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Superior Court of California
County of Fresno
By: N. Ruggerello, Deputy

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9 Attorneys for Plaintiff and the Aggrieved
10 Employees

11 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
12 **FOR THE COUNTY OF FRESNO**

13 **Abel Martinez**, individually and on behalf of all
14 similarly situated individuals,

15 Plaintiff,

16 vs.

17 **Maria Elena Motors, Inc.**, a California
18 Corporation; **Sergio Arredondo**, an individual;
19 and **Does 1-10**, inclusive;

20 Defendants.
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CASE NO. **25CECG01772**

REPRESENTATIVE COMPLAINT FOR:
1) **PAGA Penalties (Labor Code §§ 2698, et seq.)**

Plaintiff Abel Martinez, by and through his counsel of record allege as follows:

THE PARTIES

1. Plaintiff **Abel Martinez** (“Plaintiff”) is a resident of the County of Fresno in the State of California. Mr. Martinez was employed by Defendants as an hourly, non-exempt employee of Defendants from in or around January 2022 to in or around January 2024.

2. Defendant **Maria Elena Motors, Inc.** (“Maria Elena Motors”) is a California corporation with its principal place of business at 5515 North Blackstone Avenue, Fresno, California 93710. Upon information and belief, the Maria Elena Motors employs at least 80 employees.

3. Defendant **Sergio Arredondo** (“Mr. Arredondo”) is an individual who, on information and belief, resides in the County of Fresno. Upon information and belief, Mr. Arredondo is the Chief Executive Officer of Maria Elena Motors. Per Labor Code § 558.1, since Mr. Arredondo is a managing agent, director, and/or officer of Maria Elena Motors and, upon information and belief, as he caused or directed the acts described herein, he is personally liable for the penalties sought under PAGA for predicate violations of the Labor Code asserted herein.

4. The true names and capacities of the defendants named herein as Does 1 through 10, inclusive (together with Maria Elena Motors and Mr. Arredondo, “Defendants”), are unknown to Plaintiff at this time. Accordingly, Plaintiff brings this suit against them by fictitious names pursuant to California Code of Civil Procedure section 474. Plaintiff believes that each of the Doe Defendants is a California resident and/or does substantial business in the State of California. At all relevant times, Does 1 through 10 were acting within the course and scope of their employment and agency with Defendants. Plaintiff is informed and believes that each Doe Defendant is responsible for the injuries and damages alleged herein. Plaintiff will amend this complaint to reflect Does 1 through 10’s true names and capacities when they have been determined.

5. Except as otherwise noted herein, Defendants participated in the acts alleged herein and/or were the agents, servants, employees, or representatives of the other Defendants. At all times relevant to this complaint, Defendants were acting within the course, scope, and authority of their agency and employment such that the acts of one defendant are legally attributable to the other Defendants. Defendants, in all respects, acted as employers and/or joint employers of Plaintiff and

1 Aggrieved Employees in that each of them exercised control over the wages, hours, and/or working
2 conditions of Defendants' hourly non-exempt employees.

3 **JURISDICTION AND VENUE**

4 6. The court has jurisdiction over all causes of action in this complaint pursuant to Article
5 VI, section 10 of the California Constitution. No federal question is at issue; Plaintiff relies solely on
6 California statutes and law, including the Labor Code, IWC Wage Orders, Code of Civil Procedure,
7 and the Business & Professions Code.

8 7. Venue as to Defendants is proper in this Superior Court pursuant to California Code
9 of Civil Procedure section 395. The unlawful acts alleged have directly affected Plaintiff and similarly
10 situated employees within and throughout Fresno County.

11 **GENERAL ALLEGATIONS**

12 8. As a matter of uniform and systemic policy, Defendants failed to authorize and/or
13 permit non-exempt employees to take bona fide meal and rest breaks pursuant to Labor Code § 226.7.
14 Upon information and belief, Aggrieved Employees, including Plaintiff, were required to skip or
15 interrupt their meal and/or rest periods to service customers' vehicles otherwise interrupt or cut short
16 their meal and/or rest periods, or remain on duty and under Defendants' control during their meal
17 and/or rest periods to perform other tasks at Defendants' directions due to Defendants' policies and
18 practices, including their scheduling and staffing practices and policies.

19 9. Accordingly, Defendants failed to authorize and permit compliant meal periods as
20 required by law.

