

ELECTRONICALLY FILED
Superior Court of California
County of Sacramento
06/30/2026
By: _____ M. Pipe Deputy

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Attorneys for Plaintiff and the Class

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

SONY CHENG, as an individual and on
behalf of all others similarly situated,

Plaintiff,

vs.

MIDTOWN TIRES, a California
corporation; and DOES 1 through 50,
inclusive,

Defendants.

Case No.: 26CV011279

**FIRST AMENDED CLASS AND
REPRESENTATIVE ACTION COMPLAINT**

- (1) **VIOLATION OF LABOR CODE §§ 510,
1194;**
- (2) **VIOLATION OF LABOR CODE § 226;**
- (3) **VIOLATION OF BUSINESS AND
PROFESSIONS CODE §17200, *ET SEQ.*;
AND**
- (4) **VIOLATION OF LABOR CODE § 2698,
*ET SEQ.***

DEMAND OVER \$35,000.00

1 On behalf of himself and other similarly situated current and former employees of
2 Defendants, Plaintiff Sony Cheng (“Plaintiff”) submits this First Amend Class and Representative
3 Action Complaint (“Complaint”) against Defendant Midtown Tires (“Defendant”) and Does 1
4 through 50 (collectively, “Defendants”).

5 INTRODUCTION

6 1. This class and representative action complaint is within the Court’s jurisdiction
7 under California Labor Code sections 201, 202, 203, 204, 210, 226, 510, 1194, 1197, 1197.1 and
8 2698 *et seq.*, the Unfair Competition Law, codified at Business and Professions Code sections
9 17200, *et seq.* (the “UCL”). and the applicable Wage Orders of the California Industrial Welfare
10 Commission (“IWC”).

11 2. This class and representative action challenges systemic employment practices
12 resulting in violations of the California Labor Code against individuals who worked for
13 Defendants. Plaintiff is informed and believes that Defendants have jointly and severally acted
14 intentionally and with deliberate indifference and conscious disregard to the rights of employees
15 by: (a) failing to pay overtime wages at the regular rate of pay, in violation of Labor Code sections
16 510, 1194, 1197, and 1197.1; (b) failing to timely pay employees all wages owed during
17 employment and/or upon separation from employment, including unpaid and underpaid overtime
18 wages, in violation of Labor Code sections 201, 202, 203, 204 and 210; (c) failing to provide
19 accurate wage statements, in violation of Labor Code section 226(a); and (d) engaging in Unfair
20 Business Practices in violation of the UCL, the California Labor Code, and the applicable IWC
21 Wage Orders.

22 3. Plaintiff is informed and believes that Defendants have engaged in, among other
23 things, a system of willful violations of the Labor Code by creating and maintaining policies,
24 practices, and customs that knowingly deny its employees the above stated rights and benefits.

25 4. The policies, practices, and customs of Defendants result in unjust enrichment of
26 Defendants and an unfair business advantage over businesses that comply with the Labor Code.

27 JURISDICTION AND VENUE

28 5. The Complaint seeks relief exceeding \$35,000.00. The Court has jurisdiction of

1 Defendant's violations of Labor Code sections 201, 202, 203, 204, 210, 226, 510, 1194, 1197,
2 1197.1 and 2698 *et. seq*, and the UCL.

3 6. Venue is proper in the County of Sacramento. Plaintiff worked for Defendant in
4 Sacramento, California.

5 **PARTIES**

6 7. Plaintiff was employed by Defendant during the approximate period of July 16,
7 2025 until on or about February 3, 2026. Plaintiff worked for Defendant as a tire technician in
8 Sacramento, California. For the duration of Plaintiff's employment, he was an hourly, non-exempt
9 employee.

10 8. Plaintiff was and is a victim of the policies, practices, and customs of Defendant
11 complained of in this action in ways that have deprived Plaintiff of the rights guaranteed by the
12 Labor Code sections 201, 202, 203,204, 210, 226, 510, 1194, 1197, 1197.1 and 2698 *et. seq.*, and
13 the UCL.

14 9. Plaintiff is informed and believes that Midtown Tires was and is a California
15 corporation. Plaintiff is informed and believes that at all times herein mentioned named defendants
16 and Does 1 through 50, were and are corporations, business entities, individuals, or partnerships
17 that are and were licensed to do business and actually doing business in the State of California.
18 Based upon all the facts and circumstances incident to Defendants' business, Defendants are
19 subject to Labor Code sections 201, 202, 203, 204, 210, 226, 510, 1194, 1197, 1197.1 and 2698
20 *et. seq.*, and the UCL.

