. CIVVS1205154

Spitzer, et al. v. FRHI Hotels & Resorts (Canada) Inc., San Bernardino County Superior Court, Case No. C IVDS1712220

Stephens v. C.S., Inc., Riverside County Superior Court, Case No. PSC1301224

Stevenson v. Harvest Management Sub LLC, Ventura County Superior Court, Case No. 56-2011-00397420-CU-OE-SIM

Thompson v. Continental Labor Resources, Inc. d/b/a Continental Labor & Staffing Resources, Kern County Superior Court, Case No. S-1500-CV-278751-DRL

Thompson v. Sidhu Truck Line, Inc., Kern County Superior Court, Case No. BCV-15-101308-DRL

Tigas v. Ajilon Communications, Los Angeles County Superior Court, Case No. BC409737

Torres v. Coastal Employment Inc., Los Angeles County Superior Court, Case No. BC529207

Tran v. CSP Fiber Services, San Bernardino County Superior Court, Case No. CIVDS172758

Tripp v. California Guest Services, Inc., Plumas County Superior Court, Case No. CV16-00036

Valdez v. Diamond Landscaping, Inc., Los Angeles County Superior Court, Case No. BC497097

Valencia v. American Team Managers, Inc., Orange County Superior Court, Case No. 30-2016-00857365-CU-CR-CXC

Van Son v. Rush Truck Centers of California, Inc., Los Angeles County Superior Court, Case No. BC494747

Vasquez v. Schurman Fine Papers, San Joaquin County Superior Court, Case No. STK-CV-LMC-2015-10035

Velasquez v. Modesto Ventures, LLC, Sacramento County Superior Court, Case No. 32-2012-00126159

Victoria v. Bali Limousines Inc., San Mateo County Superior Court, Case No. CIV507774

Victorian v. Vision X, Inc., Los Angeles County Superior Court, Case No. BC400333

Wade v. Frito Lay, Kern County Superior Court, Case No. BCV-17-102014

Walls v. E. & J. Gallo, Stanislaus County Superior Court, Case No. 2015874

Warner v. Waterdrops Express Car Wash, LLC, Tulare County Superior Court, Case No. 265708

Waybright v. EAH, Inc., Stanislaus County Superior Court, Case No. 2011677

Weiss v. C.A.R. Enterprises, Inc., Riverside County Superior Court, Case No. RIC1113165

White v. Sally Beauty Supply, LLC, Imperial County Superior Court, Case No. ECU08177

Williams v. Dennis Dillon RV, LLC, San Bernardino County Superior Court, Case No. CIVDS 16006879

Williams v. Closet World, Inc., Los Angeles County Superior Court, Case No. BC400178

Williams v. Progress Rail Services Corporation, Kern County Superior Court, Case No. S-1500-CV-280236 DRL

Wing v. Three Group, Inc., Los Angeles County Superior Court, Case No. BC643883

Wilson v. ALSCO, Inc., Imperial County Superior Court, Case No. ECU07406

Wilson v. Michael C. Stead, Inc., Contra Costa Superior Court, Case No. C1400135

Winningham v. Storer Transportation Service, San Joaquin County Superior Court, Case No. 39-2015-00324708-CU-STK

Woody v. WBN Home Design, San Bernardino County Superior Court, Case No. CIVDS1613367

Woods, et al. v. F&B Innovations, LLC, San Bernardino County Superior Court, Case No. CIVDS1717765

Woodyard v. Bellus ALC Acquisition, LLC, USDC – Central District of California (Los Angeles), Case No. 2:13-cv-05285 SJO AGRx

Wright v. Social Vocational Services, Inc., Kern County Superior Court, Case No. BCV-15-101264

Ybarra v. New Legend, Inc., Sutter County Superior Court, Case No. CVCS-16-2097

Zaragoza v. Center Automotive, Inc., Los Angeles Superior Court, Case No. BC505194

EXHIBIT B

GAINES&GAINES

A PROFESSIONAL LAW CORPORATION

WWW.GAINESLAWFIRM.COM

27200 AGOURA ROAD, SUITE 101

CALABASAS, CALIFORNIA 91301

PHONE (818) 703-8985
FAX (818) 703-8984

October 27, 2021

Via Certified Mail

Labor & Workforce Development Agency
By electronic submission

Automotive Elite Investments, Inc.
902 Main Street
Chico, CA 95928

Defendant mailed certified # 70190700000201201411

Agent for Service of Process for Automotive Elite Investments, Inc.
Mark Abouzeid
902 Main Street
Chico, CA 95928