21 10. In the same manner, and as a matter of uniform and systemic policy, Defendant requires
22 non-exempt employees to continue working during their rest periods by servicing vehicles, answering
23 phone calls, otherwise interrupting or cut short their rest periods, or remain on duty and under
24 Defendants' control during their rest periods to perform other tasks at Defendants' directions due to
25 Defendants' policies and practices, including their scheduling and staffing practices and policies.

26 11. Accordingly, Defendants failed to authorize and permit compliant rest periods as
27 required by law.

28 12. In failing to authorize and/or permit meal and rest periods, Defendants have also

implemented a uniform policy of denying all required compensation in lieu of meal and rest periods to its non-exempt employees, notwithstanding its actual knowledge that such employees were uniformly denied compliant meal and rest periods.

13. Defendants further failed to compensate employees for all time worked time when employees were forced to interrupt and/or work through their meal periods but were clocked out under Defendants' time-keeping system (and therefore treated as not working). This resulted in employees being denied both straight time and overtime pay, where applicable, for the time during which they were on call or under Defendants' control despite being off the clock for timekeeping purposes.

14. As a matter of uniform and systemic policy, Defendants failed to provide its non-exempt employees with accurate itemized wage statements in accordance with California's Labor Code. Upon information and believe, Defendants failed to furnish Plaintiff, or Aggrieved Employees, either semimonthly or at the time of each payment of wages, either as a detachable part of the check or separately, an accurate, itemized statement in writing showing pick pay, gross wages earned, all deductions, and the net wages earned by Plaintiff for the inclusive dates for which the Plaintiff worked.

FIRST CAUSE OF ACTION

California Labor Code §2699, et seq.

Private Attorneys General Act ("PAGA") Penalties

(Plaintiff and Aggrieved Employees Against Defendants)

15. Standing. Under the California Private Attorneys General Act ("PAGA"), Labor Code § 2698, *et seq.*, an aggrieved employee may bring a representative action as a private attorney general, on behalf of himself and other current or former employees to recover penalties for an employer's violations of the Labor Code and IWC Wage Orders.

16. Plaintiff is an "aggrieved employee" with standing to bring an action under PAGA, as he was employed by Defendants during the applicable statutory period and suffered the Labor Code violations alleged herein.

17. Plaintiff, on behalf of himself, the State of California, and all other Aggrieved Employees, brings this representative action pursuant to Labor Code § 2699, *et seq.*, seeking civil

penalties for Defendants’ violation of Labor Code §§ 201, 202, 203, 204, 206.5, 226, 226.3, 226.7, 510, 512, 558, 1182.12, 1174, 1194, 1194.2, 1197, 1197.1, 1199, and 1401 as described herein, plus attorneys’ fees and costs.

18. Mr. Martinez does not bring suit in his individual capacity and does not seek to recover anything through this suit other than civil penalties as permitted under PAGA—he brings this action solely in his representative capacity under the PAGA, on behalf of the State of California and all aggrieved employees of Maria Elena Motors.

19. Entitlement to Penalties. Under the California Private Attorneys General Act (“PAGA”), Labor Code § 2698, et seq., an aggrieved employee may bring a representative action as a private attorney general, on behalf of himself and other current or former employees, against whom a violation of the same provision(s) was committed, as well as the general public, to recover penalties for an employer’s violations of the Labor Code and IWC Wage Orders within one year of filing a notice to the Labor and Workforce Development Agency.

20. These penalties shall be allocated sixty-five percent to the Labor and Workforce Development Agency and thirty-five percent to the aggrieved employees.

21. These penalties may be “stacked” separately for each of Defendants’ violations of the Labor Code, subject to the exception enumerated in Labor Code section 2698(i). *See, e.g., Hernandez v. Towne Park, Ltd.*, No. CV 12-02972, 2012 WL 2373372, at *17 n.77 (C.D. Cal. June 22, 2012); *see also O’Connor v. Uber Techs., Inc.*, No. 13-CV-03826-EMC, 2016 WL 3548370, at *7 (N.D. Cal. June 30, 2016); Labor Code § 2698(i).