21 10. Plaintiff does not know the true names or capacities of the defendants sued herein
22 as Does 1 through 50, whether individual, partner, or corporate, and for that reason, said
23 defendants are sued under such fictitious names. Plaintiff prays for leave to amend this Complaint
24 when the true names and capacities are known. Plaintiff is informed and believes that each of said
25 fictitious defendants was responsible in some way for the matters alleged herein and proximately
26 caused the illegal employment practices, wrongs, and injuries complained of herein.

27 11. At all times mentioned herein, each of said Defendants participated in the doing of
28 the acts alleged herein. Defendants, and each of them, were the agents, servants, or employees of

each of the other Defendants, as well as the agents of all Defendants, and were acting within the course and scope of said agency and employment.

12. Plaintiff is informed and believes that at all times material hereto, each of said Defendants was the agent, employee, alter ego, or joint venturer of, or was working in concert with, each of the other Defendants and was acting within the course and scope of such agency, employment, joint venture, or concerted activity. To the extent said acts, conduct, or omissions were perpetrated by certain Defendants, each of the remaining Defendants confirmed and ratified said acts, conduct, or omissions of the acting Defendants.

13. Plaintiff is informed and believes that at all times material hereto each of the Defendants (i) aided and abetted the acts and omissions of each of the other Defendants in proximately causing the alleged harms, or (ii) were members of, engaged in, and acting within the course and scope of, and in pursuance of, a joint venture, partnership, or common enterprise.

CLASS ACTION ALLEGATIONS

14. **Definition:** Pursuant to Code of Civil Procedure section 382, Plaintiff seeks class certification of the following class: all current and former non-exempt employees of Defendant in the State of California who earned overtime wages and non-discretionary incentive pay in the same workweek, at any time during May 8, 2022 (the “Class” or “Class Members”).

15. **Numerosity and Ascertainability:** The members of the Class are so numerous that joinder of all members would be impractical, if not impossible. The identities of the members of the Class are readily ascertainable by review of Defendant’s records, including payroll records. Plaintiff is informed and believes that Defendant : (a) failed to pay overtime wages at the regular rate of pay, in violation of Labor Code sections 510, 1194, 1197, and 1197.1; (b) failed to timely pay employees all wages owed during employment and/or upon separation from employment, including unpaid and underpaid overtime wages, in violation of Labor Code sections 201, 202, 203, 204 and 210; (c) failed to provide accurate wage statements, in violation of Labor Code section 226(a); and (d) engaged in Unfair Business Practices in violation of the UCL, the California Labor Code, and the applicable IWC Wage Orders..

16. **Adequacy of Representation:** Plaintiff is fully prepared to take all necessary steps

1 to represent fairly and adequately the interests of the Class defined above. Plaintiff's attorneys are
2 ready, willing, and fully and adequately able to represent Plaintiff and the Class. Plaintiff's
3 attorneys have prosecuted and settled wage-and-hour class actions in the past and continue to
4 litigate numerous wage-and-hour class actions currently pending in California state and federal
5 courts.

6 **17. Common Question of Law and Fact:** There are predominant common questions
7 of law and fact and a community of interest amongst the claims of Plaintiff and of the Class.
8 Plaintiff is informed and believes, and based thereon alleges, that Defendant uniformly
9 administered a corporate policy and practice of: (a) failing to pay overtime wages at the regular
10 rate of pay, in violation of Labor Code sections 510, 1194, 1197, and 1197.1; (b) failing to timely
11 pay employees all wages owed during employment and/or upon separation from employment,
12 including unpaid and underpaid overtime wages, in violation of Labor Code sections 201, 202,
13 203, 204 and 210; (c) failing to provide accurate wage statements, in violation of Labor Code
14 section 226(a); and (d) engaging in Unfair Business Practices in violation of the UCL, the
15 California Labor Code, and the applicable IWC Wage Orders.

16 **18. Typicality:** The claims of Plaintiff are typical of the claims of all members of the
17 Class in that Plaintiff suffered the alleged harms in a similar and typical manner as other members
18 of the Class. As with other members of the Class, Plaintiff was employed by Defendant as a non-
19 exempt, hourly employee. In addition to base hourly wages, Plaintiff earned non-discretionary
20 remuneration, including, but not limited to, incentives, bonuses, and/or other non-base hourly
21 compensation. As these items are non-discretionary forms of remuneration, they should have been
22 included in the regular rate of pay for purposes of paying overtime wages. However, whenever
23 Plaintiff and other Class Members earned overtime wages and non-discretionary incentives or
24 other non-discretionary remuneration in the same workweek, their overtime wages were not paid
25 at the proper multiple of the regular rate of pay because Defendant failed to include such
26 remuneration in the regular rate calculation. As a result, Plaintiff and other Class Members were
27 not paid all wages owed during employment and/or upon separation from employment. Due to the
28 underpayment of overtime, Defendant also failed to provide Plaintiff and other Class Members

1 with accurate itemized wage statements. Specifically, the wage statements failed to accurately
2 reflect, among other things, the gross wages earned, net wages earned, and applicable rates of pay
3 as a result of the wage violations alleged above. Plaintiff thus is a member of the Class and has
4 suffered the alleged violations of the Labor Code.

