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**SUPERIOR COURT OF THE STATE OF CALIFORNIA**

**FOR THE COUNTY OF ORANGE**

ARGIROS DIMOPOULOS; DAVEN  
ANTHONY MELENDREZ; TIM RAU;  
individually and on behalf of all others  
similarly situated,

Plaintiffs,

v.

MVVT MOTORS, LLC; and DOES 1  
through 20, inclusive,

Defendants.

Case No. 30-2023-01344161-CU-OE-CXC

*Assigned for All Purposes to:  
Judge William Claster; Dept. CX101*

**[Amended as a matter of right, pursuant to  
Labor Code section 2699.3(a)(2)(C)]**

**FIRST AMENDED CLASS ACTION  
COMPLAINT FOR:**

1. Failure to Pay Minimum Wages;
2. Failure to Pay Overtime Wages;
3. Failure to Provide Meal Periods;
4. Failure to Permit Rest Breaks;
5. Unlawful Deductions;
6. Failure to Reimburse Business Expenses;
7. Failure to Provide Accurate Itemized Wage Statements;
8. Failure to Pay Wages Timely During Employment;
9. Failure to Pay All Wages Due Upon Separation of Employment;
10. Violation of Business and Professions Code §§ 17200, *et seq.*; and
11. Enforcement of Labor Code § 2698 *et seq.* ("PAGA")

1 Plaintiffs Argirios Dimopoulos; Daven Anthony Melendrez; Tim Rau; individually and on  
2 behalf of others similarly situated, alleges as follows:

3 **NATURE OF ACTION AND INTRODUCTORY STATEMENT**

4 1. Plaintiffs Argirios Dimopoulos; Daven Anthony Melendrez; and Tim Rau  
5 (“Plaintiffs”) bring this putative class action and representative action pursuant to the Private  
6 Attorneys General Act of 2004, Cal. Lab. Code. § 2698 *et seq.*, against defendants MVVT Motors,  
7 LLC, and DOES 1 through 20, inclusive (collectively, “Defendants”), on Plaintiffs’ own behalf  
8 and on behalf of California citizens who are and were employed by Defendants as non-exempt  
9 employees throughout California.

10 2. Defendants provide services or goods throughout California.

11 3. Through this action, Plaintiffs allege that Defendants engaged in a systematic  
12 pattern of wage and hour violations under the California Labor Code and Industrial Welfare  
13 Commission (“IWC”) Wage Orders, all of which contribute to Defendants’ deliberate unfair  
14 competition.

15 4. Plaintiffs are informed and believe, and thereon allege, that Defendants have  
16 increased their profits by violating state wage and hour laws by, among other things:

- 17 (a) failing to pay all wages (including minimum wages and overtime wages);
  - 18 (b) failing to pay wages for non-productive time, including time spent in rest  
19 breaks;
  - 20 (c) failing to provide lawful meal periods or compensation in lieu thereof;
  - 21 (d) failing to authorize or permit lawful rest breaks or provide compensation in  
22 lieu thereof;
  - 23 (e) making improper deductions from employees’ earned wages;
  - 24 (f) failing to reimburse necessary business-related costs;
  - 25 (g) failing to provide accurate itemized wage statements;
  - 26 (h) failing to pay wages timely during employment; and
  - 27 (i) failing to pay all wages due upon separation of employment.
- 28

5. Plaintiffs seek monetary relief against Defendants on behalf of Plaintiffs and all others similarly situated in California to recover, among other things, unpaid wages, un-reimbursed business expenses, benefits, interest, attorneys' fees, costs and expenses, and penalties pursuant to Labor Code §§ 201, 202, 203, 204, 210, 221, 223, 224, 225.5, 226, 226.2, 226.3, 226.7, 246, 510, 512, 558, 1174, 1174.5, 1182.12, 1194, 1194.2, 1197, 1197.1, 1198, 2800, 2802, 2698, *et seq.*, and Code of California Civil Procedure § 1021.5.

## **JURISDICTION AND VENUE**

6. This is a class action pursuant to California Code of Civil Procedure § 382. The monetary damages and restitution sought by Plaintiffs exceed the minimal jurisdictional limits of the Superior Court and will be established according to proof at trial.

7. This Court has jurisdiction over this action pursuant to the California Constitution, Article VI, § 10, which grants the Superior Court original jurisdiction in all causes except those given by statutes to other courts. The statutes under which this action is brought do not specify any other basis for jurisdiction.

8. This Court has jurisdiction over all Defendants because, upon information and belief, they are citizens of California, have sufficient minimum contacts in California, or otherwise intentionally avail themselves of the California market so as to render the exercise of jurisdiction over them by the California courts consistent with traditional notions of fair play and substantial justice.

9. Venue is proper in this Court because, upon information and belief, Defendants reside, transact business, or have offices in this county, and the acts and omissions alleged herein took place in this county.

## THE PARTIES

10. Plaintiffs are residents of California and worked for Defendants during the relevant time periods as alleged herein.

11. Plaintiffs are informed and believe, and thereon allege that at all times hereinafter mentioned, Defendants were and are subject to the Labor Code and IWC Wage Orders as

1 employers, whose employees were and are engaged throughout this county and the State of  
2 California.

3 12. Plaintiffs are unaware of the true names or capacities of the defendants sued herein  
4 under the fictitious names DOES 1 through 20, but will seek leave of this Court to amend this  
5 Complaint and serve such fictitiously named defendants once their names and capacities become  
6 known.

7 13. Plaintiffs are informed and believe, and thereon allege, that DOES 1 through 20 are  
8 or were the partners, agents, owners, shareholders, managers, or employees of Defendants at all  
9 relevant times.

10 14. Plaintiffs are informed and believe, and thereon allege, that each defendant acted  
11 in all respects pertinent to this action as the agent of the other defendant, carried out a joint scheme,  
12 business plan, or policy in all respects pertinent hereto, and the acts of each defendant are legally  
13 attributable to the other defendant. Furthermore, defendants in all respects acted as the employer  
14 and/or joint employer of Plaintiff and the class members.