22. *Failure to Pay Minimum Wage for All Hours Worked.* California law requires employers to compensate employees for all time that an employee is “suffered or permitted to work,” which includes all time “when any employer ‘directs, commands or restrains’ an employee.” *See, e.g., Morillion v. Royal Packing Co.*, 22 Cal. 4th 575, 583 (2000). The

23. Defendants failed to compensate Plaintiff and the Aggrieved Employees for all hours worked because Defendants had a policy and/or practice whereby they required and/or pressured Aggrieved Employees to work under Defendants’ control while off-the-clock, including but not limited to forcing or requiring Aggrieved Employees to work while they were clocked out for their meal

1 periods.

2 24. Defendants further failed to pay Plaintiff and Aggrieved Employees any wages for time
3 engaged in this off-the-clock work.

4 25. *Failure to Pay Required Overtime.* California Labor Code §§ 510 and 1198 provide that it is
5 unlawful to employ persons without compensating them at a rate of pay either time-and-one-half or
6 two-times that person's regular rate of pay, depending on the number of hours worked by the person
7 on a daily or weekly basis.

8 26. Plaintiff and Aggrieved Employees who work more than eight hours in a day or more
9 than forty hours in a workweek are to be paid at the rate of time and one-half (1½) for all hours worked
10 in excess of eight hours in a day or more than forty hours in a workweek. An employee's regular rate
11 of pay includes all remuneration for employment paid to, or on behalf of, the employee, including
12 commissions, non-discretionary bonuses and incentive pay. *Alvarado v. Dart Container Corp.*, 4 Cal. 5th
13 542, 573 (2018), as modified (Apr. 25, 2018).

14 27. Plaintiff and other Aggrieved Employees were not paid overtime premiums for all of
15 the hours they worked in excess of eight hours in a day, in excess of twelve hours in a day, in excess of
16 eight hours on the seventh consecutive day of work in a workweek, and in excess of forty hours in a
17 week.

18 28. *Failure to Provide Compliant Meal Periods.* Labor Code section 226.7, 512(a), and 1198
19 provide that no employer shall require an employee to work during any meal period mandated by an
20 applicable order of the IWC. "An off-duty meal period, therefore, is one in which the employee is
21 relieved of all duty during the 30-minute meal period . . . an employer's obligation is to provide an off-
22 duty meal period: an uninterrupted 30-minute period during which the employee is relieved of all duty."
23 *Brinker Rest. Corp. v. Superior Court*, 53 Cal. 4th 1004, 1035 (2012).

24 29. Defendants' policies and practices served to deprive the Aggrieved Employees of legally
25 compliant 30-minute breaks free of employer control and/or relieved of all duties.

26 30. Upon information and belief, employees were required to skip breaks, interrupt their
27 breaks, cut them short, take them after the fifth hour of work, work through them due to Defendants'
28 policies and practices.

1 31. *Failure to Provide Compliant Rest Periods.* Labor Code § 226.7, 512(a), and 1198 provide
2 that no employer shall require an employee to work during any rest or meal period mandated by an
3 applicable order of the IWC.

4 32. Employers must authorize and permit employees to be relieved of all duty during their
5 rest and meal periods: “A rest period, in short, must be a period of rest.”¹ *Augustus v. ABM Sec. Servs.,*
6 *Inc.*, 2 Cal.5th 257, 273 (2016).

7 33. On information and belief, Defendants failed to authorize or permit all required
8 compliant paid rest periods for shifts worked by Aggrieved Employees by requiring them to skip rest
9 periods, interrupt rest periods, or work through rest periods.

10 34. *Failure to Provide and Maintain Compliant Wage Statements.* Labor Code § 226 requires
11 employers to furnish employees with an accurate, itemized statement in writing showing, among other
12 things, (1) gross wages earned; (2) total hours worked by the employee (for hourly-paid, non-exempt
13 employees); (3) all deductions; (4) net wages earned; (5) the inclusive dates of the period for which the
14 employee is paid; (6) the name of the employee and the last four digits of his or her social security
15 number; (7) the name and address of the legal entity that is the employer; and (8) all applicable hourly
16 rates in effect during the pay period and the corresponding number of hours worked at each hourly
17 rate by the employee.

18 35. At all times relevant to this complaint, Defendants’ failure to pay premium wages for
19 missed meal and/or rest periods further ensured that Plaintiff and Aggrieved Employees’ wage
20 statements inaccurately reflected gross and net wages earned. Defendants’ failure to compensate all
21 hours worked, earned premium pay, and/or all required overtime hours and rates further left the wage
22 statements they provided to employees to be inaccurate.