5 19. The Labor Code is broadly remedial in nature. Its laws serve an important public
6 interest in establishing minimum working conditions and requirements in California. These labor
7 standards protect employees from onerous terms and conditions of employment or exploitation by
8 employers who have superior economic and bargaining power.

9 20. The nature of this action and the format of laws available to Plaintiff and members
10 of the Class make the class action format a particularly efficient and appropriate procedure to
11 redress the wrongs alleged herein. If each employee were required to file an individual lawsuit,
12 the corporate Defendants would necessarily gain an unconscionable advantage since they would
13 be able to exploit and overwhelm the limited resources of each individual plaintiff with their vastly
14 superior financial and legal resources. Requiring each member of the Class to pursue an individual
15 remedy would also discourage the assertion of lawful claims by employees who would be
16 disinclined to file an action against their former or current employer for real and justifiable fear
17 of retaliation and permanent damage to their careers at their current or subsequent employment.

18 21. The prosecution of separate actions by individual members of the Class, even if
19 possible, would create a substantial risk of (a) inconsistent or varying adjudications with respect
20 to individual members of the Class that would establish potentially incompatible standards of
21 conduct for Defendants, or (b) adjudications with respect to individual members of the Class that
22 would, as a practical matter, be dispositive of, or substantially impair or impede the ability to
23 protect, the interests of other members of the Class not parties to the adjudications. Further, the
24 claims of the individual members of the Class are not sufficiently large to warrant vigorous
25 individual prosecution considering the concomitant costs and expenses.

26 22. Defendant's pattern, practice, and uniform administration of corporate policy in
27 violation of the Labor Code is unlawful. Proof of a common business practice or factual pattern
28 will establish the rights of Plaintiff and the Class under Labor Code sections 201, 202, 203, 204,

210, 226, 510, 1194, 1197, and 1197.1, applicable IWC Wage Orders, the UCL, and Code of Civil Procedure section 1021.5 to recover damages and restitution, including unpaid wages and interest thereon, applicable penalties, reasonable attorneys' fees, and costs of suit.

23. This action is brought for the benefit of the Class, which is commonly entitled to a specific fund with respect to the compensation illegally and unfairly retained by Defendants. The Class is commonly entitled to restitution of those funds being improperly withheld by Defendant.

FIRST CAUSE OF ACTION

VIOLATION OF LABOR CODE §§ 510, 1194

(BY PLAINTIFF AND THE CLASS AGAINST ALL DEFENDANTS)

24. Plaintiff re-alleges and incorporates by reference the preceding paragraphs as though fully set forth herein.

25. At all relevant times, Defendant was required to compensate employees at the proper overtime rate for all overtime hours worked, pursuant to California Labor Code sections 510, 558, and 1194. Plaintiff and Class Members were and are employed by Defendant as hourly, non-exempt employees and worked overtime hours, including more than eight hours in a workday and/or more than forty hours in a workweek. In addition to base hourly wages, Plaintiff and Class Members earned non-discretionary remuneration, including, but not limited to, incentives, bonuses, and/or other non-base hourly compensation.

26. As a pattern and practice, Defendant failed to pay overtime wages at the proper regular rate of pay. Specifically, when Plaintiff and Class Members earned overtime wages and non-discretionary incentives or other non-discretionary remuneration in the same workweek, Defendant failed to include such remuneration in calculating the regular rate of pay. As a result, Plaintiff and Class Members were paid overtime wages at an unlawfully low rate and were not paid all wages owed during employment and/or upon separation from employment.

27. Plaintiff is informed and believes and based thereon alleges that Defendant's policy and practice of requiring overtime work and not paying for said work according to the overtime mandates of California law is, and at all times herein mentioned was, in violation of California Labor Code sections 510 and 1194 and the IWC Wage Order(s). Defendant's employment policies

1 and practices wrongfully and illegally failed to compensate Plaintiff the Class for overtime
2 compensation earned as required by California law.