Agent mailed certified # 70190700000201201404

Re: ***Labor Code Violations of Automotive Elite Investments, Inc. dba Chico
Volkswagen and Chico Mazda – Compliance Letter of California Labor Code §
2698 –Private Attorneys General Act***

Dear LWDA:

This office represents Rick Brower, a former non-exempt California employee of Automotive Elite Investments, Inc. dba Chico Volkswagen and Chico Mazda (“Defendant”). The purpose of this letter is to comply with the Private Attorneys General Act of 2004, pursuant to California Labor Code § 2698 *et seq.*

Our client was employed by Defendant in Northern California. Herein we set forth the facts and theories of California Labor Code violations which we allege Defendant engaged in with respect to our client and other of its non-exempt California employees (“Aggrieved Employees”).

Defendant failed to pay our client and other Aggrieved Employees all wages due during the course of their employment, including, but not limited to, all minimum and overtime wages due. Defendant paid our client and Aggrieved Employees piece-rate, commission and/or bonus wages. However, some tasks had no compensable piece-rate or commission unit associated with them, such that they went uncompensated (see discussion below). This includes rest periods, which must be separately paid; however, Defendant failed to provide compensated rest periods and denied rest periods altogether. Our client and Aggrieved Employees are not compensated for all hours worked (and thus, all minimum and overtime wages due) when they perform tasks for which no piece-rate or commission is associated, including rest periods. This violates Labor Code §§ 510, 558, 1194 and 1194.2.

Defendant failed to pay premium wages to our client and Aggrieved Employees who were denied rest periods, in violation of Labor Code §§ 226.7 and 558 and IWC Wage Order 7-2001. Our client and all other Aggrieved Employees were routinely not authorized and unable to take a 10-minute rest period for every four (4) hours of work or major fraction thereof, but were not paid premium wages of one hour's pay for each missed rest period. Furthermore, as discussed above, Defendant paid our client and certain Aggrieved Employees on a bonus/commission/piece-rate basis for completing and performing certain tasks. However, some tasks had no compensable bonus/commission/piece-rate unit associated with that task, such that those tasks went uncompensated, including rest periods, which must be separately paid. Our client and other Aggrieved Employees are entitled to all wages due for unpaid rest periods. Our client and other Aggrieved Employees were also denied off-duty, paid rest periods altogether, but were never paid rest period premium wages as a result. This violates Labor Code §§ 226.7 and 558 and IWC Wage Order 7-2001.

Defendant failed to pay our client and all other Aggrieved Employees premium wages for missed and denied meal periods, in violation of Labor Code §§ 226.7, 512 and 558 and IWC Wage Order 7-2001. Our client and other Aggrieved Employees were routinely denied, and not authorized to take, an uninterrupted, 30-minute meal period for every shift worked over five hours in duration, and a second 30-minute meal period for every shift worked over ten hours in duration, but were not paid premium wages of one hour's pay for each missed meal period. Further, when meal periods were provided, they were typically late, short, or interrupted in the middle. This violates Labor Code §§ 226.7, 512, and 558 and IWC Wage Order 7-2001.

Our client further alleges that Defendant failed to provide him and Aggrieved Employees with wage statements that fully and accurately itemized the requirements set forth in Labor Code §§ 226(a) and 226.3. Our client and other Aggrieved Employees were not paid all minimum and overtime wages and premium meal and rest period wages due, as stated above. As such, the wage statements provided by Defendant failed to accurately state all gross wages earned, in violation of Labor Code §§ 226(a)(1) and 226.3, total hours worked, in violation of Labor Code §§ 226(a)(2) and 226.3, net wages earned, in violation of Labor Code §§ 226(a)(5) and 226.3, and all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each rate, in violation of Labor Code §§ 226(a)(9) and 226.3.

Our client further alleges that Defendant paid certain Aggrieved Employees their final wages beyond the time frames set forth in Labor Code §§ 201 and 202. As our client and certain Aggrieved Employees of Defendant were not paid all wages due and owing throughout the course of their employment, as detailed above, at the time of their separation they were not paid all final wages due and owing for the entirety of their employment. This violates Labor Code §§ 201-203.

The \$75 PAGA filing fee has been electronically submitted to the LWDA concurrently with the transmission of this letter.

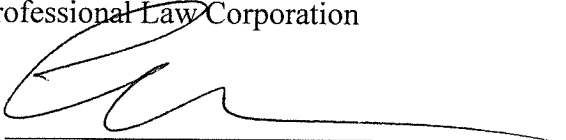
We invite Defendant or its attorneys to contact our office to discuss this matter, including whether an early resolution of the claims can be reached.