23 36. Defendants have also failed to keep accurate payroll records for Plaintiff and Aggrieved
24 Employees in accordance with Labor Code § 1174. Defendants’ failure to keep and maintain accurate
25

26 _____
27 ¹ Employees must also be free to leave the premises. *Augustus*, 2 Cal. 5th at 270; *see also* Department of
28 Industrial Relations, “Rest Periods/Lactation Accommodations,” *available at*
https://www.dir.ca.gov/dlse/FAQ_RestPeriods.htm (“Q. Can my employer require that I stay on the work
premises during my rest period? A. No, your employer cannot impose any restraints not inherent in
the rest period requirement itself.”)

1 payroll records reflecting hours worked and wages earned has impeded Plaintiff and Aggrieved
2 Employees' ability to calculate unpaid wages earned.

3 37. Defendants knowingly and intentionally failed to comply with Labor Code § 226,
4 causing injury and damages to Plaintiffs and Aggrieved Employees.

5 38. Procedural Requirements Met. On January 30, 2025, Plaintiff electronically filed a
6 notice of claims with the LWDA and sent a copy to Defendants by certified mail. Plaintiff did not
7 receive notice from the LWDA that it would be investigating the complaint nor did Plaintiff receive
8 notice from the LWDA that it was declining to investigate with the 65-day period under Labor Code §
9 2699.3. On April 5, 2025, the sixty-five-day notice period expired as to all defendants. Since the LWDA
10 took no steps within the prescribed time to intervene, Plaintiff has exhausted all required administrative
11 remedies required to seek penalties under PAGA. *See* Lab. Code § 2699.3(a)(2). A true and correct copy
12 of Plaintiff's PAGA Notice is attached herein as **Exhibit A**.

13 39. Plaintiff—as a representative of the People of the State of California—is entitled to
14 seek any and all penalties otherwise capable of being collected by the Labor Commission or
15 Department of Labor Standards Enforcement (“DLSE”) on behalf of the State of California through
16 this Action.

17 **PRAYER FOR RELIEF**

18 WHEREFORE, Plaintiff respectfully prays for judgment as follows:

- 19 A. For civil penalties under PAGA to be determined by trial;
20 B. For pre- and post-judgment interest as allowed;
21 C. For preliminary and permanent injunctive relief;
22 D. For reasonable attorney's fees and costs and expert fees and costs; and
23 E. For such other relief as this Court deems just and proper.

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Dated: April 16, 2025

Respectfully submitted,
AKHAVAN & ASSOCIATES

By: /s/ Bardia Akhavan
Bardia Akhavan
Attorneys for Plaintiff

Dated: April 16, 2025

BARAHMAND LAW GROUP

By: /s/ Navid Barahmand
Navid Barahmand
Attorneys for Plaintiff

EXHIBIT A

BARAHMAND LAW GROUP

7324 Sepulveda Boulevard, Suite B

Van Nuys, CA 91405

Office: (818) 574-3355 | Direct: (818) 574-3210

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January 30, 2025

Original filed online via the LWDA's PAGA Claim Notice Portal

LABOR & WORKFORCE DEVELOPMENT AGENCY

1515 Clay Street, Ste. 801

Oakland, CA 94612

Sent via U.S. Certified Mail and Email to: staylor@fresnobuickgmc.com; lluigard@fresnobuickgmc.com; psalt@fresnobuickgmc.com; dorado.arredondoventures@gmail.com

Human Resources Administrator

MARIA ELENA MOTORS, INC.

5515 North Blackstone Avenue

Fresno, California 93710

Tracking: 9589 0710 5270 1903 8543 39

Michael T. Whittington – Agent for Service of Process

MARIA ELENA MOTORS, INC.

1701 Westwind Drive, Suite 130

Bakersfield, California 93301

Tracking: 9589 0710 5270 1903 8543 46

Re: Private Attorneys General Act (“PAGA”) Notice Letter of Abel Martinez on Behalf of Himself and Aggrieved Employees Under California Labor Code Section 2699.3

Dear Sir/Madam:

We represent Abel Martinez against Defendant Maria Elena Motors, Inc (“Maria Elena Motors”) and its Chief Executive Officer, Sergio Arredondo (“Mr. Arredondo” and collectively with Maria Elena Motors as “Defendants”) in a lawsuit soon to be filed against Defendant in Fresno County Superior Court (the “Action”). A copy of the proposed PAGA Representative Complaint to be filed in the Action is enclosed as **Exhibit A**.

