

PIMENTEL LAW, P.C.
Gabriel J. Pimentel, Esq. (SBN 265328)
GJP@PimentelLaw.com
Yesenia L. Rodriguez, Esq. (SBN 331499)
YLR@PimentelLaw.com
30 N. Raymond Avenue, Suite 211
Pasadena, CA 91103
Telephone: (626) 765-9800
Fax: (626) 628-3081

Attorneys for Plaintiff,

IN THE SUPERIOR COURT OF CALIFORNIA

COUNTY OF SANTA CLARA, DOWNTOWN SUPERIOR COURT

JAMIE BRIDGES, an individual,

Plaintiff,

vs.

PREMIER NISSAN OF SAN JOSE, LLC, a
California limited liability company, TROY
DUHON, an individual, and DOES 1 through
20 inclusive,,

Defendants.

Case No.: 22CV394491

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

Plaintiff JAMIE BRIDGES is informed and believes and thereon alleges as follows:

PARTIES, VENUE AND JURISDICTION

1. Plaintiff was at all times relevant hereto a resident of San Jose, California.
2. At all relevant times herein, Defendant PREMIER NISSAN OF SAN JOSE, LLC was a California limited liability company with its principal place of business in San Jose, California.
3. Venue is proper pursuant to California Civil Procedure Code §§ 395 (a) and 395.5 because this suit was filed in the county where the liability arises and where the breach occurred.
4. Defendant TROY DUHON was at all times relevant herein the Principal and Manager

1 of PREMIER NISSAN OF SAN JOSE, LLC.

2 5. Plaintiff is informed and believes, and based thereon alleges, that there exists such a
3 unity of interest and ownership between PREMIER NISSAN OF SAN JOSE, LLC, TROY DUHON,
4 and DOES 1-20 that the individuality and separateness of defendants have ceased to exist.

5 6. Plaintiff is informed and believes, and based thereon alleges, that despite the formation
6 of purported corporate existence, PREMIER NISSAN OF SAN JOSE, LLC, TROY DUHON, and
7 DOES 1-20 are, in reality, one and the same.

8 7. PREMIER NISSAN OF SAN JOSE, LLC, TROY DUHON, and DOES 1-20 do not
9 comply with all requisite corporate formalities to maintain a legal and separate existence.

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

20 9. Accordingly, PREMIER NISSAN OF SAN JOSE, LLC, TROY DUHON and DOES
21 1-20 are the alter egos of one another, and the fiction of their separate corporate existence must be
22 disregarded.

23 10. As a result of the aforementioned facts, Plaintiff is informed and believes, and based
24 thereon alleges that PREMIER NISSAN OF SAN JOSE, LLC, TROY DUHON and DOES 1-20 are
25 joint employers by virtue of a joint enterprise, and that the employees and agents of PREMIER
26 NISSAN OF SAN JOSE, LLC were also employees of TROY DUHON and DOES 1-20. PREMIER
27 NISSAN OF SAN JOSE, LLC employees performed services for each and every one of Defendants,
28 and to the mutual benefit of all Defendants, and all Defendants shared control of them as employees,

1 either directly or indirectly, and the manner in which Defendants' business was and is conducted.

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

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

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

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

26 **FACTUAL ALLEGATIONS**

27 15. JAMIE BRIDGES worked as a Lube Technician for Defendants from January 20, 2020
28 to April 17, 2021.

1 16. Plaintiff's job duties included oil changes, tire rotations, and ECM reprogramming.

2 17. Defendant PREMIER NISSAN OF SAN JOSE, LLC is an automobile dealership
3 located in San Jose, California.

4 18. JAMIE BRIDGES worked Tuesday through Saturday, from 7:30 a.m. to 4:30 p.m. and
5 was to be paid \$17 per hour. However, there were occasions where Mr. Bridges worked as late as 7:00
6 p.m. Mr. Bridges worked more than a 10-hour shift about three to four days per month. Therefore, Mr.
7 Bridges worked an average of 40-45 hours per week.

8 19. During his employment, Plaintiff was given a one-hour meal period but did not receive
9 a second meal period on days when he worked more than 10 hours in a single shift. Plaintiff is informed
10 and believes, and thereon alleges, that Defendants' employees who worked more than a 10-hour period
11 did not receive a second meal period.