Labor & Workforce Development Agency
Automotive Elite Investments, Inc.
Mark Abouzeid
Page 3

Very truly yours,

GAINES & GAINES
A Professional Law Corporation

By :



EVAN S. GAINES

EXHIBIT C

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF BUTTE**

RICK BROWER, on behalf of himself and all
"aggrieved employees" pursuant to Labor
Code § 2698, et seq.,

Plaintiff,

v.

AUTOMOTIVE ELITE INVESTMENTS,
INC., a California corporation, d/b/a CHICO
VOLKSWAGEN and CHICO MAZDA, and
DOES 1 through 10, inclusive,

Defendants.

Case No. 22CV00032

**PRIVATE ATTORNEYS GENERAL ACT
(LABOR CODE § 2698 ET SEQ.)
SETTLEMENT AGREEMENT**

Date Action Filed: January 6, 2022

PAGA SETTLEMENT AGREEMENT

Subject to Court approval by the Superior Court of the State of California for the County of Butte ("Court"), Plaintiff Rick Brower ("Plaintiff") and Defendant Automotive Elite Investments, Inc., ("Defendant") (collectively the "Parties") hereby agree to the following binding settlement ("Settlement" or "Settlement Agreement") of the action entitled *Brower vs. Automotive Elite Investments, Inc. dba Chico Volkswagen and Chico Mazda*, No. 22CV00032, Butte County Superior Court (the "Action").

DEFINITIONS

The following definitions are applicable to this Settlement Agreement. Definitions contained elsewhere in this Settlement Agreement will also be effective:

1. "Action" means *Brower vs. Automotive Elite Investments, Inc. dba Chico Volkswagen and Chico Mazda*, No. 22CV00032, Butte County Superior Court.
2. "Aggrieved Employees" means all of Defendant's non-exempt employees in the State of

California from October 27, 2020 until June 3, 2022.

3. “Court” means the Superior Court for the State of California, County of Butte.

4. “LWDA” means the California Labor and Workforce Development Agency.

5. “Maximum Settlement Amount” means the settlement amount of Ninety-Eight Thousand Dollars (\$98,000.00) to be paid by Defendant in full satisfaction of all Settled Claims arising from the Action, which includes all payments to Aggrieved Employees, Plaintiff, Plaintiff’s Counsel, the LWDA, and the Settlement Administrator.

6. “PAGA Penalties Fund” means the Maximum Settlement Amount less the Attorneys’ Fees and Costs, Enhancement Award, and Settlement Administrator Costs.

7. “Plaintiff’s Counsel” means Gaines & Gaines, APLC.

8. “Enhancement Award” means the payment to Plaintiff for his service on behalf of the LWDA and Aggrieved Employees, and for general releases of all claims arising out of his employment with Defendant.

9. “Settled Claims” means any and all claims for PAGA civil penalties under the California Labor Code, Wage Orders, regulations, and/or other provisions of law alleged or that could have been alleged to have been violated in the Action with respect to Aggrieved Employees based on the facts alleged in the Action during the Settlement Period.

10. “Settlement Period” means October 27, 2020 until June 3, 2022.

TERMS

11. Maximum Settlement Amount. In consideration for Plaintiff’s promises and representations described in this Settlement Agreement, and subject to all of the conditions of the Settlement being met, Defendant will pay a maximum amount of Ninety-Eight Thousand Dollars (\$98,000.00) (“Maximum Settlement Amount”), which represents the maximum amount payable in this Settlement by Defendant, and includes attorneys’ fees, litigation costs and expenses, consideration for Plaintiff’s service on behalf of the LWDA and Aggrieved Employees, Settlement Administration Costs, and payments to Aggrieved Employees and the LWDA for their share of the PAGA Penalties Fund. No portion of the Maximum Settlement Amount will be retained by, or revert to, Defendant.

12. PAGA Penalties Fund. The PAGA Penalties Fund will be paid to Aggrieved Employees

1 and the LWDA in full satisfaction of the Settled Claims. Pursuant to PAGA, Seventy-Five Percent (75%)
2 of the PAGA Penalties Fund will be paid to the LWDA, and the remaining Twenty-Five Percent (25%)
3 will be paid to all Aggrieved Employees according to the following formula:

4 12(a) Defendant will calculate: (i) the total number of pay periods worked by each
5 Aggrieved Employee during the Settlement Period, and (ii) the total number of
6 pay periods worked by all Aggrieved Employees during the Settlement Period.