Together with this correspondence, the enclosed Complaint serves as notice pursuant to Labor Code § 2699.3, *et seq.* that we intend to prosecute representative claims for civil penalties under the Private Attorney’s General Act (“PAGA”) on behalf of those of Defendant’s employees employed from one year prior to filing of this Notice through trial (the “Aggrieved Employees”) for the Labor Code violations asserted in the Complaint. *See* Cal. Lab. Code §§ 2699, *et seq.*

As set forth in greater detail in the Complaint, Defendant violated their obligations under the California Labor Code by (1) failing to pay minimum wage for all hours worked; (2) failing to pay required overtime pursuant to Lab. Code §§ 510, 1198 (3-4) failing to provide rest and meal breaks pursuant to Lab. Code § 226.7(b); (5) failing to reimburse employees for business expenditures pursuant to Lab. Code §2802; and (6) failing to provide and maintain records under Lab. Code §§ 226, 432, and 1198.5 due to Defendant’s practices and policies.

Maria Elena Motors, Inc.
January 30, 2025

Please feel free to contact us with any questions.

Very truly yours,

BARAHMAND LAW GROUP

A handwritten signature in black ink, appearing to read 'Navid Barahmand', written in a cursive style.

NAVID BARAHMAND, ESQ.
Navid@barahmandlaw.com

Enclosures: Exhibit A – PAGA Complaint

EXHIBIT A

1 Bardia Aaron Akhavan, Esq. (SBN. 316493)
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11 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
12 **FOR THE COUNTY OF FRESNO**

13 **Abel Martinez**, individually and on behalf of all
14 similarly situated individuals,

15 Plaintiff,

16 vs.

17 **Maria Elena Motors, Inc.**, a California
18 Corporation; **Sergio Arredondo**, an individual;
19 and **Does 1-10**, inclusive;

20 Defendants.

CASE NO.

REPRESENTATIVE COMPLAINT FOR:

1) **PAGA Penalties (Labor Code §§ 2698, *et seq.*)**

Plaintiff Abel Martinez, by and through his counsel of record allege as follows:

THE PARTIES

1. Plaintiff **Abel Martinez** (“Plaintiff”) is a resident of the County of Fresno in the State of California. Mr. Martinez was employed by Defendants as an hourly, non-exempt employee of Defendants from in or around January 2022 to in or around January 2024.

2. Defendant **Maria Elena Motors, Inc.** (“Maria Elena Motors”) is a California corporation with its principal place of business at 5515 North Blackstone Avenue, Fresno, California 93710. Upon information and belief, the Maria Elena Motors employs at least 80 employees.

3. Defendant **Sergio Arredondo** (“Mr. Arredondo”) is an individual who, on information and belief, resides in the County of Fresno. Upon information and belief, Mr. Arredondo is the Chief Executive Officer of Maria Elena Motors. Per Labor Code § 558.1, since Mr. Arredondo is a managing agent, director, and/or officer of Maria Elena Motors and, upon information and belief, as he caused or directed the acts described herein, he is personally liable for the penalties sought under PAGA for predicate violations of the Labor Code asserted herein.

4. The true names and capacities of the defendants named herein as Does 1 through 10, inclusive (together with Maria Elena Motors and Mr. Arredondo, “Defendants”), are unknown to Plaintiff at this time. Accordingly, Plaintiff brings this suit against them by fictitious names pursuant to California Code of Civil Procedure section 474. Plaintiff believes that each of the Doe Defendants is a California resident and/or does substantial business in the State of California. At all relevant times, Does 1 through 10 were acting within the course and scope of their employment and agency with Defendants. Plaintiff is informed and believes that each Doe Defendant is responsible for the injuries and damages alleged herein. Plaintiff will amend this complaint to reflect Does 1 through 10’s true names and capacities when they have been determined.

