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8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

9 **FOR THE COUNTY OF SAN BERNARDINO**

10 TED KIM, an aggrieved employee and on
11 behalf of other aggrieved employees;

12 Plaintiff,

13 vs.

14 HYUNDAI AMERICA TECHNICAL
15 CENTER, INC., a Michigan corporation; and
16 DOES 1 through 50,

17 Defendants.

Case No.: CIVSB2326861

**REPRESENTATIVE ACTION
COMPLAINT FOR VIOLATION OF THE
CALIFORNIA PRIVATE ATTORNEYS
GENERAL ACT (LABOR CODE §§ 2698,
et seq.)**

18
19 Plaintiff TED KIM ("Plaintiff"), on behalf of himself as an aggrieved employee, the State of
20 California, and other aggrieved employees, hereby brings this Representative Action Complaint
21 ("Complaint") against Defendants HYUNDAI AMERICA TECHNICAL CENTER, INC., a
22 Michigan corporation, and DOES 1 to 50 inclusive (collectively "Defendants"), and on information
23 and belief alleges as follows:

24 **JURISDICTION AND VENUE**

25 1. Plaintiff brings this Complaint for recovery of civil penalties under the California
26 Private Attorneys General Act, California Labor Code §§ 2698, *et seq.* ("PAGA"), for Defendants'
27 violations of the Labor Code and Industrial Welfare Commission ("IWC") Wage Orders 1-2001 and
28 4-2001 (the "Wage Orders"), including Labor Code §§ 201-204, 226, 226.7, 246, 432, 510, 512,

1 516, 558, 558.1, 1182.12, 1174, 1194, 1194.2, 1197, 1198, 1198.5, 2802. This Court has jurisdiction
2 over Defendants' violations of the Labor Code because the amount in controversy exceeds \$25,000.

3 2. Venue is proper in this judicial district because Defendants maintain offices, have
4 agents, and/or transact business in the State of California, including San Bernardino County, and
5 some of the acts and omissions complained of herein occurred in San Bernardino County.
6 Furthermore, Plaintiff was employed by Defendants within San Bernardino County.

7 **PARTIES**

8 3. Plaintiff is, and at all times relevant herein was, an individual over the age of
9 eighteen (18) and is a California resident. Within the statute of limitations periods applicable to
10 each cause of action pled herein, Plaintiff was employed by Defendants as a non-exempt employee.
11 Plaintiff was, and is, a victim of Defendants' policies, practices, and/or customs complained of
12 herein and has been deprived of the rights guaranteed by Labor Code §§ 201-204, 226, 226.7, 246,
13 432, 510, 512, 516, 558, 558.1, 1174, 1182.12, 1194, 1194.2, 1197, 1198, 1198.5, 2802, and the
14 Wage Orders.

15 4. Plaintiff is informed and believes, and based thereon alleges, that during the
16 applicable statute of limitations for each cause of action pled herein and continuing to the present,
17 Defendants engaged in and continue to engage in business, and employed Plaintiff and other,
18 similarly-situated non-exempt employees within San Bernardino County, and the State of California
19 and, therefore, were (and are) doing business in San Bernardino County and the State of California.

20 5. Plaintiff does not know the true names or capacities, whether individual, partner, or
21 corporate, of the defendants sued herein as DOES 1 to 50, inclusive, and for that reason, said
22 defendants are sued under such fictitious names, and Plaintiff will seek leave from this Court to
23 amend this Complaint when such true names and capacities are discovered. Plaintiff is informed,
24 and believes, and based thereon alleges, that each of said fictitious defendants, whether individual,
25 partners, or corporate, was responsible in some manner for the acts and omissions alleged herein,
26 and proximately caused Plaintiff and aggrieved employees to be subject to the unlawful
27 employment practices, wrongs, injuries, and damages complained of herein.

28 ///

1 6. At all times herein mentioned, each of said Defendants participated in the doing of
2 the acts hereinafter alleged to have been done by the named Defendant; and furthermore,
3 Defendants, and each of them, were the agents, servants, and employees of each of the other
4 defendants, as well as the agents of all Defendants, and at all times herein mentioned, were acting
5 within the course and scope of said agency and employment.