15 15. Plaintiffs are informed and believe, and thereon allege, that each and all of the acts  
16 and omissions alleged herein were performed by, or are attributable to, Defendants and/or DOES  
17 1 through 20, acting as the agent or alter ego for the other, with legal authority to act on the other's  
18 behalf. The acts of any and all Defendants were in accordance with, and represent, the official  
19 policy of Defendants.

20 16. At all relevant times, Defendants, and each of them, acted within the scope of such  
21 agency or employment, or ratified each and every act or omission complained of herein. At all  
22 relevant times, Defendants, and each of them, aided and abetted the acts and omissions of each  
23 and all the other Defendants in proximately causing the damages herein alleged.

24 17. Plaintiffs are informed and believe, and thereon allege, that each of said Defendants  
25 is in some manner intentionally, negligently, or otherwise responsible for the acts, omissions,  
26 occurrences, and transactions alleged herein.

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1 **CLASS ACTION ALLEGATIONS**

2 18. Plaintiffs bring this action under Code of Civil Procedure § 382 on Plaintiffs' own  
3 behalf and on behalf of all others similarly situated who were affected by Defendants' Labor Code,  
4 Business and Professions Code §§ 17200, and IWC Wage Order violations.

5 19. All claims alleged herein arise under California law for which Plaintiffs seek relief  
6 authorized by California law.

7 20. Plaintiffs' proposed class consists of and is defined as follows:

8 Class

9 All California citizens currently or formerly employed by Defendants as non-  
10 exempt employees in the State of California at any time between February 27,  
11 2019<sup>1</sup> and the date of class certification ("Class").

12 21. Plaintiffs also seeks to certify the following subclasses of employees:

13 Waiting Time Subclass

14 All members of the Class who separated their employment with Defendant at any  
15 time between February 27, 2020 and the date of class certification ("Waiting Time  
16 Subclass").

17 22. Plaintiffs reserve the right to modify or re-define the Class, establish additional  
18 subclasses, or modify or re-define any class or subclass definition as appropriate based on  
19 investigation, discovery, and specific theories of liability.

20 23. Members of the Class and the Waiting Time Subclass described above will be  
21 collectively referred to as "Class Members."

22 24. There are common questions of law and fact as to the Class Members that  
23 predominate over any questions affecting only individual members including, but not limited to,  
24 the following:

25  
26  
27  
28 <sup>1</sup> The statute of limitations for this matter was tolled between April 6, 2020 and October 1, 2020 pursuant to Cal. Rules of Court, Appendix I, Emergency Rule No. 9.

- 1 (a) Whether Defendants failed to pay Plaintiffs and Class Members all wages  
2 (including minimum wages and overtime wages) for all hours worked by  
3 Plaintiffs and Class Members.
- 4 (b) Whether Defendants required Plaintiffs and Class Members to work over  
5 eight (8) hours per day, over twelve (12) hours per day, and/or over forty  
6 (40) hours per week and failed to pay them proper overtime compensation  
7 for all overtime hours worked.
- 8 (c) Whether Defendants failed to pay Plaintiffs and Class Members for non-  
9 productive time, including time spent in rest breaks.
- 10 (d) Whether Defendants deprived Plaintiffs and Class Members of timely meal  
11 periods or required Plaintiffs and Class Members to work through meal  
12 periods without legal compensation.
- 13 (e) Whether Defendants deprived Plaintiffs and Class Members of rest breaks  
14 or required Plaintiffs and Class Members to work through rest breaks.
- 15 (f) Whether Defendants made unlawful deductions from Plaintiffs' and class  
16 members' wages.
- 17 (g) Whether Defendants failed to reimburse Plaintiffs and Class Members for  
18 necessary business-related costs expended for the benefit of Defendants.
- 19 (h) Whether Defendants failed to provide Plaintiffs and Class Members  
20 accurate itemized wage statements.
- 21 (i) Whether Defendants failed to pay wages timely to Plaintiffs and Class  
22 Members;
- 23 (j) Whether Defendants failed to timely pay the Waiting Time Subclass all  
24 wages due upon termination or within seventy-two (72) hours of  
25 resignation.
- 26 (k) Whether Defendants' conduct was willful or reckless.
- 27 (l) Whether Defendants engaged in unfair business practices in violation of  
28 Business and Professions Code §§ 17200, *et seq.*

1           25.     There is a well-defined community of interest in this litigation and the proposed  
2     Class and subclasses are readily ascertainable:

3                 (a)     Numerosity: The Class Members are so numerous that joinder of all  
4     members is impractical. Although the members of the Class are unknown to Plaintiffs at this time,  
5     on information and belief, the Class is estimated to be greater than fifty (50) individuals. The  
6     identities of the Class Members are readily ascertainable by inspection of Defendants' employment  
7     and payroll records.

8                 (b)     Typicality: Plaintiffs' claims (or defenses, if any) are typical of the claims  
9     (or defenses, if any) of the Class Members because Defendants' failure to comply with the  
10    provisions of California's wage and hour laws entitled each Class Member to similar pay, benefits,  
11    and other relief. The injuries sustained by Plaintiffs are also typical of the injuries sustained by the  
12    Class Members, because they arise out of and are caused by Defendants' common course of  
13    conduct as alleged herein.

14                (c)     Adequacy: Plaintiffs will fairly and adequately represent and protect the  
15    interests of all Class Members because it is in Plaintiffs' best interest to prosecute the claims  
16    alleged herein to obtain full compensation and penalties due. Plaintiffs' attorneys, as proposed  
17    class counsel, are competent and experienced in litigating large employment class actions and  
18    versed in the rules governing class action discovery, certification, and settlement. Plaintiffs have  
19    incurred and, throughout the duration of this action, will continue to incur attorneys' fees and costs  
20    that have been and will be necessarily expended for the prosecution of this action for the substantial  
21    benefit of the Class Members.

22                (d)     Superiority: The nature of this action makes use of class action adjudication  
23    superior to other methods. A class action will achieve economies of time, effort, and expense as  
24    compared with separate lawsuits and will avoid inconsistent outcomes because the same issues can  
25    be adjudicated in the same manner for the entire Class and Waiting Time Subclass at the same  
26    time. If appropriate, this Court can, and is empowered to, fashion methods to efficiently manage  
27    this case as a class action.