12 20. Plaintiff is informed and believes, and thereon allege, that Defendants knew or should
13 have known that Plaintiff was entitled to meal periods in accordance with the Labor Code or payment
14 of one additional hour of pay at his regular rates of pay when he was not provided with timely,
15 uninterrupted, 30 minute meal periods and that Plaintiff and was not provided with all meal periods
16 or payment of one additional hour of pay at his regular rates of pay when he did not receive a timely,
17 uninterrupted, 30 minute meal period.

18 21. At no time during Plaintiff's employment was he provided compliant 10-minute rest
19 periods.

20 22. Plaintiff is informed and believes, and thereon allege, that Defendants knew or should
21 have known that Plaintiff was entitled to 10 minute rest periods in accordance with the Labor Code
22 and applicable IWC Wage Order or payment of one additional hour of pay at his regular rate of pay
23 when he was not provided with a compliant 10 minute rest period and that Plaintiff was not provided
24 compliant 10 minute rest periods or payment of one additional hour of pay at his regular rate of pay
25 when he was not provided a compliant 10 minute rest period.

26 23. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or should
27 have known that Plaintiff and other aggrieved employees were entitled to receive at least minimum
28 wages for compensation and that they were not receiving at least minimum wages for work that was

1 required to be done off-the-clock. In violation of the Labor Code, Plaintiff and other aggrieved
2 employees were not paid at least minimum wages for work done off-the-clock.

3 24. Plaintiff is informed and believes, and thereon allege, that Defendants knew or should
4 have known that Plaintiff and other aggrieved employees were entitled to receive certain wages for
5 overtime compensation and that they were in fact not receiving certain wages for overtime
6 compensation.

7 25. At all times relevant herein, Defendants provided Plaintiff and other aggrieved
8 employees with an insufficient quantity of tools to adequately perform their job duties. The tools
9 provided by Defendants were insufficient to allow a single mechanic to perform their job. As such,
10 mechanic and other aggrieved employees were required to incur thousands of dollars in tool
11 expenditures, which Defendants have not reimbursed. Defendants' practice of failing to reimburse
12 non-double minimum wage-earning mechanics and technicians for the purchase of their hand tools
13 and equipment is violation of Labor Code § 2802.

14 26. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or should
15 have known that Plaintiff and other aggrieved employees were entitled to receive full reimbursement
16 for all business-related expenses and costs they incurred in direct consequence of the discharge of
17 their duties and that they did not receive full reimbursement of applicable business-related expenses
18 and costs incurred.

19 27. In order to perform his job duties, Plaintiff required the use of tools. He spent \$5,000
20 for his toolbox and purchased an additional \$5,000 worth of tools after his date of hire. These tools
21 were purchased in order to adequately perform his job duties.

22 28. As discussed above, Defendant's employees are owed wages for unpaid minimum
23 wage, overtime, meal periods and unreimbursed business expenses. At no time since their separation
24 of employment were these outstanding sums ever paid to them. Further, Defendant knew or should
25 have known that it owed these outstanding sums to employees and intentionally failed and refused to
26 pay these sums immediately upon their termination or within 72 hours of their resignation of
27 employment and continue to refuse to do so. This practice is in violation of Labor Code §§ 201-203.

28 29. Plaintiff is informed and believes, and thereon alleges, that Defendants engaged in

1 this same practice with respect to all other aggrieved employees whose employment separated.
2 Specifically, Plaintiff alleges that Defendants' aggrieved employees are owed wages for unpaid
3 overtime, minimum-wage, 10-minute rest periods, and unreimbursed business expenses. These
4 outstanding sums continued to accumulate every pay period. At the time of their discharge or
5 resignation, Defendants' aggrieved employees were not paid all compensation due.

6 30. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or should
7 have known that Plaintiff and other aggrieved employees were entitled to timely payment of all wages
8 earned upon termination of employment. In violation of the Labor Code, Plaintiff and other aggrieved
9 employees did not receive payment of all wages due, including overtime wages, minimum wages,
10 and rest period premiums, within the time periods required by law.

11 31. Plaintiff is informed and believes, and thereon alleges, that at all times herein
12 mentioned, Defendants knew or should have known that they had a duty to compensate Plaintiff and
13 other aggrieved employees for all hours worked, and that Defendants had the financial ability to pay
14 such compensation, but willfully, knowingly, and intentionally failed to do so.