5. Except as otherwise noted herein, Defendants participated in the acts alleged herein and/or were the agents, servants, employees, or representatives of the other Defendants. At all times relevant to this complaint, Defendants were acting within the course, scope, and authority of their agency and employment such that the acts of one defendant are legally attributable to the other Defendants. Defendants, in all respects, acted as employers and/or joint employers of Plaintiff and

1 Aggrieved Employees in that each of them exercised control over the wages, hours, and/or working
2 conditions of Defendants' hourly non-exempt employees.

3 **JURISDICTION AND VENUE**

4 6. The court has jurisdiction over all causes of action in this complaint pursuant to Article
5 VI, section 10 of the California Constitution. No federal question is at issue; Plaintiff relies solely on
6 California statutes and law, including the Labor Code, IWC Wage Orders, Code of Civil Procedure,
7 and the Business & Professions Code.

8 7. Venue as to Defendants is proper in this Superior Court pursuant to California Code
9 of Civil Procedure section 395. The unlawful acts alleged have directly affected Plaintiff and similarly
10 situated employees within and throughout Fresno County.

11 **GENERAL ALLEGATIONS**

12 8. As a matter of uniform and systemic policy, Defendants failed to authorize and/or
13 permit non-exempt employees to take bona fide meal and rest breaks pursuant to Labor Code § 226.7.
14 Upon information and belief, Aggrieved Employees, including Plaintiff, were required to skip or
15 interrupt their meal and/or rest periods to service customers' vehicles otherwise interrupt or cut short
16 their meal and/or rest periods, or remain on duty and under Defendants' control during their meal
17 and/or rest periods to perform other tasks at Defendants' directions due to Defendants' policies and
18 practices, including their scheduling and staffing practices and policies.

19 9. Accordingly, Defendants failed to authorize and permit compliant meal periods as
20 required by law.

21 10. In the same manner, and as a matter of uniform and systemic policy, Defendant requires
22 non-exempt employees to continue working during their rest periods by servicing vehicles, answering
23 phone calls, otherwise interrupting or cut short their rest periods, or remain on duty and under
24 Defendants' control during their rest periods to perform other tasks at Defendants' directions due to
25 Defendants' policies and practices, including their scheduling and staffing practices and policies.

26 11. Accordingly, Defendants failed to authorize and permit compliant rest periods as
27 required by law.

28 12. In failing to authorize and/or permit meal and rest periods, Defendants have also

1 implemented a uniform policy of denying all required compensation in lieu of meal and rest periods to
2 its non-exempt employees, notwithstanding its actual knowledge that such employees were uniformly
3 denied compliant meal and rest periods.

4 13. Defendants further failed to compensate employees for all time worked time when
5 employees were forced to interrupt and/or work through their meal periods but were clocked out
6 under Defendants' time-keeping system (and therefore treated as not working). This resulted in
7 employees being denied both straight time and overtime pay, where applicable, for the time during
8 which they were on call or under Defendants' control despite being off the clock for timekeeping
9 purposes.

10 14. As a matter of uniform and systemic policy, Defendants failed to provide its non-
11 exempt employees with accurate itemized wage statements in accordance with California's Labor Code.
12 Upon information and believe, Defendants failed to furnish Plaintiff, or Aggrieved Employees, either
13 semimonthly or at the time of each payment of wages, either as a detachable part of the check or
14 separately, an accurate, itemized statement in writing showing pick pay, gross wages earned, all
15 deductions, and the net wages earned by Plaintiff for the inclusive dates for which the Plaintiff worked.

16 **FIRST CAUSE OF ACTION**

17 ***California Labor Code §2699, et seq.***

18 ***Private Attorneys General Act ("PAGA") Penalties***

19 **(Plaintiff and Aggrieved Employees Against Defendants)**

20 15. Standing. Under the California Private Attorneys General Act ("PAGA"), Labor Code
21 § 2698, *et seq.*, an aggrieved employee may bring a representative action as a private attorney general,
22 on behalf of himself and other current or former employees to recover penalties for an employer's
23 violations of the Labor Code and IWC Wage Orders.

24 16. Plaintiff is an "aggrieved employee" with standing to bring an action under PAGA, as
25 he was employed by Defendants during the applicable statutory period and suffered the Labor Code
26 violations alleged herein.