1 (e) Public Policy Considerations: Employers in the State of California violate  
2 employment and labor laws every day. Current employees are often afraid to assert their rights out  
3 of fear of direct or indirect retaliation. Former employees are fearful of bringing actions because  
4 they believe their former employers might damage their future endeavors through negative  
5 references and/or other means. Class actions provide class members who are not named in the  
6 complaint with a type of anonymity that allows for the vindication of their rights while affording  
7 them privacy protections.

8 **GENERAL ALLEGATIONS**

9 26. At all relevant times mentioned herein, Defendants employed Plaintiffs and other  
10 California residents as non-exempt employees throughout California at Defendants' California  
11 business location(s).

12 27. Defendants continue to employ non-exempt employees within California.

13 28. Plaintiffs are informed and believe, and thereon allege, that at all times herein  
14 mentioned, Defendants were advised by skilled lawyers, employees, and other professionals who  
15 were knowledgeable about California's wage and hour laws, employment and personnel practices,  
16 and the requirements of California law.

17 29. Plaintiffs are informed and believe, and thereon allege, that Defendants knew or  
18 should have known that Plaintiffs and Class Members were entitled to receive wages for all time  
19 worked (including minimum wages and overtime wages) and that they were not receiving all  
20 wages earned for work that was required to be performed. In violation of the Labor Code and IWC  
21 Wage Orders, Plaintiffs and Class Members were not paid all wages (including minimum wages  
22 and overtime wages) for all hours worked at the correct rate and within the correct time, and were  
23 not paid for non-productive time.

24 30. Plaintiffs are informed and believe, and thereon allege, that Defendants knew or  
25 should have known that Plaintiffs and Class Members were entitled to receive all required meal  
26 periods or payment of one (1) additional hour of pay at Plaintiffs' and Class Members' regular rate  
27 of pay when they did not receive a timely, uninterrupted meal period. In violation of the Labor  
28 Code and IWC Wage Orders, Plaintiffs and Class Members did not receive all meal periods or

1 payment of one (1) additional hour of pay at Plaintiffs' and Class Members' regular rate of pay  
2 when they did not receive a timely, uninterrupted meal period.

3 31. Plaintiffs are informed and believe, and thereon allege, that Defendants knew or  
4 should have known that Plaintiffs and Class Members were entitled to receive all rest breaks or  
5 payment of one (1) additional hour of pay at Plaintiffs' and Class Members' regular rate of pay  
6 when a rest break was late, missed, or interrupted. In violation of the Labor Code and IWC Wage  
7 Orders, Plaintiffs and Class Members did not receive all rest breaks or payment of one (1)  
8 additional hour of pay at Plaintiffs' and Class Members' regular rate of pay when a rest break was  
9 missed, late, or interrupted.

10 32. Plaintiffs are informed and believe, and thereon allege, that Defendants knew or  
11 should have known that Plaintiffs and Class Members were entitled to all earned wages without  
12 unlawful deductions. In violation of the California Labor Code, Defendants made unlawful  
13 deductions from Plaintiffs' and Class Members' wages.

14 33. Plaintiffs are informed and believe, and thereon allege, that Defendants knew or  
15 should have known that Plaintiffs and Class Members were entitled to reimbursement and/or  
16 indemnification for all necessary business expenditures or losses as a direct consequence of the  
17 discharge of their duties, or of their obedience to the directions of Defendants. In violation of the  
18 Labor Code and IWC Wage Orders, Plaintiffs and Class Members incurred necessary business  
19 expenses or losses, but were not reimbursed nor indemnified of such expenses or losses that were  
20 incurred as a direct consequence of the discharge of their duties, or of their obedience to the  
21 directions of Defendants.

22 34. Plaintiffs are informed and believe, and thereon allege, that Defendants knew or  
23 should have known that Plaintiffs and Class Members were entitled to receive itemized wage  
24 statements that accurately showed the following information pursuant to the Labor Code: (1) gross  
25 wages earned; (2) total hours worked by the employee; (3) the number of piece-rate units earned  
26 and any applicable piece rate if the employee is paid on a piece-rate basis; (4) all deductions,  
27 provided that all deductions made on written orders of the employee may be aggregated and shown  
28 as one item; (5) net wages earned; (6) the inclusive dates of the period for which the employee is

1 paid; (7) the name of the employee and only the last four digits of his or her social security number  
2 or an employee identification number other than a social security number; (8) the name and address  
3 of the legal entity that is the employer; and (9) all applicable hourly rates in effect during the pay  
4 period and the corresponding number of hours worked at each hourly rate by the employee. In  
5 violation of the Labor Code, Plaintiffs and Class Members were not provided with accurate  
6 itemized wage statements.

7 35. Plaintiffs are informed and believe, and thereon allege, that Defendants knew or  
8 should have known that the Waiting Time Subclass was entitled to timely payment of wages due  
9 upon separation of employment. In violation of the Labor Code, the Waiting Time Subclass did  
10 not receive payment of all wages within the permissible time periods.

11 36. Plaintiffs are informed and believe, and thereon allege, that Defendants knew or  
12 should have known they had a duty to compensate Plaintiffs and Class Members, and Defendants  
13 had the financial ability to pay such compensation but willfully, knowingly, and intentionally  
14 failed to do so in order to increase Defendants' profits.

15 37. Therefore, Plaintiffs bring this lawsuit seeking monetary and injunctive relief  
16 against Defendants on Plaintiffs' own behalf and on behalf of all Class Members to recover, among  
17 other things, unpaid wages (including minimum wages and overtime wages), unpaid meal period  
18 premium payments, unpaid rest period premium payments, unreimbursed business expenditures,  
19 interest, attorneys' fees, penalties, costs, and expenses.