3 28. Such a pattern, practice, and uniform administration of corporate policy regarding
4 illegal employee compensation as described herein is unlawful and creates an entitlement to
5 recovery by Plaintiff and the Class in a civil action, for the unpaid balance of the full amount of
6 overtime premiums owing, including interest thereon, penalties, attorneys' fees, and costs of suit
7 according to the mandate of California Labor Code sections 510, 1194, and 1197.1.

8 29. Plaintiff is informed and believes, and based thereon alleges, that Defendant
9 willfully failed to pay Plaintiff and Class Members all overtime wages at the proper regular rate.
10 Plaintiff is informed and believes, and based thereon alleges, that Defendant's willful failure to
11 pay all wages due and owing upon separation from employment results in a continued payment of
12 wages up to thirty (30) days from the time the wages were due. Therefore, Plaintiff and other Class
13 Members who have separated from employment are entitled to statutory penalties pursuant to
14 Labor Code sections 201, 202 and 203.

15 **SECOND CAUSE OF ACTION**

16 **VIOLATION OF LABOR CODE § 226**

17 **(BY PLAINTIFF AND THE CLASS AGAINST ALL DEFENDANTS)**

18 30. Plaintiff re-alleges and incorporates by reference the preceding paragraphs as
19 though fully set forth herein.

20 31. Defendant, as a matter of policy and practice, did not provide accurate itemized
21 wage statements to Class Members, in violation of Labor Code section 226(a).

22 32. As a result of Defendant's violations, as alleged above, the wage statements issued
23 to Plaintiff and Class Members failed to identify the correct gross wages earned, net wages earned,
24 hourly rates of pay, and total hours worked, in violation of Labor Code section 226(a).

25 33. The issuance of inaccurate wage statements caused actual injury to Plaintiff and
26 Class Members, as they were not able to accurately calculate their wages.

27 34. Such a pattern, practice, and uniform administration of corporate policy as
28 described herein is unlawful and creates an entitlement to recovery by Plaintiff and the Class, in a

1 civil action, for all damages or penalties pursuant to Labor Code section 226, including interest
2 thereon, attorneys' fees, and costs of suit according to the mandate of California Labor Code
3 section 226.

4 **THIRD CAUSE OF ACTION**

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

6 **(BY PLAINTIFF AND THE CLASS AGAINST ALL DEFENDANTS)**

7 35. Plaintiff re-alleges and incorporates by reference the preceding paragraphs as
8 though fully set forth herein.

9 36. Defendant has engaged and continues to engage in unfair and unlawful business
10 practices in California by practicing, employing, and utilizing the employment practices outlined
11 above, include, to wit, by failing to pay all overtime wages based on the correct regular rate of pay.

12 37. Defendant's utilization of such unfair and unlawful business practices constitutes
13 unfair, unlawful competition and provides an unfair advantage over Defendant's competitors.

14 38. Plaintiff seeks individually and on behalf of other members of the Class similarly
15 situated, full restitution of monies, as necessary and according to proof, to restore any and all
16 monies withheld, acquired and/or converted by Defendant by means of the unfair practices
17 complained of herein. Specifically, Plaintiff seeks restitution for underpaid overtime wages.

18 39. Plaintiff is informed and believes and based thereon alleges that at all times herein
19 mentioned Defendant has engaged in unlawful, deceptive, and unfair business practices, as
20 proscribed by California Business and Professions Code section 17200, *et seq.*, including those set
21 forth herein above thereby depriving Plaintiff and other members of the Class the minimum
22 working condition standards and conditions due to them under the California laws and the
23 applicable IWC Wage Orders as specifically described therein.

24 **FOURTH CAUSE OF ACTION**

25 **VIOLATION OF LABOR CODE § 2698, *ET SEQ.***

26 **(BY PLAINTIFF ON BEHALF OF THE STATE AND AGGRIEVED EMPLOYEES**
27 **AGAINST ALL DEFENDANTS)**

28 40. Plaintiff re-alleges and incorporates by reference the preceding paragraphs as

1 though fully set forth herein.

2 41. Plaintiff brings this cause of action as a proxy for the State of California and in
3 this capacity, seeks penalties on behalf of all Aggrieved Employees in the State of California
4 from September 12, 2022, through the present, for Defendant's violations of Labor Code sections
5 201, 202, 203, 204, 210, 226, 510, 1194, 1197, and 1197.1, arising from Defendant's policy and
6 practice of: (a) failing to pay overtime wages at the regular rate of pay, in violation of Labor
7 Code sections 510, 1194, 1197, and 1197.1; (b) failing to timely pay employees all wages owed
8 during employment and/or upon separation from employment, including unpaid and underpaid
9 overtime wages, in violation of Labor Code sections 201, 202, 203, 204 and 210; (c) failing to
10 provide accurate wage statements, in violation of Labor Code section 226(a).