7 12(b) To determine each Aggrieved Employee's payment from the PAGA Penalties
8 Fund, Defendant will use the following formula: Settlement Payment = 25%
9 of PAGA Penalties Fund $\times$ [Pay Periods Worked by Individual Aggrieved
10 Employee During the Settlement Period $\div$ Total Pay Periods Worked by All
11 Aggrieved Employees during the Settlement Period].

12 12(c) Defendant has represented that there were approximately 992 pay periods
13 during the Settlement Period.

14 13. Attorneys' Fees and Costs. Defendant agrees not to oppose or impede any application or
15 motion by Plaintiff's Counsel for Attorneys' Fees and Costs of not more one-third of the Maximum
16 Settlement Amount (i.e. projected to be Thirty-Two Thousand Six Hundred Sixty-Six Dollars and Sixty-
17 Six Cents (\$32,666.66), plus the reimbursement of all out-of-pocket costs and expenses associated with
18 Plaintiff's Counsel's litigation and settlement of the Action (including expert/consultant fees, investigations
19 costs, etc.), not to exceed Ten Thousand Dollars (\$10,000.00), both of which will be paid from the
20 Maximum Settlement Amount. Any portion of the Attorneys' Fees and Costs not awarded to Plaintiff's
21 Counsel will be added to the PAGA Penalties Fund.

22 14. Representative Enhancement Award. For general releases of all claims Plaintiff may have
23 against Defendant arising out of his employment, and for his service on behalf of the LWDA and
24 Aggrieved Employees, Defendant agrees not to oppose or impede any application or motion by Plaintiff for
25 a representative enhancement award of up to Eight Thousand Dollars (\$8,000.00) for Plaintiff
26 ("Enhancement Award"). Upon receipt of the Enhancement Award, Plaintiff will be deemed to have fully
27 released and discharged Defendant from any and all claims, demands, obligations, causes of action, rights,
28 or liabilities of any kind which have been or could have been asserted against Defendant arising out of, or

1 relating to, his employment with Defendant or termination thereof, including but not limited to claims for
2 restitution, penalties, retaliation, discrimination, harassment, wrongful termination of employment, failure
3 to provide meal and rest breaks or premiums in lieu thereof, unpaid wages, including minimum wages,
4 regular wages, overtime and double time wages, wage statement violations and separation pay violations.
5 In the event the Court approves a payment of less than the requested amount, the difference will be added
6 to the PAGA Penalties Fund (although Plaintiff may appeal an order granting less than the full amount
7 sought for Plaintiff's enhancement payment). Defendant, via the Settlement Administrator, will report this
8 payment on IRS Form 1099 issued to Plaintiff.

9 15. This release specifically includes any and all claims, demands, obligations and/or causes of
10 action for damages, restitution, penalties, interest, and attorneys' fees and costs (except provided by the
11 Settlement) relating to or in any way connected with the matters referred to herein, whether or not known
12 or suspected to exist, and whether or not specifically or particularly described herein. Specifically, Plaintiff
13 will be deemed to have waived all rights and benefits afforded by California Civil Code Section 1542,
14 which provides:

15 **A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE CREDITOR**
16 **OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR**
17 **HER FAVOR AT THE TIME OF EXECUTING THE RELEASE AND THAT, IF**
18 **KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY AFFECTED HIS OR HER**
19 **SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY.**

20 16. Escalator Clause. Defendant has represented that there are 49 Aggrieved Employees who
21 worked 992 pay periods during the Settlement Period. Should the pay periods worked by the Aggrieved
22 Employees during the Settlement Period ultimately increase more than 5% (i.e. exceed 1042 total pay
23 periods), Defendant shall increase the Maximum Settlement Amount by \$98.79 for each pay period in
24 excess of 1042 pay periods.

25 17. Settlement Administration Costs. The Parties will retain Phoenix Settlement
26 Administrators as the third-party settlement administrator ("Settlement Administrator"). The Settlement
27 Administrator will be responsible for establishing a qualified settlement fund ("QSF") and issuing
28 payments and appropriate tax forms to Aggrieved Employees, the LWDA, Plaintiff, and Plaintiff's

Counsel. The Settlement Administration Costs will be paid from the Maximum Settlement Amount. Based on the estimate that there are approximately forty-nine (49) Aggrieved Employees, Settlement Administration Costs are estimated at Three Thousand Five Hundred Dollars (\$3,500.00).

18. Court Approval of the Settlement and Distribution of Settlement Payments. Plaintiff will present this Settlement Agreement to the Court and the LWDA. Plaintiff will request that the Court issue an order and judgment approving and incorporating by reference the terms and conditions of the Settlement Agreement (the "Order and Judgment"). Defendant agrees not to oppose Plaintiff's motion for PAGA settlement approval to the extent it comports with this agreement.