## 20 **FIRST CAUSE OF ACTION**

### 21 **FAILURE TO PAY MINIMUM WAGES**

22 (Violation of Labor Code §§ 226.2, 1194, 1194.2, and 1197; Violation of Wage Order §3-4)

23 38. Plaintiffs hereby re-allege and incorporate by reference all paragraphs above as  
24 though fully set forth herein.

25 39. Labor Code §§ 1194 and 1197 provide that the minimum wage for employees fixed  
26 by the IWC is the minimum wage to be paid to employees, and the payment of a lesser wage than  
27 the minimum so fixed is unlawful.

28 40. Labor Code §§ 226.2 provides employees must be paid for non-productive time.

41. Plaintiffs and Class Members were employees entitled to the protections of Labor Code §§ 226.2, 1194 and 1197.

42. During the relevant time period, Defendants failed to pay Plaintiffs and Class Members all wages owed when Defendants did not pay minimum wage for all hours worked.

43. During the relevant time period, Defendants failed to pay at least minimum wage to Plaintiffs and Class Members for all hours worked pursuant to Labor Code §§ 226.2, 1194, and 1197.

44. Defendants' failure to pay Plaintiffs and Class Members the required minimum wage violates Labor Code §§ 226.2, 1194, and 1197. Pursuant to these sections, Plaintiffs and Class Members are entitled to recover the unpaid balance of their minimum wage compensation as well as interest, costs, and attorneys' fees.

45. Pursuant to Labor Code § 1194.2, Plaintiffs and Class Members are entitled to recover liquidated damages in an amount equal to the wages unlawfully unpaid and the accrued interest thereon.

## SECOND CAUSE OF ACTION

## FAILURE TO PAY OVERTIME

(Violation of Labor Code §§ 226.2, 510, 1194, and 1198; Violation of IWC Wage Order § 3)

46. Plaintiffs hereby re-allege and incorporate by reference all paragraphs above as though fully set forth herein.

47. Labor Code § 1198 and the applicable IWC Wage Order provide that it is unlawful to employ persons without compensating them at a rate of pay either one and one-half (1½) or two (2) times the person's regular rate of pay, depending on the number of hours worked by the person on a daily or weekly basis.

48. Labor Code §§ 226.2 provides employees must be paid for non-productive time at the correct rate of pay.

49. Specifically, the applicable IWC Wage Orders provide that Defendants are and were required to pay overtime compensation to Plaintiffs and Class Members at the rate of one and one-half times (1½) their regular rate of pay when working and for all hours worked in excess

1 of eight (8) hours in a day or more than forty (40) hours in a workweek and for the first eight (8)  
2 hours of work on the seventh day of work in a workweek.

3 50. The applicable IWC Wage Orders further provide that Defendants are and were  
4 required to pay overtime compensation to Plaintiffs and Class Members at a rate of two times their  
5 regular rate of pay when working and for all hours worked in excess of twelve (12) hours in a day  
6 or in excess of eight (8) hours on the seventh day of work in a workweek.

7 51. California Labor Code § 510 codifies the right to overtime compensation at one and  
8 one-half (1½) times the regular hourly rate for hours worked in excess of eight (8) hours in a day  
9 or forty (40) hours in a week and for the first eight (8) hours worked on the seventh consecutive  
10 day of work, and overtime compensation at twice the regular hourly rate for hours worked in excess  
11 of twelve (12) hours in a day or in excess of eight (8) hours in a day on the seventh day of work in  
12 a workweek.

13 52. Labor Code § 510 and the applicable IWC Wage Orders provide that employment  
14 of more than six days in a workweek is only permissible if the employer pays proper overtime  
15 compensation as set forth herein.

16 53. Plaintiffs and Class Members were employees entitled to the protections of  
17 California Labor Code §§ 226.2, 510, and 1194.

18 54. During the relevant time period, Defendants required Plaintiffs and Class Members  
19 to work in excess of eight (8) hours in a day, forty (40) hours in a week, and/or on a seventh  
20 consecutive day of work, entitling them to overtime wages.

21 55. During the relevant time period, Defendants failed to pay Plaintiffs and Class  
22 Members overtime wages for all overtime hours worked. To the extent these hours qualify for the  
23 payment of overtime wages, Plaintiffs and Class Members were not paid proper overtime wages.

24 56. In violation of California law, Defendants knowingly and willfully refused to  
25 perform their obligations and compensate Plaintiffs and Class Members for all wages earned and  
26 all hours worked and failed to pay for non-productive time.

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57. Defendants' failure to pay Plaintiffs and Class Members the unpaid balance of overtime compensation, as required by California law, violates the provisions of Labor Code §§ 226.2, 510, and 1198, and is therefore unlawful.

58. Pursuant to Labor Code § 1194, Plaintiffs and Class Members are entitled to recover their unpaid overtime and double time compensation as well as interest, costs, and attorneys' fees.

### THIRD CAUSE OF ACTION

## **FAILURE TO PROVIDE MEAL PERIODS**

(Violation of Labor Code §§ 226.7 and 512; Violation of IWC Wage Order § 11)

59. Plaintiffs hereby re-allege and incorporate by reference all paragraphs above as though fully set forth herein.

60. Labor Code § 226.7 provides that no employer shall require an employee to work during any meal period mandated by the IWC Wage Orders.

61. Section 11 of the applicable IWC Wage Order states, “[n]o employer shall employ any person for a work period of more than five (5) hours without a meal period of not less than 30 minutes, except that when a work period of not more than six (6) hours will complete the day’s work the meal period may be waived by mutual consent of the employer and the employee.”

62. Labor Code § 512(a) provides that an employer may not require, cause, or permit an employee to work for a period of more than five (5) hours per day without providing the employee with an uninterrupted meal period of not less than thirty (30) minutes, except that if the total work period per day of the employee is not more than six (6) hours, the meal period may be waived by mutual consent of both the employer and the employee.

63. Labor Code § 512(a) also provides that an employer may not employ an employee for a work period of more than ten (10) hours per day without providing the employee with a second meal period of not less than thirty (30) minutes, except that if the total hours worked is no more than twelve (12) hours, the second meal period may be waived by mutual consent of the employer and the employee only if the first meal period was not waived.