15 32. On April 3, 2021, Plaintiff complained to the Shop Foreman, Long Mong, that he was
16 not paid double minimum wage as required by IWC Wage Order 4-2001, § 9 (B).

17 33. About 11 days after Plaintiff first raised concerns regarding not receiving double
18 minimum wage to Long Mong, the shop Foreman, Plaintiff was unenrolled from Nissan's Academy.

19 34. On April 14, 2021, Plaintiff expressed his concerns to Simon Shwang regarding the
20 nonpayment of double minimum wage as required by IWC Wage Order 4-2001, § 9 (B), after a former
21 coworker, Christian Sermenio, told him that nonpayment of double minimum wage was illegal. Mr.
22 Shwang responded that the double minimum wage rule is only applicable to flat rate technicians. The
23 conversation lasted for about an hour.

24 35. In that conversation, Mr. Shwang informed Plaintiff that he used to have a very high
25 opinion of him and asked whether others felt similarly to Plaintiff. Plaintiff replied that yes others felt
26 the same. It was at that point that Mr. Shwang called in two other employees: Juan and Brett. Mr.
27 Shwang asked Juan and Brett, in the presence of Plaintiff how they felt about their compensation. Brett
28 answered that he loved his job and did not care about the pay. Juan asked Mr. Shwang why their

1 overtime rate was only paid at \$8.50 per hour. Mr. Shwang did not address Juan's question and both
2 Juan and Brett were dismissed from the meeting.

3 36. After Plaintiff raised his concerns to Mr. Shwang, Brett was promoted to Lead Lube
4 Technician.

5 37. Brett later informed Plaintiff, at the direction of the shop Foreman, that he was no
6 longer allowed to work past 4:30 p.m. Brett remarked that he was not sure who Plaintiff pissed off but
7 clearly he angered someone.

8 38. The next day, Mr. Shwang stood outside the lube bay, in an intimidating manner, for
9 at least six hours and watched the lube technicians work. Mr. Shwang commented to a new hire that he
10 recommended he follow in Brett and Eric's footsteps, as they would lead him in the right direction.
11 There was no mention of Mr. Bridges.

12 39. On April 16, 2021, Plaintiff was informed by another technician, Eric, that a meeting
13 had been called for lube technicians. Mr. Bridges responded that he was not aware of the meeting.

14 40. Plaintiff attempted to attend. Mr. Shwang, Mr. Mong, and Nicholas Tormiana were in
15 the meeting. As soon as Mr. Bridges opened the door, Mr. Shwang gave him a nasty look, made a
16 cutthroat gesture and said no, not you. So, Plaintiff went back to perform his job duties.

17 41. Another coworker noticed that Plaintiff was not in the meeting and asked what had
18 happened. After Plaintiff responded, his coworker told him that what they did to him was
19 discrimination.

20 42. Plaintiff thereafter clocked out at 4:30 p.m., even though every other lube technician
21 was allowed to work past 4:30 p.m. Plaintiff then emailed Lorena Chavez, H.R. Manager, and gave her
22 an account of what had happened leading up to the April 14, 2021 meeting.

23 43. On April 17, 2021, Plaintiff went into work shaking and fearful for his safety, then
24 packed up his tools. Plaintiff then wrote his letter of resignation explaining that he was leaving for
25 personal reasons and handed it to Mr. Mong.

26 44. In response, Mr. Mong's asked why he was resigning and Plaintiff responded that the
27 events leading to his resignation were very unprofessional and that he no longer felt comfortable
28 working there. He informed Mr. Mong that employees in in the shop were not happy and that Mr.

1 Shwang was intimidating the technicians.

2 **FIRST CAUSE OF ACTION**
3 **CIVIL PENALTIES IN VIOLATION OF**
4 **LABOR CODE § 2698, ET SEQ.**
5 **(AGAINST ALL DEFENDANTS)**

6 45. Plaintiff incorporate, by reference, all allegations in the foregoing paragraphs as though
7 fully set forth herein.

8 46. Under Labor Code §2698, et seq., Plaintiff, as an aggrieved employee, may bring an
9 action against Defendants, on behalf of himself and other current or former employees, seeking civil
10 penalties for defendants' violations of the California Labor Code.

