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Attorneys for Plaintiff Omar Perez

SUPERIOR COURT OF CALIFORNIA

IN AND FOR THE COUNTY OF SAN BENITO

**OMAR PEREZ, an individual, on his own
behalf and on behalf of the Labor and
Workforce Development Agency;**

Plaintiff,

v.

**TIFFANY MOTOR COMPANY, a
corporation; and DOES 1-100, inclusive,**

Defendants.

Case No.: CU-24-00038

**COMPLAINT FOR DAMAGES AND CIVIL
PENALTIES**

- 1. FAILURE TO PAY MINIMUM WAGE
(FOR NONPRODUCTIVE TIME)**
- 2. FAILURE TO PROVIDE REST PERIODS
OR PAY PREMIUMS**
- 3. FAILURE TO PROVIDE MEAL PERIODS
OR PAY PREMIUMS**
- 4. FAILURE TO FURNISH ITEMIZED
WAGE STATEMENTS**
- 5. FAILURE TO PAY ALL WAGES DUE
UPON CESSATION OF EMPLOYMENT**
- 6. FAILURE TO PRODUCE PAYROLL
RECORDS UPON REQUEST**
- 7. FAILURE TO PRODUCE PERSONNEL
RECORDS UPON REQUEST**
- 8. PRIVATE ATTORNEYS GENERAL ACT**

JURY TRIAL DEMANDED

Plaintiff Omar Perez brings this action against Tiffany Motor Company, a corporation; and
Does 1 through 100, for violations of the Labor Code.

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PARTIES

1. Plaintiff Omar Perez (“Perez” or “Plaintiff”) is and at all times relevant herein was employed in San Benito County, California, and was an “employee” as defined by the Labor Code and applicable California Industrial Wage Commission (“IWC”) Wage Order(s).

2. Defendant Tiffany Motor Company (aka “Defendant”) is a California corporation formed under the laws of that state, and at all times relevant was an “employer” as defined by the Labor Code and applicable IWC Wage Order(s).

3. Tiffany Motor Company and Does 1-100 are collectively referred to as Defendants.

4. Plaintiff is not aware of the true names and capacities of the Defendants sued herein as Does 1 through 100, whether individual, corporate, associate, or otherwise and therefore sues such Defendants by these fictitious names. Plaintiff will amend this Complaint to allege their true names and capacities when ascertained. Plaintiff is informed and believes, and on that basis alleges, that each of the fictitiously named Defendants is responsible in some manner for the occurrences herein alleged and that Plaintiff’s injuries and damages herein alleged were legally caused by such Defendants. Unless otherwise indicated, each Defendant was acting within the course and scope of said agency and/or employment, with the knowledge and/or consent of said co-Defendant.

5. Plaintiff is informed and believes and thereupon alleges that at all times mentioned herein, each of the Defendants, including each Doe Defendant, was acting as the agent, servant, employee, partner and/or joint venturer of and was acting in concert with each of the remaining Defendants, including each Doe Defendant, in doing the things herein alleged, while at all times acting within the course and scope of such agency, service, employment partnership, joint venture and/or concert of action. Each Defendant, in doing the acts alleged herein, was acting both individually and within the course and scope of such agency and/or employment, with the knowledge and/or consent of the remaining Defendants.

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6. Venue is proper in this court because the unlawful acts alleged herein took place in San Benito County, California and Plaintiff's place of employment with Defendants was within San Benito County. With respect to the First through Seventh Causes of Action, Plaintiff demands a jury trial.

7. Perez was employed by Tiffany Motor Company (dba Greenwood Ford, a car dealership in Hollister, California) from March 15, 2021 through March 2022, and again from November 2022 through October 21, 2023. Perez was employed as a car salesman and was paid spiffs and commissions *only* (and draws against future commissions).

9. Perez was also denied meal periods to which he was entitled. Despite working a full-time schedule (with shifts of eight hours or more), Perez was never relieved of all duty and permitted the opportunity to take an uninterrupted thirty-minute meal period for every workshift that was more than five hours. Perez was not so much as instructed as to when he was supposed to take a meal period. Perez was not paid an hour's pay at his regular rate of compensation for every meal period he was not permitted to take. Accordingly, Tiffany Motor Company violated Labor Code section 512, and further violated Labor Code section 226.7.

10. Perez was also, impermissibly, not paid any wages for “nonproductive time.” Perez’s principal duty, as an employee of Tiffany Motor Company, was to sell vehicles. However, he was required to attend sales meetings, training sessions, vehicle demonstrations, and to attend other

1 mandatory work functions and perform other tasks; these other tasks, meetings, etc. did not contribute
2 to the earning of commissions. *Perez was paid nothing* for this “nonproductive time”; thus, Tiffany
3 Motor Company violated Labor Code sections 1182.12 and 1197. (See also *Vaquero, supra*, 9
4 Cal.App.5th at p. 110; *Gonzalez v. Downtown LA Motors, LP* (2013) 215 Cal.App.5th 36, 48-49.)