27 17. Plaintiff, on behalf of himself, the State of California, and all other Aggrieved
28 Employees, brings this representative action pursuant to Labor Code § 2699, *et seq.*, seeking civil

1 penalties for Defendants' violation of Labor Code §§ 201, 202, 203, 204, 206.5 226, 226.3, 226.7, 510,
2 512, 558, 1182.12, 1174, 1194, 1194.2, 1197, 1197.1, 1199, and 1401 as described herein, plus attorneys'
3 fees and costs.

4 18. Mr. Martinez does not bring suit in his individual capacity and does not seek to recover
5 anything through this suit other than civil penalties as permitted under PAGA—he brings this action
6 solely in his representative capacity under the PAGA, on behalf of the State of California and all
7 aggrieved employees of Maria Elena Motors.

8 19. Entitlement to Penalties. Under the California Private Attorneys General Act
9 ("PAGA"), Labor Code § 2698, et seq., an aggrieved employee may bring a representative action as a
10 private attorney general, on behalf of himself and other current or former employees, against whom a
11 violation of the same provision(s) was committed, as well as the general public, to recover penalties for
12 an employer's violations of the Labor Code and IWC Wage Orders within one year of filing a notice
13 to the Labor and Workforce Development Agency.

14 20. These penalties shall be allocated sixty-five percent to the Labor and Workforce
15 Development Agency and thirty-five percent to the aggrieved employees.

16 21. These penalties may be "stacked" separately for each of Defendants' violations of the
17 Labor Code, subject to the exception enumerated in Labor Code section 2698(i). *See, e.g., Hernandez v.*
18 *Towne Park, Ltd.*, No. CV 12-02972, 2012 WL 2373372, at *17 n.77 (C.D. Cal. June 22, 2012); *see also*
19 *O'Connor v. Uber Techs., Inc.*, No. 13-CV-03826-EMC, 2016 WL 3548370, at *7 (N.D. Cal. June 30, 2016);
20 Labor Code § 2698(i).

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22 compensate employees for all time that an employee is "suffered or permitted to work," which includes
23 all time "when any employer 'directs, commands or restrains' an employee." *See, e.g., Morillion v. Royal*
24 *Packing Co.*, 22 Cal. 4th 575, 583 (2000).The

25 23. Defendants failed to compensate Plaintiff and the Aggrieved Employees for all hours
26 worked because Defendants had a policy and/or practice whereby they required and/or pressured
27 Aggrieved Employees to work under Defendants' control while off-the-clock, including but not limited
28 to forcing or requiring Aggrieved Employees to work while they were clocked out for their meal

1 periods.

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3 engaged in this off-the-clock work.

4 25. *Failure to Pay Required Overtime.* California Labor Code §§ 510 and 1198 provide that it is
5 unlawful to employ persons without compensating them at a rate of pay either time-and-one-half or
6 two-times that person's regular rate of pay, depending on the number of hours worked by the person
7 on a daily or weekly basis.

8 26. Plaintiff and Aggrieved Employees who work more than eight hours in a day or more
9 than forty hours in a workweek are to be paid at the rate of time and one-half (1½) for all hours worked
10 in excess of eight hours in a day or more than forty hours in a workweek. An employee's regular rate
11 of pay includes all remuneration for employment paid to, or on behalf of, the employee, including
12 commissions, non-discretionary bonuses and incentive pay. *Alvarado v. Dart Container Corp.*, 4 Cal. 5th
13 542, 573 (2018), as modified (Apr. 25, 2018).

14 27. Plaintiff and other Aggrieved Employees were not paid overtime premiums for all of
15 the hours they worked in excess of eight hours in a day, in excess of twelve hours in a day, in excess of
16 eight hours on the seventh consecutive day of work in a workweek, and in excess of forty hours in a
17 week.

18 28. *Failure to Provide Compliant Meal Periods.* Labor Code section 226.7, 512(a), and 1198
19 provide that no employer shall require an employee to work during any meal period mandated by an
20 applicable order of the IWC. "An off-duty meal period, therefore, is one in which the employee is
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23 *Brinker Rest. Corp. v. Superior Court*, 53 Cal. 4th 1004, 1035 (2012).

24 29. Defendants' policies and practices served to deprive the Aggrieved Employees of legally
25 compliant 30-minute breaks free of employer control and/or relieved of all duties.

26 30. Upon information and belief, employees were required to skip breaks, interrupt their
27 breaks, cut them short, take them after the fifth hour of work, work through them due to Defendants'
28 policies and practices.