6 7. Plaintiff is informed and believes, and based thereon alleges, that at all times
7 material hereto, each of the Defendants named herein was the agent, employee, alter ego and/or
8 joint venturer of, or working in concert with each of the other co-Defendants and was acting within
9 the course and scope of such agency, employment, joint venture, or concerted activity. To the extent
10 said acts, conduct, and omissions were perpetrated by certain Defendants, each of the remaining
11 Defendants confirmed and ratified said acts, conduct, and omissions of the acting Defendants.

12 8. At all times herein mentioned, Defendants, and each of them, were members of, and
13 engaged in, a joint venture, partnership, and common enterprise, and acting within the course and
14 scope of, and in pursuance of, said joint venture, partnership, and common enterprise.

15 9. At all times herein mentioned, the acts and omissions of various Defendants, and
16 each of them, concurred and contributed to the various acts and omissions of each and all of the
17 other Defendants in proximately causing the injuries and damages as herein alleged.

18 **FACTUAL ALLEGATIONS**

19 10. Defendants own and operate Hyundai Motor Group's research and development
20 centers in the State of California. Plaintiff was employed by Defendants as a non-exempt technician
21 from approximately November 1, 1997 to approximately May 16, 2023 at Defendants' research and
22 development campus in Chino, California.

23 11. Labor Code §§ 1194, 1197, and the Wage Orders, § 4 entitle employees to receive no
24 less than the minimum wage fixed by the commission or by any applicable state or local law for all
25 hours worked. Labor Code §§ 510, 1198, and the Wage Orders, § 3 provide that non-exempt
26 employees are entitled to all overtime wages at the regular rate of pay. Upon information and belief,
27 during the relevant time period, Defendants' timekeeping and/or payroll policies and practices
28 resulted in Plaintiff and other aggrieved employees not being compensated for all hours actually

1 worked. Plaintiff and other aggrieved employees regularly worked more than eight hours in a
2 workday or 40 hours in a workweek. Defendants required Plaintiff and other aggrieved employees
3 to perform work before their scheduled shifts, after their scheduled shifts, and/or during off-the-
4 clock meal breaks, and failed to compensate employees for this time. Defendants failed to maintain
5 accurate records of when Plaintiff and other aggrieved employees started their shifts, started and
6 ended their meal breaks, and ended their shifts, resulting in unpaid wages. Defendants also failed to
7 incorporate multiple rates of pay and/or all non-discretionary remuneration, including but not
8 limited to monthly fuel allowances and the value of employer-provided vehicles, into the regular
9 rate of pay. As a result, Plaintiff and other aggrieved employees were not compensated for all
10 earned minimum and overtime wages.

11 12. Labor Code §§ 226.7, 512, and the Wage Orders, § 11 require employers to provide
12 non-exempt employees with compliant meal periods or pay premiums at the regular rate of
13 compensation. Upon information and belief, during the relevant time period, Defendants failed to
14 provide Plaintiff and other aggrieved employees with all legally compliant meal periods due to
15 Defendants' meal period policies/practices, which have frequently resulted in late (commencing
16 after the fifth hour of work), short (less than 30 minutes), and/or missed meal periods. Plaintiff and
17 other aggrieved employees were not able to take their legally compliant meal breaks due to work
18 demands imposed by Defendants. Defendants do not keep accurate records of Plaintiff's and other
19 aggrieved employees' hours worked, including accurate time records showing when employees take
20 their meal periods. On those occasions when Plaintiff and other aggrieved employees were not
21 provided with all legally compliant meal periods to which they were entitled, Defendants failed to
22 compensate Plaintiff and other non-exempt employees with the required meal period premium(s)
23 for each workday there was a meal period violation as mandated by Labor Code § 226.7. Upon
24 information and belief, Defendants maintained no mechanism for the payment of meal period
25 premium payments as required by Labor Code § 226.7 in the event that a legally compliant meal
26 period was not provided to their employees. Alternatively, Defendants failed to incorporate multiple
27 rates of pay and/or all non-discretionary remuneration, including but not limited to monthly fuel
28 allowances and the value of employer-provided vehicles, into the regular rate of compensation.