5 11. Because Perez was not paid premiums for denied rest and meal periods, and was not
6 paid for nonproductive time, *supra*, the wage statements furnished to Perez failed to show gross wages
7 earned, net wages earned, and all applicable hourly rates in effect during the pay period and the
8 corresponding number of hours worked at each rate. Independent of any other violation of the Labor
9 Code, the wage statements furnished to Perez did not show total hours worked. (**Exhibit 1.**)
10 Accordingly, Tiffany Motor Company violated Labor Code section 226, subdivisions (a)(1), (2), (5),
11 and (9).

12 12. On December 13, 2024, Perez, through his counsel of record, requested copies of his
13 payroll and personnel records, pursuant to, *inter alia*, Labor Code sections 226 and 1198.5. (**Exhibit**
14 **2.**) As of the date of this Complaint, Defendant has not complied with Perez’s request to any degree.

15 13. The foregoing list of misconduct is a partial list only and set forth by way of example.

16 14. On December 22, 2023, Perez provided written notice to the Labor and Workforce
17 Development Agency (“LWDA”) and Defendant regarding the specific provisions of the Labor Code
18 alleged to have been violated, including the facts and theories to support those alleged violations.
19 (**Exhibit 3.**)

20 15. As of the filing of this Complaint, more than 65 days after Perez’s initial written notice,
21 the LWDA has not provided written notice that it intends to investigate any of Perez’s allegations as
22 set forth above. Accordingly, Perez satisfied the administrative prerequisites under Labor Code section
23 2699.3 to bring a civil action to recover civil penalties against Defendant, in addition to other
24 remedies, for violations of the Labor Code.

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FIRST CAUSE OF ACTION
FAILURE TO PAY MINIMUM WAGE (FOR NONPRODUCTIVE TIME)
(Lab. Code, §§ 1182.12, 1197)
Against Defendants

16. Plaintiff hereby realleges and incorporates by reference each and every allegation set forth above as though fully set forth herein, except as said paragraphs are inconsistent with the allegations of this cause of action.

17. The minimum wage for California employers is set forth in Labor Code section 1182.12.

18. Pursuant to California Labor Code section 1194(a), notwithstanding any agreement to work for a lesser wage, any employee receiving less than the legal minimum wage or the legal overtime compensation applicable to the employee is entitled to recover in a civil action the unpaid balance of the full amount of this minimum wage or overtime compensation, including interest thereon, reasonable attorney's fees, and costs of suit.

19. Pursuant to Labor Code section 1197, the minimum wage for employees fixed by the commission is the minimum wage to be paid to employees, and the payment of a less wage than the minimum so fixed is unlawful.

20. As set forth above, Defendants failed to pay Plaintiff the minimum wage for all time worked.

21. Labor Code section 1194.2 provides that in any action under section 1194 or 1197.1 to recover wages because of the payment of a wage less than the minimum wage fixed by an order of the commission or by statute, an employee shall be entitled to recover liquidated damages in an amount equal to the wages unlawfully unpaid and interest thereon.

22. Wherefore, Plaintiff has been injured as set forth above and requests relief as hereafter provided.

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SECOND CAUSE OF ACTION
FAILURE TO PROVIDE REST PERIODS OR PAY PREMIUMS
(Lab. Code, § 226.7)
Against Defendants

23. Plaintiff hereby realleges and incorporates by reference each and every allegation set forth above as though fully set forth herein, except as said paragraphs are inconsistent with the allegations of this cause of action.

24. Labor Code section 226.7 requires employers to provide employees meal periods as mandated by Order of the Industrial Welfare Commission. It states:

- a. No employer shall require any employee to work during any meal or rest period mandated by an applicable order of the Industrial Welfare Commission.
- b. If an employer fails to provide an employee a meal period or rest period in accordance with an applicable order of the Industrial Welfare Commission, the employer shall pay the employee one additional hour of pay at the employee's regular rate of compensation for each work day that the meal or rest period is not provided.

25. Section 11 of the applicable IWC Wage Order provides:

“(A) Every employer shall authorize and permit all employees to take rest periods, which insofar as practicable shall be in the middle of each work period. Nothing in this provision shall prevent an employer from staggering rest periods to avoid interruption in the flow of work and to maintain continuous operations, or from scheduling rest periods to coincide with breaks in the flow of work that occur in the course of the workday. The authorized rest period time shall be based on the total hours worked daily at the rate of ten (10) minutes net rest time for every four (4) hours worked, or major fraction thereof. Rest periods shall take place at employer designated areas, which may include or be limited to the employees' immediate work area.