19. List of Aggrieved Employees. Within seven (7) calendar days after entry of the Order and Judgment, Defendant will provide the Settlement Administrator a complete list of all Aggrieved Employees ("Aggrieved Employee List"). The Aggrieved Employee List will be formatted in Microsoft Office Excel and will include each Aggrieved Employees full name; most recent mailing address and telephone number; Social Security number; the respective number of pay periods during which each Aggrieved Employee worked during the Settlement Period; and any other relevant information needed to calculate settlement payments.

20. Funding of the Settlement. Within fifteen (15) calendar days after entry of the Order and Judgment, Defendant will deposit the Maximum Settlement Amount into the QSF to be established by the Settlement Administrator. Within fourteen (14) calendar days of the funding of the Settlement, the Settlement Administrator will issue payments to: (a) Aggrieved Employees; (b) the Labor and Workforce Development Agency; (c) Plaintiff; (d) Plaintiff's Counsel; and (e) itself. The Settlement Administrator, and not Defendant, will issue the appropriate tax forms for all payments issued under this Settlement.

21. Settlement Payments to Aggrieved Employees. The Settlement Administrator will issue each Aggrieved Employee one check for his or her share of the PAGA Penalties Fund along with an explanatory letter, substantially in the form attached hereto as Exhibit A. Prior to mailing, the Settlement Administrator will perform a search based on the National Change of Address Database for information to update and correct for any known or identifiable address changes. Any checks returned as non-deliverable on or before the check cashing deadline will be sent promptly via regular First-Class U.S. Mail to the forwarding address affixed thereto. If no forwarding address is provided, the Settlement Administrator will

1 promptly attempt to determine the correct address using a skip-trace, or other search using the name,
2 address or Social Security number of the Aggrieved Employee involved, and will then perform a single re-
3 mailing. Checks will remain negotiable for 180 days. Those funds represented by un-cashed checks which
4 remain outstanding 180 days after the mailing of the Settlement checks by the Settlement Administrator
5 will be tendered to the LWDA. All settlement payments to Aggrieved Employees will be treated as
6 miscellaneous income for which a 1099 will be issued if required by law.

7 22. Settled Claims. Upon entry of the Order and Judgment, Plaintiff, and all Aggrieved
8 Employees, will be forever barred from pursuing against Defendant any and all Settled Claims. Aggrieved
9 Employees, other than Plaintiff, will not be deemed to have released any individual wage and hour claims
10 by virtue of this Settlement.

11 23. No Right to Exclusion or Objections by Representative Action Members. Because this
12 settlement resolves claims and actions brought pursuant to PAGA by Plaintiff acting as a proxy and as a
13 Private Attorney General of, and for, the State of California and the LWDA, the Parties agree that no
14 Aggrieved Employee has the right to exclude himself or herself from the Settlement. Aggrieved Employees
15 will be bound by the terms of the Settlement Agreement, upon its approval by the Court, regardless of
16 whether he or she cashes any payment received as a result of this Settlement. The Parties also agree that no
17 Aggrieved Employee has the right to object to the terms of the Settlement Agreement.

18 24. No Credit Toward Benefit Plans. Payments to Aggrieved Employees as referenced herein
19 will not be utilized to calculate any additional benefits under any benefit plans to which any Aggrieved
20 Employee may be eligible, including, but not limited to profit-sharing plans, bonus plans, 401(k) plans,
21 stock purchase plans, vacation plans, sick leave plans, PTO plans, and any other benefit plan. Rather, it is
22 the Parties' intention that this Settlement Agreement will not affect any rights, contributions, or amounts to
23 which any Aggrieved Employee may be entitled under any benefit plans.

24 25. No Prior Assignments. The Parties and their counsel represent, covenant, and warrant that
25 they have not directly or indirectly assigned, transferred, encumbered, or purported to assign, transfer, or
26 encumber to any person or entity any portion of any liability, claim, demand, action, cause of action or right
27 herein released and discharged.

28 26. Nullification of Settlement Agreement. In the event that: (i) the Court does not approve the

1 Settlement as provided herein; or (ii) the Settlement does not become final for any other reason, then this
2 Settlement Agreement, and any documents generated to bring it into effect, will be null and void, and the
3 Parties will be returned to their original respective positions.