11 **Failure to Pay Minimum Wage**

12 47. "The minimum wage for employees fixed by the commission or by any applicable state
13 or local law, is the minimum wage to be paid to employees, and the payment of a lower wage than the
14 minimum so fixed is unlawful." Lab. Code § 1197; IWC Wage Order Nos. 1–2001 to 16–2001, § 4; 8
15 Cal Code Regs §§ 11010-11160, § 4.

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

20 49. To the extent that the off-the-clock hours worked by employees did not qualify for
21 overtime premium payment, Defendants did not pay at least minimum wages for those hours
22 employees worked off-the-clock in violation of California Labor Code sections 1182.12, 1194, 1197,
23 1197.1, and 1198. Accordingly, Defendants regularly failed to pay at least minimum wages to
24 employees for all of the hours they worked. Defendants' failure to pay employees minimum wages
25 violates California Labor Code sections 1182.12, 1194, 1197, 1197.1, and 1198.

26 50. As discussed above, Mr. Bridges did not receive a second meal period on days where
27 he worked in excess of 10 hours in one day. Mr. Bridges further alleges that Defendants engaged in
28 this same practice with respect to their other California employees.

Failure to Pay Overtime

51. “Any work in excess of eight hours in one workday and any work in excess of 40 hours in any one workweek and the first eight hours worked on the seventh day of work in any one workweek shall be compensated at the rate of no less than one and one-half times the regular rate of pay for an employee.” Lab. Code § 510; IWC Wage Order Nos. 1–2001 to 16–2001, § 3; IWC Wage Order No. 17-2001, § 4; 8 Cal Code Regs §§ 11010-11160, § 3; 8 Cal Code Regs § 11170, § 4. Labor Code § 1198 makes it unlawful to employ an employee under conditions of labor that are prohibited by the applicable wage order. California Labor Code § 1198 requires that “the standard conditions of labor fixed by the commission shall be the . . . standard conditions of labor for employees. The employment of any employee . . . under conditions of labor prohibited by the order is unlawful.”

52. Overtime rates of employees were paid at ½ the employees’ regular rate of pay, as opposed to 1 ½ times in violation of Labor Code § 510.

53. Employees were not paid overtime premiums for all of the hours they worked in excess of 8 hours in a day, in excess of 12 hours in a day, and/or in excess of 40 hours in a week. Defendants had, and continue to have, a company-wide policy of failing to implement any policies to authorize and permit employees to take compliant meal periods and, instead, engaged in a practice of discouraging and impeding employees from taking meal periods by assigning them a heavy workload and understaffing their facilities. Therefore, there were no other employees available to relieve employees of their duties so as to allow them to take their meal periods.

54. Defendants had no policy for scheduling second meal periods and no practice of permitting employees to take second 30-minute meal periods. As a result, on days that employees worked in excess of 10 hours, they were not provided with second 30-minute meal periods.

55. Defendants knew or should have known that, as a result of their policies and practices, employees were performing some of their assigned duties off-the-clock and/or during unpaid meal periods, and were suffered or permitted to perform work for which they were not paid. Because employees worked shifts in excess of 8 hours a day or more and 40 hours a week or more, much of this off-the-clock work qualified for overtime premium pay. Therefore, employees were not paid overtime wages for all of the overtime hours they actually worked. To the extent employees worked

1 shifts in excess of 12 hours a day, or in excess of 8 hours on the seventh consecutive day of a work
2 in a workweek, they were not paid double time wages for all overtime hours they actually worked.

3 56. Defendants' failure to pay employees the balance of overtime compensation, as
4 required by California law, violates the provisions of California Labor Code §§ 510 and 1198.

5 **Failure to Provide Uninterrupted Meal Periods**

6 57. "An employer shall not employ an employee for a work period of more than five hours
7 per day without providing the employee with a meal period of not less than 30 minutes, except that if
8 the total work period per day of the employee is no more than six hours, the meal period may be
9 waived by mutual consent of both the employer and employee. An employer shall not employ an
10 employee for a work period of more than 10 hours per day without providing the employee with a
11 second meal period of not less than 30 minutes, except that if the total hours worked is no more than
12 12 hours, the second meal period may be waived by mutual consent of the employer and the employee
13 only if the first meal period was not waived." Lab. Code § 512; IWC Wage Order Nos. 1–2001 to 16–
14 2001, § 11; IWC Wage Order No. 17-2001, § 9; 8 Cal Code Regs §§ 11010-11160, § 11; 8 Cal Code
15 Regs § 11170, § 9.