1           64.     During the relevant time period, Plaintiffs and Class Members did not receive  
2 compliant meal periods for working more than five (5) and ten (10) hours per day because their  
3 meal periods were missed, late, short, interrupted, and/or they were not permitted to take a second  
4 meal period.

5           65.     Labor Code § 226.7(b) and section 11 of the applicable IWC Wage Order require  
6 an employer to pay an employee one (1) additional hour of pay at the employee's regular rate of  
7 compensation for each work day that a compliant meal period is not provided.

8           66.     At all relevant times, Defendants failed to pay Plaintiffs and Class Members meal  
9 period premiums for missed, late, and/or short meal periods pursuant to Labor Code § 226.7(b)  
10 and section 11 of the applicable IWC Wage Order.

11           67.     As a result of Defendants' failure to pay Plaintiffs and Class Members an additional  
12 hour of pay for each day a compliant meal period was not provided, Plaintiffs and Class Members  
13 suffered and continue to suffer a loss of wages and compensation.

#### 14                               **FOURTH CAUSE OF ACTION**

#### 15                               **FAILURE TO PERMIT REST BREAKS**

16                               (Violation of Labor Code §§ 226.7; Violation of IWC Wage Order § 12)

17           68.     Plaintiffs hereby re-alleges and incorporate by reference all paragraphs above as  
18 though fully set forth herein.

19           69.     Labor Code § 226.7(a) provides that no employer shall require an employee to  
20 work during any rest period mandated by the IWC Wage Orders.

21           70.     Section 12 of the applicable IWC Wage Order states "[e]very employer shall  
22 authorize and permit all employees to take rest periods, which insofar as practicable shall be in the  
23 middle of each work period[,]" and the "[a]uthorized rest period time shall be based on the total  
24 hours worked daily at the rate of ten (10) minutes net rest time per four (4) hours or major fraction  
25 thereof[,]" unless the total daily work time is less than three and one-half (3½) hours.

26           71.     During the relevant time period, Plaintiffs and Class Members did not receive a ten  
27 (10) minute rest period for every four (4) hours or major fraction thereof worked, including  
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1 working in excess of ten (10) hours in a day, because they were required to work through their rest  
2 periods and/or were not authorized to take their rest periods.

3 72. Labor Code § 226.7(b) and section 12 of the applicable IWC Wage Order requires  
4 an employer to pay an employee one (1) additional hour of pay at the employee's regular rate of  
5 compensation for each work day that a compliant rest period is not provided.

6 73. At all relevant times, Defendants failed to pay Plaintiffs and Class Members rest  
7 period premiums for missed, late, and/or interrupted rest periods pursuant to Labor Code §  
8 226.7(b) and section 12 of the applicable IWC Wage Order.

9 74. As a result of Defendants' failure to pay Plaintiffs and Class Members an additional  
10 hour of pay for each day a compliant rest period was not provided, Plaintiff and Class Members  
11 suffered and continue to suffer a loss of wages and compensation.

## 12 **FIFTH CAUSE OF ACTION**

### 13 **UNLAWFUL DEDUCTIONS FROM EARNED WAGES**

14 (Violation of Labor Code § 221, 223, 224; Violation of IWC Wage Order)

15 75. Plaintiffs hereby re-allege and incorporate by reference all paragraphs above as  
16 though fully set forth herein.

17 76. Labor Code § 221 provides that employers may not collect or receive from an  
18 employee any part of wages theretofore paid by said employer to said employee. Labor Code §  
19 223 provides that where a contract requires an employer to maintain the designated wage scale, it  
20 is unlawful to pay a lower wage while purporting to pay the wage designated by contract. Labor  
21 Code § 224 prohibits employers from making deductions from an employee's wages not  
22 authorized by the employee in writing or permitted by law.

23 77. During the relevant time period, Defendants had a policy and practice of making  
24 unlawful deductions from earned wages of Plaintiffs and Class Members.

25 78. As a result of Defendants' failure to refrain from making improper deductions from  
26 earned wages, Plaintiffs and Class Members suffered and continue to suffer a loss of wages and  
27 compensation, the exact amount of damages and/or penalties is all in an amount to be shown  
28 according to proof at trial.

1 **SIXTH CAUSE OF ACTION**

2 **FAILURE TO REIMBURSE BUSINESS EXPENSES**

3 (Violation of Labor Code §§ 2800, 2802)

4 79. Plaintiffs hereby re-allege and incorporate by reference all paragraphs above as  
5 though fully set forth herein.

6 80. Labor Code § 2800 states that “[a]n employer shall in all cases indemnify his  
7 employee for losses caused by the employer’s want of ordinary care.”

8 81. Labor Code § 2802(a) states that “[a]n employer shall indemnify his or her  
9 employee for all necessary expenditures or losses incurred by the employee in direct consequence  
10 of the discharge of his or her duties, or of his or her obedience to the directions of the employer . .  
11 . .”

12 82. Labor Code § 2802(b) states that “[a]ll awards made by a court . . . for  
13 reimbursement of necessary expenditures under this section shall carry interest at the same rate as  
14 judgments in civil actions. Interest shall accrue from the date on which the employee incurred the  
15 necessary expenditure or loss.”

16 83. Labor Code § 2802(c) states that “[f]or purposes of this section, the term “necessary  
17 expenditures or losses” shall include all reasonable costs, including, but not limited to, attorney’s  
18 fees incurred by the employee enforcing the rights granted by this section.”

19 84. During the relevant time period, Plaintiffs and Class Members incurred necessary  
20 business-related costs that were not fully reimbursed by Defendants.

21 85. In violation of Labor Code §§ 2800 and 2802, Defendants failed to reimburse or  
22 indemnify Plaintiffs and Class Members for their expenses due to Defendants’ knowing and  
23 intentional failure to reimburse necessary business expenditures in connection with Plaintiffs’ and  
24 Class Members’ work and job duties.

25 86. As a direct result, Plaintiffs and Class Members have suffered and continue to suffer  
26 losses, and therefore seek complete reimbursement and indemnification of necessary business  
27 expenditures or losses, interest thereon at the required rate, and all reasonable costs in enforcing  
28 the rights under Labor Code § 2802, including, but not limited to attorneys’ fees.