4 27. Judgment and Continued Jurisdiction. After entry of the Order and Judgment, the Court
5 will have continuing jurisdiction solely for purposes of addressing: (i) the interpretation and enforcement of
6 the terms of the Settlement, (ii) settlement administration matters, and (iii) such post-Judgment matters as
7 may be appropriate under court rules or as set forth in this Settlement.

8 28. Entire Agreement. This Settlement Agreement constitutes the entirety of the Parties'
9 settlement terms. No other prior or contemporaneous written or oral agreements may be deemed binding
10 on the Parties.

11 29. Amendment or Modification. This Settlement Agreement may be amended or modified
12 only by a written instrument, signed by either the Parties or their successors-in-interest or counsel for all
13 Parties.

14 30. Authorization to Enter Into Settlement Agreement. Counsel for all Parties warrant and
15 represent they are expressly authorized by the Parties whom they represent to negotiate this Settlement
16 Agreement and to take all appropriate action required or permitted to be taken by such Parties pursuant to
17 this Settlement Agreement to effectuate its terms and to execute any other documents required to effectuate
18 the terms of this Settlement Agreement. The Parties and their counsel will cooperate with each other and
19 use their best efforts to effect the implementation of the Settlement. If the Parties are unable to reach
20 agreement on the form or content of any document needed to implement the Settlement, or on any
21 supplemental provisions that may become necessary to effectuate the terms of this Settlement, the Parties
22 may seek the assistance of the Court to resolve such disagreement.

23 31. Binding on Successors and Assigns. This Settlement Agreement will be binding upon, and
24 inure to the benefit of, the successors or assigns of the Parties hereto, as previously defined.

25 32. California Law Governs. All terms of this Settlement Agreement will be governed by and
26 interpreted according to the laws of the State of California.

27 33. Execution and Counterparts. This Settlement Agreement is subject only to the execution of
28 all Parties. However, the Settlement Agreement may be executed in one or more counterparts. All executed

1 counterparts and each of them, including electronic signatures (e.g., Docusign), facsimiles, and scanned
2 copies of the signature pages, will be deemed to be one and the same instrument.

3 34. Acknowledgement that the Settlement is Fair and Reasonable. The Parties believe this
4 Settlement Agreement is an adequate, and reasonable settlement of the Action and have arrived at this
5 Settlement after arm's-length negotiations by experienced counsel. The Parties further acknowledge that
6 they are each represented by competent counsel and that they have had an opportunity to consult with their
7 counsel regarding the fairness and reasonableness of this Settlement.

8 35. Waiver of Certain Appeals. The Parties agree to waive appeals; except, however, that
9 Plaintiff may appeal any reduction to the Attorneys' Fees and Costs or Representative Enhancement
10 Award below the amounts they request from the Court, and either party may appeal any court order that
11 materially alters the Settlement's terms.

12 36. Invalidity of Any Provision. Before declaring any provision of this Settlement Agreement
13 invalid, the Court will first attempt to construe the provision as valid to the fullest extent possible consistent
14 with applicable precedents so as to define all provisions of this Settlement Agreement valid and
15 enforceable.

16 37. Captions. The captions and section numbers in this Settlement Agreement are inserted for
17 the reader's convenience, and in no way define, limit, construe or describe the scope or intent of the
18 provisions of this Settlement Agreement.

19 38. Waiver. No waiver of any condition or covenant contained in this Settlement Agreement
20 or failure to exercise a right or remedy by any of the Parties hereto will be considered to imply or constitute
21 a further waiver by such party of the same or any other condition, covenant, right or remedy.

22 39. Enforcement Action. In the event that one or more of the Parties institutes any legal action
23 or other proceeding against any other Party or Parties to enforce the provisions of this Settlement or to
24 declare rights and/or obligations under this Settlement, the successful Party or Parties will be entitled to
25 recover from the unsuccessful Party or Parties reasonable attorneys' fees and costs, including expert
26 witness fees incurred in connection with any enforcement actions.

27 40. Mutual Preparation. The Parties have had a full opportunity to negotiate the terms and
28 conditions of this Settlement Agreement. Accordingly, this Settlement Agreement will not be construed

1 more strictly against one party merely by virtue of the fact that it may have been prepared by counsel for
2 one of the Parties, it being recognized that, because of the arm's-length negotiations between the Parties, all
3 Parties have contributed to the preparation of this Settlement Agreement.

4 41. Representation By Counsel. The Parties acknowledge that they have been represented by
5 counsel throughout all negotiations that preceded the execution of this Settlement Agreement, and that this
6 Settlement Agreement has been executed with the consent and advice of counsel, and reviewed in full.