31. *Failure to Provide Compliant Rest Periods.* Labor Code § 226.7, 512(a), and 1198 provide that no employer shall require an employee to work during any rest or meal period mandated by an applicable order of the IWC.

32. Employers must authorize and permit employees to be relieved of all duty during their rest and meal periods: “A rest period, in short, must be a period of rest.”¹ *Augustus v. ABM Sec. Servs., Inc.*, 2 Cal.5th 257, 273 (2016).

33. On information and belief, Defendants failed to authorize or permit all required compliant paid rest periods for shifts worked by Aggrieved Employees by requiring them to skip rest periods, interrupt rest periods, or work through rest periods.

34. *Failure to Provide and Maintain Compliant Wage Statements.* Labor Code § 226 requires employers to furnish employees with an accurate, itemized statement in writing showing, among other things, (1) gross wages earned; (2) total hours worked by the employee (for hourly-paid, non-exempt employees); (3) all deductions; (4) net wages earned; (5) the inclusive dates of the period for which the employee is paid; (6) the name of the employee and the last four digits of his or her social security number; (7) the name and address of the legal entity that is the employer; and (8) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee.

35. At all times relevant to this complaint, Defendants’ failure to pay premium wages for missed meal and/or rest periods further ensured that Plaintiff and Aggrieved Employees’ wage statements inaccurately reflected gross and net wages earned. Defendants’ failure to compensate all hours worked, earned premium pay, and/or all required overtime hours and rates further left the wage statements they provided to employees to be inaccurate.

36. Defendants have also failed to keep accurate payroll records for Plaintiff and Aggrieved Employees in accordance with Labor Code § 1174. Defendants’ failure to keep and maintain accurate

¹ Employees must also be free to leave the premises. *Augustus*, 2 Cal. 5th at 270; *see also* Department of Industrial Relations, “Rest Periods/Lactation Accommodations,” *available at* https://www.dir.ca.gov/dlse/FAQ_RestPeriods.htm (“Q. Can my employer require that I stay on the work premises during my rest period? A. No, your employer cannot impose any restraints not inherent in the rest period requirement itself.”)

1 payroll records reflecting hours worked and wages earned has impeded Plaintiff and Aggrieved
2 Employees' ability to calculate unpaid wages earned.

3 37. Defendants knowingly and intentionally failed to comply with Labor Code § 226,
4 causing injury and damages to Plaintiffs and Aggrieved Employees.

5 38. Procedural Requirements Met. On January 30, 2025, Plaintiff electronically filed a
6 notice of claims with the LWDA and sent a copy to Defendants by certified mail. Plaintiff did not
7 receive notice from the LWDA that it would be investigating the complaint nor did Plaintiff receive
8 notice from the LWDA that it was declining to investigate with the 65-day period under Labor Code §
9 2699.3. On April 5, 2025, the sixty-five-day notice period expired as to all defendants. Since the LWDA
10 took no steps within the prescribed time to intervene, Plaintiff has exhausted all required administrative
11 remedies required to seek penalties under PAGA. *See* Lab. Code § 2699.3(a)(2). A true and correct copy
12 of Plaintiff's PAGA Notice is attached herein as **Exhibit A**.

13 39. Plaintiff—as a representative of the People of the State of California—is entitled to
14 seek any and all penalties otherwise capable of being collected by the Labor Commission or
15 Department of Labor Standards Enforcement (“DLSE”) on behalf of the State of California through
16 this Action.

17 **PRAYER FOR RELIEF**

18 WHEREFORE, Plaintiff respectfully prays for judgment as follows:

- 19 A. For civil penalties under PAGA to be determined by trial;
20 B. For pre- and post-judgment interest as allowed;
21 C. For preliminary and permanent injunctive relief;
22 D. For reasonable attorney's fees and costs and expert fees and costs; and
23 E. For such other relief as this Court deems just and proper.

24
25 Dated: January 30, 2025

Respectfully submitted,

26 **AKHAVAN & ASSOCIATES**

27
28 By: /s/ Bardia Akhavan
Bardia Akhavan



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Attorneys for Plaintiff

Dated: January 30, 2025

BARAHMAND LAW GROUP

By: /s/ Navid Barahmand
Navid Barahmand
Attorneys for Plaintiff

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