1 **SEVENTH CAUSE OF ACTION**

2 **FAILURE TO PROVIDE ACCURATE ITEMIZED WAGE STATEMENTS**

3 (Violation of Labor Code § 226; Violation of IWC Wage Order)

4 87. Plaintiffs hereby re-allege and incorporate by reference all paragraphs above as  
5 though fully set forth herein.

6 88. Labor Code § 226(a) requires Defendants to provide each employee with an  
7 accurate wage statement in writing showing nine pieces of information, including, the following:  
8 (1) gross wages earned, (2) total hours worked by the employee, (3) the number of piece-rate units  
9 earned and any applicable piece rate if the employee is paid on a piece-rate basis, (4) all deductions,  
10 provided that all deductions made on written orders of the employee may be aggregated and shown  
11 as one item, (5) net wages earned, (6) the inclusive dates of the period for which the employee is  
12 paid, (7) the name of the employee and the last four digits of his or her social security number or  
13 an employee identification number other than a social security number, (8) the name and address  
14 of the legal entity that is the employer, and (9) all applicable hourly rates in effect during the pay  
15 period and the corresponding number of hours worked at each hourly rate by the employee.

16 89. During the relevant time period, Defendants have knowingly and intentionally  
17 failed to comply with Labor Code § 226(a) on wage statements that were provided to Plaintiffs  
18 and Class Members. The deficiencies include, among other things, the failure to correctly state the  
19 gross and net wages earned, total hours worked, all applicable hourly rates in effect, and the  
20 number of hours worked at each hourly rate by Plaintiffs and Class Members.

21 90. As a result of Defendants' knowing and intentional failure to comply with Labor  
22 Code § 226(a), Plaintiffs and Class Members have suffered injury and damage to their statutorily-  
23 protected rights. Specifically, Plaintiffs and Class Members are deemed to suffer an injury  
24 pursuant to Labor Code § 226(e) where, as here, Defendants intentionally violated Labor Code §  
25 226(a). Plaintiffs and Class Members were denied both their legal right to receive, and their  
26 protected interest in receiving, accurate itemized wage statements under Labor Code § 226(a). In  
27 addition, because Defendants failed to provide the accurate rates of pay on wage statements,  
28 Defendants prevented Plaintiffs and Class Members from determining if all hours worked were

1 paid at the appropriate rate and the extent of the underpayment. Plaintiffs had to file this lawsuit  
2 in order to analyze the extent of the underpayment, thereby causing Plaintiffs to incur expenses  
3 and lost time. Plaintiffs would not have had to engage in these efforts and incur these costs had  
4 Defendants provided the accurate hours worked, wages earned, and rates of pay. This has also  
5 delayed Plaintiffs' ability to demand and recover the underpayment of wages from Defendants.

6 91. Plaintiffs and Class Members are entitled to recover from Defendants the greater of  
7 all actual damages caused by Defendants' failure to comply with Labor Code § 226(a) or fifty  
8 dollars (\$50.00) for the initial pay period in which a violation occurred and one hundred dollars  
9 (\$100.00) per employee for each violation in subsequent pay periods in an amount not exceeding  
10 four thousand dollars (\$4,000.00) per employee, plus attorneys' fees and costs.

11 92. Defendants' violations of California Labor Code § 226(a) prevented Plaintiffs and  
12 Class Members from knowing, understanding, and disputing the wages paid to them and resulted  
13 in an unjustified economic enrichment to Defendants. As a result of Defendants' knowing and  
14 intentional failure to comply with California Labor Code § 226(a), Plaintiffs and Class Members  
15 have suffered an injury, in the exact amount of damages and/or penalties to be shown according to  
16 proof at trial.

## 17 EIGHTH CAUSE OF ACTION

### 18 FAILURE TO PAY TIMELY DURING EMPLOYMENT

19 (Violation of Labor Code §§ 204, 210)

20 93. Plaintiffs hereby re-allege and incorporate by reference all paragraphs above as  
21 though fully set forth herein.

22 94. Pursuant to California Labor Code § 204, employees must be paid within a certain  
23 number of days of the close of the pay period.

24 95. During the relevant time period, Defendants failed to timely pay Plaintiffs and Class  
25 Members wages earned during the pay period.

26 96. Such a pattern, practice and uniform administration of corporate policy regarding  
27 timely payment of wages as described herein is unlawful and creates an entitlement to recovery by  
28 Plaintiffs in a civil action, for the unpaid balance of the full amount of damages owed, including

1 interest thereon, penalties, attorneys' fees, and costs of suit according to the mandate of California  
2 Labor Code § 210.

3 97. As a direct and proximate cause of these violations, Class Members have been  
4 damaged, in an amount to be determined at trial.

5 **NINTH CAUSE OF ACTION**

6 **FAILURE TO PAY ALL WAGES DUE UPON SEPARATION OF EMPLOYMENT**

7 (Violation of Labor Code §§ 201, 202, and 203)

8 98. Plaintiffs hereby re-allege and incorporate by reference all paragraphs above as  
9 though fully set forth herein.

10 99. Labor Code §§ 201 and 202 provide that if an employer discharges an employee,  
11 the wages earned and unpaid at the time of discharge are due and payable immediately, and that if  
12 an employee voluntarily leaves his or her employment, his or her wages shall become due and  
13 payable not later than seventy-two (72) hours thereafter, unless the employee has given seventy-  
14 two (72) hours previous notice of an intention to quit, in which case the employee is entitled to his  
15 or her wages at the time of quitting.

16 100. During the relevant time period, Defendants willfully failed to pay the Waiting  
17 Time Subclass all their earned wages upon termination, either at the time of discharge or within  
18 seventy-two (72) hours of their leaving Defendants' employ.

19 101. Defendants' failure to pay the Waiting Time Subclass all their earned wages at the  
20 time of discharge or within seventy-two (72) hours of their leaving Defendants' employ is in  
21 violation of Labor Code §§ 201 and 202.