1 13. Labor Code §§ 226.7 and the Wage Orders, § 12 require employers to authorize and
2 permit non-exempt employees to take compliant rest periods or pay premiums at the regular rate of
3 compensation. Upon information and belief, during the relevant time period, Plaintiff and other
4 aggrieved employees were not authorized and permitted to take all required rest periods due to
5 Defendants' unlawful rest period policies/practices, which failed to authorize and permit a net 10-
6 minute rest period for every four hours worked, or major fraction thereof. Plaintiff and other
7 aggrieved employees were not able to take their legally compliant rest breaks due to work demands
8 imposed by Defendants. On those occasions when Plaintiff and other aggrieved employees were not
9 authorized and permitted to take all legally compliant rest periods to which they were entitled,
10 Defendants failed to compensate them with the required rest period premium(s) for each workday
11 there was a rest period violation as mandated by Labor Code § 226.7. Upon information and belief,
12 Defendants maintained no mechanism for the payment of rest period premium payments as required
13 by Labor Code § 226.7, in the event that a legally compliant rest period was not authorized and
14 permitted to their non-exempt employees.

15 14. Additionally, upon information and belief, Defendants violated Labor Code § 246 by
16 failing to incorporate multiple rates of pay and/or all non-discretionary remuneration, including but
17 not limited to monthly fuel allowances and the value of employer-provided vehicles, into the paid
18 sick leave pay rate.

19 15. As a result of Defendants' failure to pay all minimum and overtime wages, failure to
20 pay all meal and rest period premium wages, and unlawful timekeeping and payroll practices as
21 alleged above, Defendants maintained inaccurate payroll records and issued inaccurate wage
22 statements to Plaintiff and other aggrieved employees. As a further result of Defendants' failure to
23 pay all minimum and overtime wages, sick leave wages, and meal and rest period premium wages,
24 Defendants failed to timely pay all final wages to Plaintiff and other aggrieved employees upon
25 their separation of employment from Defendants.

26 16. On August 22, 2023, Plaintiff submitted a request for inspection or copy of his
27 personnel file, payroll and time records, and all documents he signed relating to the obtaining or
28 holding of employment under Labor Code §§ 226(b), 432, and 1198.5 to Defendants. As of the date

1 of this Complaint, Defendants have failed to permit Plaintiff to inspect or copy his employment
2 records. Upon information and belief, Defendants failed to permit other aggrieved employees to
3 inspect or copy their employment records.

4 17. On or about August 22, 2023, Plaintiff notified Defendants via certified mail, and
5 notified the California Labor and Workforce Development Agency (“LWDA”) via its website, of
6 Defendants’ violations of the Labor Code and Plaintiff’s intent to bring a claim for civil penalties
7 under Labor Code § 2698, *et seq.* with respect to the violations of the Labor Code identified in the
8 preceding paragraph. Now that 33 days and 65 days have passed from Plaintiff notifying
9 Defendants and the LWDA of these violations, Defendants have not cured any curable violations,
10 and the LWDA has not provided notice that it intends to investigate the violations, Plaintiff has
11 exhausted administrative requirements for bringing a claim under the Private Attorneys General Act
12 with respect to these violations.

13 **FIRST CAUSE OF ACTION**

14 **PRIVATE ATTORNEYS GENERAL ACT**

15 **(Against All Defendants)**

16 18. Plaintiff re-alleges and incorporates by reference all preceding paragraphs as though
17 fully set forth herein.

18 19. Plaintiff, an “aggrieved employee” within the meaning of Labor Code § 2698, *et*
19 *seq.*, acting on behalf of himself and other aggrieved employees (collectively, “Aggrieved
20 Employees”), brings this representative action against Defendants to recover the civil penalties due
21 to Plaintiff and other Aggrieved Employees, and the State of California according to proof pursuant
22 to Labor Code § 558 and § 2699(a) and (f) including, but not limited to: (1) \$100.00 for each initial
23 violation for each failure to pay each employee and \$200 for each subsequent violation or willful or
24 intentional violation pursuant to Labor Code § 210 for each failure to pay each employee, plus 25%
25 of the amount unlawfully withheld; (2) \$50.00 for each initial violation and \$100 for each
26 subsequent violation pursuant to Labor Code § 558 per employee per pay period; (3) \$100 for each
27 initial violation and \$250 for each subsequent violation pursuant to Labor Code § 1197.1 per
28 employee per pay period; (4) \$250 for each initial violation and \$1,000 for each subsequent