11 42. On or about April 24, 2026, Plaintiff sent written notice to the California Labor &
12 Workforce Development Agency ("LWDA") of Defendants' violations of Labor Code sections
13 201, 202, 203, 204, 210, 226, 510, 1194, 1197, and 1197.1, pursuant to the PAGA. In addition to
14 the LWDA, Plaintiff also sent his notice to Defendant via certified mail pursuant to Labor Code
15 § 2699.3.

16 43. As of the date of the filing of this Complaint, the LWDA has not responded to
17 Plaintiff's written notice nor indicated that it intends to investigate the Labor Code violations
18 provided for in the written notice.

19 44. As such, pursuant to Labor Code § 2699(a), Plaintiff seeks recovery of any and all
20 applicable civil penalties for Defendants' violations of Labor Code sections 201, 202, 203, 204,
21 210, 226, 510, 1194, 1197, and 1197.1 for the time period described above, on behalf of himself
22 and other Aggrieved Employees.

23 **PRAYER FOR RELIEF**

24 WHEREFORE, Plaintiff prays for judgment for himself and all others on whose behalf
25 this suit is brought against Defendants, jointly and severally, as follows:

- 26 1. For an order certifying the proposed Class;
- 27 2. For an order appointing Plaintiff as the representative of the Class;
- 28 3. For an order appointing Counsel for Plaintiff as Class Counsel;

1 4. Upon the First Cause of Action, for damages and/or penalties pursuant to
2 California Labor Code sections 201, 202, 203, 204, 510, 558, 1194, 1197, and 1197.1, and for
3 costs and attorneys' fees;

4 5. Upon the Second Cause of Action, for damages and/or penalties pursuant to
5 California Labor Code section 226, and for costs and attorneys' fees;

6 6. Upon the Third Cause of Action, for restitution to Plaintiff and other similarly
7 affected members of the general public of all funds unlawfully acquired by Defendant by means
8 of any acts or practices declared by this Court to be in violation of Business and Professions
9 Code section 17200 *et seq.*, and for costs and attorneys' fees;

10 7. Upon the Fourth Cause of Action, for the full amount of penalties pursuant to
11 California Labor Code sections 204, 558 and 2698, *et seq.*, and for costs and attorneys' fees

12 8. Upon each cause of action for attorneys' fees and costs as provided by the Labor
13 Code sections 218.5, 226, 558, 1194 and 2698 *et. seq.*, UCL, and Code of Civil Procedure
14 section 1021.5; and

15 9. For such other and further relief that the Court may deem just and proper.

16 DATED: June 29, 2026

DIVERSITY LAW GROUP, P.C.

17
18 By: 
19 Larry W. Lee
20 Kristen M. Agnew
21 Kym Kanenaka
22 Attorneys for Plaintiff and the Class
23
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1 **PROOF OF SERVICE**

2 **(Code of Civil Procedure Sections 1013a, 2015.5)**

3
4 STATE OF CALIFORNIA]
5]ss.
6 COUNTY OF LOS ANGELES]

7 I am employed in the County of Los Angeles, State of California. I am over the age of 18
8 and not a party to the within action; my business address is 515 S. Figueroa Street, Suite 1250,
9 Los Angeles, California 90071.

10 On June 30, 2026, I served the following document(s) described as: **FIRST AMENDED**
11 **CLASS AND REPRESENTATIVE ACTION COMPLAINT** on the interested parties in this
12 action as follows:

12 Midtown Tires 13 c/o Jamal Ghafari 14 1900 Point West Way, Suite 274 15 Sacramento, California 95815	16 <i>Agent for Service of Process</i>
--	--

17 X BY MAIL: by placing _____ the original or X a true and correct copy
18 thereof enclosed, in (a) sealed envelope(s) addressed to the party(ies) listed above or on the
19 attached mailing list. I am readily familiar with the firm's practice for collection and processing
20 of correspondence and other materials for mailing with the United States Postal Service. On this
21 date, I sealed the envelope(s) containing the above materials and placed the envelope(s) for
22 collection and mailing on this date at the address above following our office's ordinary business
23 practices. The envelope(s) will be deposited with the United States Postal Service on this date,
24 in the ordinary course of business.

25 I declare under penalty of perjury under the laws of the State of California that the above
26 is true and correct. Executed on June 30, 2026, at Los Angeles, California.

27 
28 _____
Olympia Peña