22 102. Labor Code § 203 provides that if an employer willfully fails to pay wages owed  
23 immediately upon discharge or resignation in accordance with Labor Code §§ 201 and 202, then  
24 the wages of the employee shall continue as a penalty from the due date at the same rate until paid  
25 or until an action is commenced; but the wages shall not continue for more than thirty (30) days.

26 103. Pursuant to Labor Code § 203, the Waiting Time Subclass is entitled to recover  
27 from Defendants the statutory penalty, which is defined as the Waiting Time Subclass members'  
28

1 regular daily wages at their regular hourly rate of pay for each day they were not paid, up to a  
2 maximum of thirty (30) days.

3 **TENTH CAUSE OF ACTION**

4 **VIOLATION OF BUSINESS AND PROFESSIONS CODE §§ 17200, *ET SEQ.***

5 (Violation of Business and Professions Code §§ 17200, *et seq.*)

6 104. Plaintiffs hereby re-allege and incorporate by reference all paragraphs above as  
7 though fully set forth herein.

8 105. California Business and Professions Code §§ 17200, *et seq.*, prohibits acts of unfair  
9 competition, which includes any “unlawful, unfair or fraudulent business act or practice . . . .”

10 106. A violation of California Business and Professions Code §§ 17200, *et seq.*, may be  
11 predicated on a violation of any state or federal law. In the instant case, Defendants’ policies and  
12 practices violated state law, causing Plaintiffs and Class Members to suffer and continue to suffer  
13 injuries-in-fact.

14 107. Defendants’ policies and practices violated state law in at least the following  
15 respects:

- 16 (a) Failing to pay all wages earned (including minimum wage, non-productive  
17 time pay, and overtime wages) to Plaintiffs and Class Members at the proper  
18 rate and in a timely manner in violation of Labor Code §§ 204, 226.2, 510,  
19 1194, 1194.2, 1197, 1198.
- 20 (b) Failing to provide compliant meal periods without paying Plaintiffs and  
21 Class Members premium wages for every day said meal periods were not  
22 provided in violation of Labor Code §§ 226.7 and 512.
- 23 (c) Failing to authorize or permit compliant rest breaks without paying  
24 Plaintiffs and Class Members premium wages for every day said rest breaks  
25 were not authorized or permitted in violation of Labor Code § 226.7.
- 26 (d) Failing to refrain from making unlawful deductions from wages in violation  
27 of Labor Code §§ 221, 223, and 224.
- 28

- 1 (e) Failing to reimburse Plaintiffs and Class Members for necessary business-  
2 related expenses in violation of Labor Code §§ 2800 and 2802.
- 3 (f) Failing to provide Plaintiffs and Class Members with accurate itemized  
4 wage statements in violation of Labor Code § 226.
- 5 (g) Failing to timely pay all earned wages to the members of the Waiting Time  
6 Subclass upon separation of employment in violation of Labor Code §§ 201,  
7 202, and 203.

8 108. As alleged herein, Defendants systematically engaged in unlawful conduct in  
9 violation of the California Labor Code and IWC Wage Orders, such as failing to pay all wages  
10 (minimum and overtime wages), failing to provide meal periods and rest breaks or compensation  
11 in lieu thereof, failing to refrain from making unlawful deductions, failing to reimburse necessary  
12 business-related costs and expenses, failing to furnish accurate wage statements, and failing to  
13 pay all wages due and owing upon separation of employment in a timely manner to the Waiting  
14 Time Subclass, all in order to decrease their costs of doing business and increase their profits.

15 109. At all relevant times herein, Defendants held themselves out to Plaintiffs and Class  
16 Members as being knowledgeable concerning the labor and employment laws of California.

17 110. At all times relevant herein, Defendants intentionally avoided paying Plaintiffs and  
18 Class Members wages and monies, thereby creating for Defendants an artificially lower cost of  
19 doing business in order to undercut their competitors and establish and/or gain a greater foothold  
20 in the marketplace.

21 111. By violating the foregoing statutes and regulations as herein alleged, Defendants'  
22 acts constitute unfair and unlawful business practices under California Business and Professions  
23 Code §§ 17200, *et seq.*

24 112. As a result of the unfair and unlawful business practices of Defendants as alleged  
25 herein, Plaintiffs and Class Members are entitled to injunctive relief, disgorgement, and restitution  
26 in an amount to be shown according to proof at trial.

27 113. Plaintiffs seek to enforce important rights affecting the public interest within the  
28 meaning of California Code of Civil Procedure § 1021.5. Defendants' conduct, as alleged herein,

1 has been and continues to be unfair, unlawful, and harmful to Plaintiffs, Class Members, and the  
2 general public. Based on Defendants' conduct as alleged herein, Plaintiffs and Class Members  
3 are entitled to an award of attorneys' fees pursuant to California Code of Civil Procedure § 1021.5.

#### 4 **ELEVENTH CAUSE OF ACTION**

##### 5 **ENFORCEMENT OF LABOR CODE §§ 2698 ET SEQ. ("PAGA")**

6 114. Plaintiffs hereby re-allege and incorporate by reference the previous paragraphs as  
7 though fully set forth herein.

8 115. Pursuant to Labor Code § 2699(a), any provision of the Labor Code that provides  
9 for a civil penalty to be assessed and collected by the Labor and Workforce Development Agency  
10 ("LWDA") or any of its departments, divisions, commissions, boards, agencies, or employees for  
11 violation of the Labor Code may, as an alternative, be recovered through a civil action brought by  
12 an aggrieved employee on behalf of himself or herself and other current or former employees  
13 pursuant to the procedures specified in Labor Code § 2699.3.

14 116. For all provisions of the Labor Code except those for which a civil penalty is  
15 specifically provided, Labor Code § 2699(f) imposes upon Defendants a penalty of one hundred  
16 dollars (\$100.00) for each aggrieved employee per pay period for the initial violation and two  
17 hundred dollars (\$200.00) for each aggrieved employee per pay period for each subsequent pay  
18 period in which Defendants violated these provisions of the Labor Code.