1 violation pursuant to Labor Code § 226.3 per employee per pay period; (5) pursuant to Labor Code
2 section 256, a civil penalty in an amount not exceeding 30 days per former employee as waiting
3 time under the terms of Labor Code § 203; and/or (6) \$100 for each initial violation and \$200 for
4 each subsequent violation per employee per pay period for those violations of the Labor Code for
5 which no civil penalty is specifically provided, based on the following Labor Code violations:

- 6 a. Failing to pay minimum wages for all hours worked to Aggrieved Employees in
7 violation of Labor Code § 558, 1182.12, 1194, 1194.2, 1197, and 1198;
- 8 b. Failing to pay Aggrieved Employees all earned overtime compensation in violation
9 of Labor Code §§ 204, 510, 558, 1194, and 1198;
- 10 c. Failing to provide all legally required meal periods, and failure to pay meal period
11 premium wages, to Aggrieved Employees at the regular rate of compensation in
12 violation of Labor Code §§ 226.7, 512, 558, and 1198;
- 13 d. Failing to authorize and permit all legally required rest periods, and failure to pay
14 rest period premium wages, to Aggrieved Employees at the regular rate of
15 compensation in violation of Labor Code §§ 226.7, 516, 558, and 1198;
- 16 e. Failing to furnish Aggrieved Employees with complete, accurate, itemized wage
17 statements in violation of Labor Code § 226;
- 18 f. Failing to timely pay all final wages and compensation earned by Aggrieved
19 Employees at the time of separation in violation of Labor Code §§ 201-202;
- 20 g. Failure to reimburse Aggrieved Employees for all necessary business expenses in
21 violation of Labor Code § 2802;
- 22 h. Failing to pay Aggrieved Employees all earned wages at least twice during each
23 calendar month in violation of Labor Code § 204;
- 24 i. Failure to permit inspection of employment records in violation of Labor Code §§
25 226, 432, 1198.5; and
- 26 j. Failing to maintain accurate records on behalf of Aggrieved Employees in violation
27 of Labor Code §§ 1174 and 1198.
- 28 20. Plaintiff has incurred attorneys' fees and costs, which Plaintiff is entitled to receive

1 under California Labor Code § 2699(g).

2 **PRAYER FOR RELIEF**

3 WHEREFORE, Plaintiff prays for judgment for himself and for all others on whose behalf
4 this suit is brought against Defendants, as follows:

5 1. Upon the First Cause of Action, for civil penalties due to Plaintiff, other Aggrieved
6 Employees, and the State of California according to proof pursuant to Labor Code §§ 558 and
7 2699(a) and (f) including, but not limited to: (1) \$100.00 for each initial violation for each failure to
8 pay each employee and \$200 for each subsequent violation or willful or intentional violation
9 pursuant to Labor Code § 210 for each failure to pay each employee, plus 25% of the amount
10 unlawfully withheld; (2) \$50.00 for each initial violation and \$100 for each subsequent violation
11 pursuant to Labor Code § 558 per employee per pay period; (3) \$100.00 for each initial violation
12 and \$250.00 for each subsequent violation pursuant to Labor Code § 1197.1 per employee per pay
13 period; (4) \$250.00 for each initial violation and \$1,000.00 for each subsequent violation pursuant
14 to Labor Code § 226.3 per employee per pay period; (5) pursuant to Labor Code section 256, a civil
15 penalty in an amount not exceeding 30 days per former employee as waiting time under the terms of
16 Labor Code § 203; and/or (6) \$100.00 for each initial violation and \$200 for each subsequent
17 violation per employee per pay period for those violations of the Labor Code for which no civil
18 penalty is specifically provided;

19 2. On all causes of action, for attorneys' fees and costs as provided by Labor Code §
20 2699(g) and Code of Civil Procedure § 1021.5; and

21 3. For such other and further relief, the Court may deem just and proper.
22

23 DATED: October 26, 2023

JUSTICE FOR WORKERS, P.C.

24
25 By: 

26 Young K. Park
27 William C. Sung
28 Attorneys for Plaintiff TED KIM