7 42. Cooperation and Execution of Necessary Documents. All Parties will cooperate in good
8 faith and execute all documents to the extent reasonably necessary to effectuate the terms of this Settlement
9 Agreement.

10 43. Binding Agreement. The Parties warrant that they understand and have full authority to
11 enter into this Settlement, and further intend that this Settlement Agreement will be fully enforceable and
12 binding on all parties, and agree that it will be admissible and subject to disclosure in any proceeding to
13 enforce its terms, notwithstanding any mediation confidentiality provisions that otherwise might apply
14 under federal or state law.

15 44. Denial of Liability. The Parties expressly recognize that the making of this agreement does
16 not in any way constitute an admission or concession of wrongdoing on the part of Defendant. Nothing in
17 this Settlement, nor any action taken in implementation thereof, nor any statements, discussions or
18 communications, nor any materials prepared, exchanged, issued or used during the pendency of the Action,
19 is intended by the Parties to, nor will any of the foregoing constitute, be introduced, be used or be
20 admissible in any way in any other judicial, arbitral, administrative, investigative or other forum or
21 proceeding, as evidence of any violation of any federal, state, or local law, statute, ordinance, regulation,
22 rule or executive order, or any obligation or duty at law or in equity. Notwithstanding the foregoing, this
23 agreement may be used in any proceeding in the Court that has as its purpose the interpretation,
24 implementation, or enforcement of the Settlement or any orders or judgments of the Court entered into in
25 connection therewith.

26 45. Non-Disparagement. Plaintiff shall not engage in any activity, or make any statements to
27 third parties, that causes or would reasonably tend to cause material harm to the Defendant's reputation or
28 goodwill, including any activity or statements denigrating, disparaging, or casting unfair aspersions on

1 Defendant, their business, their management, or their financial standing or practices.
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EXHIBIT A

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF BUTTE

RICK BROWER, on behalf of himself and
all "aggrieved employees" pursuant to
Labor
Code § 2698, et seq.,

Plaintiff,

v.

AUTOMOTIVE ELITE INVESTMENTS,
INC., a California corporation, d/b/a
CHICO VOLKSWAGEN and CHICO
MAZDA, and DOES 1 through 10,
inclusive,

Defendants.

Case No. 22CV00032

**NOTICE OF SETTLEMENT OF PRIVATE
ATTORNEYS GENERAL ACT CLAIM
(CAL. LABOR CODE § 2698 ET SEQ.)**

This notice relates to the settlement of a lawsuit pursuant to the Private Attorneys General Act of 2004, codified at Labor Code § 2698 *et seq* ("PAGA"). A PAGA action is an action for civil penalties in which the State of California receives 75 percent of the civil penalties collected.

You have received this notice because you have been identified as an individual who was employed as a non-exempt employee by Defendant Automotive Elite Investments, Inc. dba Chico Volkswagen and Chico Mazda in California from October 27, 2020 through June 3, 2022 ("Aggrieved Employee").

On January 6, 2022, Plaintiff Rick Brower (the "Plaintiff") commenced a lawsuit in Butte County Superior Court, case number 22CV00032 (the "Lawsuit") to recover civil penalties. The Complaint alleges that Defendant failed to pay all wages due, failed to provide meal and rest periods or compensation in lieu thereof, failed to timely pay wages due at the separation of employment, and failed to issue accurate wage statements. Plaintiff brought this lawsuit as a representative action under PAGA, on behalf of himself, the State of California, and the Aggrieved Employees.

Defendant denies Plaintiff's allegations and disputes all of Plaintiff's claims. The Lawsuit was litigated and following an investigation and a mediation before a third-party mediator, the Parties reached a settlement which takes into account the uncertainties and risks of proceeding with litigation. The parties agreed that a portion of the settlement proceeds would be distributed to the Aggrieved Employees, including you, after certain portions of the penalties collected are paid to the State of California according to California law.

The Court approved the settlement on _____ and has determined that the settlement is reasonable. The enclosed payment which accompanies this notice is made to you pursuant to the terms of the Settlement and is based on your share of the total settlement proceeds that the parties agreed to be paid to the allegedly aggrieved employees. You may deposit or cash the check without

1 any further obligation on your part and there is no need for you to contact the settlement
2 administrator, the parties, or the Court.