16 58. "An employer shall not require an employee to work during a meal ... period mandated
17 pursuant to an applicable statute, or applicable regulation, standard, or order of the Industrial Welfare
18 Commission If an employer fails to provide an employee a meal ... period in accordance with a
19 state law, including, but not limited to, an applicable statute or applicable regulation, standard, or order
20 of the Industrial Welfare Commission ... the employer shall pay the employee one additional hour of
21 pay at the employee's regular rate of compensation for each workday that the meal ... period is not
22 provided." Lab. Code § 226.7 (b) & (c).

23 59. Defendants did not provide employees with second 30-minute meal periods on days
24 that they worked in excess of 10 hours in one day. Defendants engaged in a systematic, company-
25 wide practice and/or policy of not paying meal period premiums for employees, regardless of whether
26 they were able to take a compliant meal break, in violation of the applicable IWC Wage Order and
27 Labor Code sections 226.7 and 512 (a). As a result, Defendants failed to provide employees compliant
28 meal periods in violation of California Labor Code §§ 226.7 and 512 and failed to pay the full meal

1 period premiums due.

2 **Failure to Provide Uninterrupted Rest Periods**

3 60. Employees must be given 10-minute net rest periods for every 4 hours of work, to be
4 taken in the middle of each 4-hour period insofar as practicable. However, a rest period need not be
5 provided for employees whose total daily work is less than 3.5 hours. Thus, employees are entitled to
6 one 10-minute net rest period for shifts from 3.5 to 6 hours in length, two for shifts of more than 6
7 hours up to 10 hours, and three for shifts of more than 10 hours up to 14 hours, and so on. *Brinker*
8 *Restaurant Corp. v Superior Court*, 53 Cal.4th 1004, 1029 (2012); IWC Wage Order Nos. 1–2001 to
9 16–2001, § 12; § 8 Cal Code Regs §§ 11010-11160, § 12. No employer may require an employee to
10 work during any rest period mandated by an applicable order of the Industrial Welfare Commission.
11 Lab. Code §§ 226.7.

12 61. Defendants’ company-wide policy and practice of understaffing while simultaneously
13 assigning demanding workloads, prevented employees from being relieved of all duty in order to take
14 compliant rest periods.

15 62. Defendants also had a uniform policy of failing to schedule rest breaks. As a result,
16 employees did not receive 10-minute rest periods and were required to continue working.

17 63. Employees worked shifts in excess of 3 ½ hours, in excess of 6 hours, and/or in excess
18 or 10 hours without receiving all uninterrupted 10-minute rest periods to which they were entitled.

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

23 65. As discussed above, at no point during his employment did Mr. Bridges receive a 10-
24 minute rest period. Mr. Bridges further alleges that Defendants engaged in the same practice with
25 respect to their other California employees.

26 **Failure to Reimburse for Business Expenditures**

27 66. “An employer shall indemnify his or her employee for all necessary expenditures or
28 losses incurred by the employee in direct consequence of the discharge of his or her duties, or of his

1 or her obedience to the directions of the employer, even though unlawful, unless the employee, at the
2 time of obeying the directions, believed them to be unlawful.” Lab. Code § 2802

3 67. All technicians and mechanics employed by Defendants are required to supply their
4 own tools to perform their job duties because it fails to supply them with a sufficient quantity at their
5 work location. As discussed above, Mr. Bridges purchase a \$5,000 toolbox and purchased an
6 additional \$5,000 worth of tools in order to perform his job. Technicians and mechanics are required
7 to incur tool expenditures, which Defendants have not reimbursed. Mr. Bridges further alleges that
8 Defendants engaged in this same practice with respect to their other California employees by failing
9 to reimburse them for their work expenditures in violation of Labor Code § 2802. Defendants’ practice
10 of failing to reimburse non-double minimum wage earning mechanics and technicians for the purchase
11 of their hand tools and equipment is a violation of Labor Code § 2802.