19 117. Defendants' conduct violates numerous Wage Order and Labor Code sections,  
20 including, but not limited to, the following:

- 21 a. violation of Labor Code §§ 201, 202, 203, 204, 210, 226.2, 246, 510,  
22 1182.12, 1194, 1197, and 1198 for failure to timely pay all earned wages  
23 at the correct rate (including minimum wage, straight time, sick pay, and  
24 overtime wages) owed to Plaintiffs and other aggrieved employees during  
25 employment and upon separation of employment as herein alleged;
- 26 b. violation of Labor Code §§ 221, 223, 224, 225.5 for failure to refrain from  
27 making unlawful deductions from Plaintiffs' and other aggrieved  
28 employees' pay as herein alleged

- 1 c. violation of Labor Code §§ 226.7 and 512 for failure to provide meal  
2 periods to Plaintiffs and other aggrieved employees and failure to pay  
3 premium wages for missed meal periods as herein alleged;
- 4 d. violation of Labor Code § 226.7 for failure to permit rest breaks to  
5 Plaintiffs and other aggrieved employees and failure to pay premium  
6 wages for missed rest periods as herein alleged;
- 7 e. violation of Labor Code § 226 for failure to provide accurate itemized  
8 wage statements to Plaintiffs and other aggrieved employees as herein  
9 alleged;
- 10 f. violation of Labor Code §§ 1174 and 1174.5 for failure to maintain  
11 accurate and complete records showing, among other things, the hours  
12 worked daily by and the wages paid to aggrieved employees; and
- 13 g. violation of Labor Code §§ 2800 and 2802 for failure to reimburse  
14 Plaintiffs and other aggrieved employees for necessary business expenses  
15 as herein alleged.

16 118. Plaintiffs are “aggrieved employees” because they were employed by the alleged  
17 violator and had one or more of the violations committed against them, and therefore are properly  
18 suited to represent the interests of all other aggrieved employees.

19 119. Plaintiffs have exhausted the procedural requirements under Labor Code § 2699.3  
20 as to Defendants and are therefore able to pursue a claim for penalties on behalf of themselves  
21 and all other aggrieved employees under PAGA.

22 120. Pursuant to Labor Code §§ 2699(a), 2699.3 and 2699.5, Plaintiffs are entitled to  
23 recover civil penalties, in addition to other remedies, for violations of the Labor Code sections  
24 cited above.

25 121. For bringing this action, Plaintiffs are entitled to attorney’s fees and costs incurred  
26 herein.

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14. For reasonable attorneys' fees, costs of suit, and interest to the extent permitted by law, including, but not limited to, Code of Civil Procedure § 1021.5 and Labor Code §§ 226(e), 1194, and 2698 *et seq.*; and

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15. For such other relief as the Court deems just and proper.

Dated: December 6, 2023

**AEGIS LAW FIRM, PC**

By: 

Jessica L. Campbell  
Attorneys for Plaintiffs

1 **CERTIFICATE OF SERVICE**

2 I, the undersigned, am employed in the County of Orange, State of California. I am over  
3 the age of 18 and not a party to the within action; am employed with Aegis Law Firm PC and  
my business address is 9811 Irvine Center Drive, Suite 100, Irvine, California 92618.

4 On December 6, 2023, I served the foregoing document(s) entitled:

5 **FIRST AMENDED CLASS ACTION COMPLAINT**

6  
7 on all the appearing and/or interested parties in this action by delivering ☐ the original ☒ a  
8 true copy thereof on the party(ies) addressed below as follows:

9 Billie Patterson  
10 Mark Jacobs  
11 Ryan Wheeler  
Nicole Myrmo  
12 **Fisher & Phillips LLP**  
2050 Main Street | Suite 1000 | Irvine, CA 92614  
O: (949) 208-8203  
13 [bpatterson@fisherphillips.com](mailto:bpatterson@fisherphillips.com)  
14 [mjacobs@fisherphillips.com](mailto:mjacobs@fisherphillips.com)  
15 [rwheeler@fisherphillips.com](mailto:rwheeler@fisherphillips.com)  
16 [nmyrmo@fisherphillips.com](mailto:nmyrmo@fisherphillips.com)  
sjackson@fisherphillips.com

17 *Attorneys for Defendant:*  
MVVT MOTORS, LLC

18 ☐ **(BY MAIL)** I am readily familiar with the firm's practice of collection and processing  
19 correspondence for mailing. Under that practice it would be deposited with the U.S.  
20 Postal Service on that same day with postage thereon fully prepaid at Irvine, California  
21 in the ordinary course of business. I am aware that on motion of the party served, service  
is presumed invalid if postage cancellation date or postage meter date is more than one  
day after date of deposit for mailing this affidavit. (*Cal Code Civ. Proc.* § 1013(a); *Fed.*  
*R. Civ. Proc.* 5(a); *Fed. R. Civ. Proc.* 5(c).)

22 ☐ **(BY OVERNIGHT MAIL)** I am personally and readily familiar with the business  
23 practice of Aegis Law Firm PC for collection and processing correspondence for  
24 overnight delivery, and I caused such document(s) described herein to be deposited for  
delivery to a facility regularly maintained Federal Express for overnight delivery. (*Cal*  
*Code Civ. Proc.* § 1013(c); *Fed. R. Civ. Proc.* 5(c).)

25 ☒ **(BY ELECTRONIC TRANSMISSION)** I caused said document(s) to be served via  
26 electronic transmission via the above listed email addresses on the date below. (*Cal. Code*  
*Civ. Proc.* § 1010.6(6); *Fed. R. Civ. Proc.* 5(b)(2)(E); *Fed. R. Civ. Proc.* 5(b)(3).)

27 ☐ **(BY PERSONAL SERVICE)** I delivered the foregoing document by hand delivery to  
28 the addressed named above. (*Cal Code Civ. Proc.* § 1011; *Fed. R. Civ. Proc.* 5(b)(2)(A).)

1 I declare under penalty of perjury under the laws of the State of California that the  
2 foregoing is true and correct.

3 Executed on December 6, 2023, at Irvine, California.

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6 Jacquelyn Enciso  
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