3 The Court-approved settlement contains the following release of claims, to which you are
4 bound:

5 Upon entry of the Order and Judgment, Plaintiff, and all Aggrieved
6 Employees, will be forever barred from pursuing against Defendant
7 any and all Settled Claims (defined as any and all claims for PAGA
8 civil penalties under the California Labor Code, Wage Orders,
9 regulations, and/or other provisions of law alleged or that could have
10 been alleged to have been violated in the Action with respect to
11 Aggrieved Employees based on the facts alleged in the Action during
12 the Settlement Period [October 27, 2020 through June 3, 2022]).
13 Aggrieved Employees, other than Plaintiff, will not be deemed to
14 have released any individual wage and hour claims by virtue of this
15 Settlement.

16 If you have questions about this notice, please contact Plaintiff's Counsel, Gaines & Gaines,
17 APLC, at (866) 550-0855.

18 THIS NOTICE IS NOT AN EXPRESSION OF ANY OPINION BY THE COURT AS TO
19 THE MERITS OF THE CLAIMS OR DEFENSES BY EITHER SIDE IN THIS PROCEEDING.

20 PLEASE DO NOT CONTACT THE COURT REGARDING THIS CASE.
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READ CAREFULLY BEFORE SIGNING

PLAINTIFF

06 / 20 / 2022
DATED: June __, 2022

By: 
RICK BROWER

DEFENDANT

DATED: June __, 2022

By: _____
Mark Abouzeid, Representative of Defendant
AUTOMOTIVE ELITE INVESTMENTS, INC.

APPROVED AS TO FORM

GAINES & GAINES, APLC

DATED: June 20, 2022

By: Daniel F. Gaines
Daniel F. Gaines
Alex P. Katofsky
Attorneys for Plaintiff
RICK BROWER

KLINEDINST, PC

DATED: June __, 2022

By: _____
Lindsey N. Casillas
Raja A. Hafed
Attorneys for Defendant
AUTOMOTIVE ELITE INVESTMENTS,
INC.

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READ CAREFULLY BEFORE SIGNING

PLAINTIFF

DATED: June __, 2022

By: _____

RICK BROWER

DEFENDANT

DATED: June 17, 2022

By:  _____

Mark Abouzeid, Representative of Defendant
AUTOMOTIVE ELITE INVESTMENTS, INC.

APPROVED AS TO FORM

GAINES & GAINES, APLC

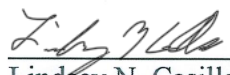
DATED: June __, 2022

By: _____

Daniel F. Gaines
Alex P. Katofsky
Attorneys for Plaintiff
RICK BROWER

KLINEDINST, PC

DATED: June 29, 2022

By:  _____

Lindsey N. Casillas
Raja A. Hafed
Attorneys for Defendant
AUTOMOTIVE ELITE INVESTMENTS,
INC.

20914699.1

TITLE	PRIVATE ATTORNEYS GENERAL ACT (LABOR CODE § 2698 ET SEQ.)...
FILE NAME	FINAL PAGA Settlement.pdf
DOCUMENT ID	708fe79145b7466d3ea39f7778c707f11e49f524
AUDIT TRAIL DATE FORMAT	MM / DD / YYYY
STATUS	● Signed

Document History



SENT

06 / 20 / 2022

16:21:29 UTC

Sent for signature to Rick Brower [REDACTED]@gmail.com) from
office@gaineslawfirm.com
IP: [REDACTED]



VIEWED

06 / 20 / 2022

16:24:27 UTC

Viewed by Rick Brower [REDACTED]@gmail.com)
IP: [REDACTED]



SIGNED

06 / 20 / 2022

16:29:53 UTC

Signed by Rick Brower [REDACTED]@gmail.com)
IP: [REDACTED]



COMPLETED

06 / 20 / 2022

16:29:53 UTC

The document has been completed.

EXHIBIT D

**Rick Brower v Automotive Elite Investments, Inc.
Counsel's Costs**

<u>EXPENSE CATEGORY</u>	<u>EXPENSE</u>
Filing fees (including related attorney service expenses)	\$ 739.60
Mediation fee	\$ 4,500.00
Future estimated expenses - • <i>Filing fees and One Legal Service fees for Motion for PAGA Approval (will be filed via One Legal) - \$15.30</i> • <i>Courtesy copy delivery fees to department of Motion for PAGA Approval via One Legal - \$110.00</i> • <i>Court Call Appearance Fees for Motion for PAGA Approval \$94.00</i> • <i>Postage for mailing Motion for PAGA Approval - \$10.00</i> • <i>Filing fees and One Legal Service fees for Notice of Entry of Order once PAGA Order signed (will be filed via One Legal) - \$15.30</i> • <i>Postage for mailing Notice of Entry of Order - \$5.00</i>	\$ 249.60
TOTAL EXPENSES	\$ 5,489.20