12 **Failure to Furnish Itemized Wage Statements and Maintain Accurate Pay Records**

13 68. “An employer ... shall furnish to his or her employee ... an accurate itemized statement
14 in writing showing (1) gross wages earned, (2) total hours worked by the employee, except as provided
15 in subdivision (j), (3) the number of piece-rate units earned and any applicable piece rate if the
16 employee is paid on a piece-rate basis, (4) all deductions, provided that all deductions made on written
17 orders of the employee may be aggregated and shown as one item, (5) net wages earned, (6) the
18 inclusive dates of the period for which the employee is paid, (7) the name of the employee and only
19 the last four digits of his or her social security number or an employee identification number other
20 than a social security number, (8) the name and address of the legal entity that is the employer ... and
21 (9) all applicable hourly rates in effect during the pay period and the corresponding number of hours
22 worked at each hourly rate by the employee” Lab. Code § 226 (a).

23 69. California Labor Code § 1198 provides that the maximum hours of work and the
24 standard conditions of labor shall be those fixed by the Labor Commissioner and as set forth in the
25 applicable IWC Wage Orders. § 1198 further provides that “the employment of any employees for
26 longer hours than those fixed by the order or under conditions of labor prohibited by the order is
27 unlawful.” Pursuant to the applicable IWC Wage Order, employers are required to keep accurate time
28 records showing when the employee begins and ends each work period and meal period.

1 70. As detailed above, Defendants failed to pay employees for all hours worked by virtue
2 of uncompensated time worked during missed and/or incomplete meal periods. As a result, their wage
3 statements did not accurately reflect the total hours they worked or the corresponding number of hours
4 worked at each hourly rate. This practice is in violation of Lab. Code § 226 (a).

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

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

19 73. The wage statements Defendants furnished to employees inaccurately reported the rate
20 of pay. For example, overtime rates of employees were reported a ½ the employees' regular rate of
21 pay, as opposed to 1 ½ times in violation of Labor Code § 226 (a) (9). Because the rate of pay was
22 recorded inaccurately, that caused the gross and net wages earned to be reported inaccurately in
23 violation of Labor Code § 226 (a) (1) & (5).

24 74. At all relevant times, Defendants failed to keep records of meal period start and stop
25 times for employees in violation of Labor Code § 1198.

26 75. Plaintiff was an aggrieved employees within the meaning of Labor Code §2698, et seq.
27 by virtue of the numerous Labor Code violations he was subjected to as plead herein.

28 76. Defendants also subjected the aggrieved employees on whose behalf Plaintiff brings

1 this enforcement action to all of the Labor Code violations plead herein, including failing to reimburse
2 for necessary business expenditures in violation of Labor Code § 2802, failing to pay minimum wages
3 in violation of Labor Code §§ 1182.12, 1194, 1197, 1197.1, and 1198, failing to pay overtime in
4 violation Labor Code §§ 510 and 1198, failing to provide meal periods in violation §§ 226.7 and
5 512(a), failing to provide rest periods in violation of Labor Code §§ 226.7 and 1198, failure to timely
6 pay wages in violation of Labor Code § 204, willful failure to pay wages in violation of Labor Code
7 § 201-203, and failure to furnish accurate wage statements in in violation of Labor Code § 226(a).

8 77. On October 26, 2021, Plaintiff provided written notice by filing online with the Labor
9 and Workforce Development Agency and by certified mail to Defendants Premier Nissan of San Jose,
10 LLC and Troy Duhon of the specific provisions of the Labor Code alleged to have been violated,
11 including the facts and theories to support the alleged violation, as required by Labor Code § 2699.3
12 (a) (1) (A).

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

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

21 80. Plaintiff is also entitled to reasonable attorney's fees and costs, and 25% of the
22 recovered civil penalties.

23 **PRAYER FOR RELIEF**

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

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

27 **As to the First Cause of Action**
28 **(Civil Penalties under the PAGA)**

2. That the Court adjudge, declare and decree that Defendants violated Labor Code §§ 201-204, 226, 226.7, 510, 512, 1182.12, 1194, 1997, 1197.1, 1198 and 2802.

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

4. For attorneys' fees and costs pursuant to California Labor Code § 2699 (g) (1), and any and all other relevant statutes, for Defendants' violations of all California Labor Code sections plead herein, including Labor Code §§ 201-204, 226, 226.7, 510, 512, 1182.12, 1194, 1197, 1197.1, 1198 and 2802;

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

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

PIMENTEL LAW, P.C.

Dated: February 18, 2022

By: Gabriel J. Pimentel, Esq.
Yesenia L. Rodriguez, Esq.
Attorneys for Plaintiffs