(B) Rest periods need not be authorized in limited circumstances when the disruption of continuous operations would jeopardize the product or process of the work. However, the employer shall make up the missed rest period within the same workday or compensate the employee for the missed ten (10) minutes of rest time at his/her regular rate of pay within the same pay period.

(C) A rest period need not be authorized for employees whose total daily work time is less than three and one-half (3 ½) hours. Authorized rest period time shall be counted as hours worked for which there shall be no deduction from wages.

1 (D) If an employer fails to provide an employee a rest period in accordance with the
2 applicable provisions of this order, the employer shall pay the employee one (1) hour of
3 pay at the employee's regular rate of compensation for each workday that the rest period
4 is not provided."

5 26. During the relevant time period, Plaintiff was not provided with rest breaks as required
6 by law and did not receive an additional hour of premium pay for each missed rest break.

7 27. Wherefore, Plaintiff has been injured and requests relief as hereinafter provided.

8 **THIRD CAUSE OF ACTION**
9 **FAILURE TO PROVIDE MEAL PERIODS OR PAY PREMIUMS**
10 **(Lab. Code, §§ 226.7, 512)**
11 **Against Defendants**

12 28. Plaintiff hereby realleges and incorporates by reference each and every allegation
13 set forth above as though fully set forth herein, except as said paragraphs are inconsistent with the
14 allegations of this cause of action.

15 29. Labor Code section 226.7 requires employers to provide employees meal periods as
16 mandated by Order of the Industrial Welfare Commission. It states:

- 17 a. No employer shall require any employee to work during any meal or rest
18 period mandated by an applicable order of the Industrial Welfare
19 Commission.
20 b. If an employer fails to provide an employee a meal period or rest period in
21 accordance with an applicable order of the Industrial Welfare Commission,
22 the employer shall pay the employee one additional hour of pay at the
23 employee's regular rate of compensation for each work day that the meal or
24 rest period is not provided.

25 30. Labor Code section 512(a) and the applicable wage order provide that an employer
26 may not employ a person for a work period of more than five hours per day without providing that
27 employee a meal period of not less than thirty minutes, except that if the total work period per day
28 is no more than six hours, the meal period may be waived by mutual consent of both the employer
and employee. An employer may not employ a person for a work period of more than ten hours

1 per day without providing an employee with a second meal period of not less than thirty minutes,
2 except that if the total work period per day of the employee is no more than twelve hours, the meal
3 period may be waived by mutual consent of both the employer and the employee, and if the first
4 meal period was not waived.

5 31. During the relevant time period, Plaintiff was not provided with meal breaks as
6 required by law and did not receive an additional hour of premium pay for each missed meal
7 period.

8 32. Wherefore, Plaintiff has been injured and requests relief as hereinafter provided.

9 **FOURTH CAUSE OF ACTION**
10 **FAILURE TO FURNISH COMPLETE AND ACCURATE ITEMIZED WAGE STATEMENTS**
11 **(Lab. Code, § 226(a))**
12 **Against Defendants**

13 33. Plaintiff hereby realleges and incorporates by reference each and every allegation set
14 forth above as though fully set forth herein, except as said paragraphs are inconsistent with the
15 allegations of this cause of action.

16 34. Pursuant to Labor Code section 226(a) “every employer shall, semimonthly or at the
17 time of each payment of wages, furnish each of his or her employees, either as a detachable part of the
18 check, draft, or voucher paying the employee’s wages, or separately when the wages are paid by
19 personal check or cash, an accurate itemized statement in writing showing (1) gross wages earned, (2)
20 total hours worked by the employee [. . .], (3) the number of piece-rate units earned and any applicable
21 piece rate if the employee is paid on a piece-rate basis, (4) all deductions, (5) net wages earned, (6) the
22 inclusive dates of the period for which the employee is paid, (7) the name of the employee and only the
23 last four digits of his or her social security number or an employee identification number, (8) the name
24 and address of the legal entity that is the employer [. . .], (9) all applicable hourly rates in effect during
25 the pay period and corresponding number of hours worked at each hourly rate by the employee and, if
26 the employer is a temporary services employer [. . .], the rate of pay and the total hours worked for each
27 temporary services assignment.”
28

1 35. An employee suffering injury as a result of the knowing and intentional failure by an
2 employer to comply with Labor Code section 226(a) is entitled to recover the greater of all actual
3 damages or fifty dollars (\$50) for the initial pay period in which a violation occurs and one hundred
4 dollars (\$100) per employee for each violation in a subsequent pay period, not to exceed the aggregate
5 penalty of four thousand dollars (\$4,000), and is entitled to an award of costs and reasonable attorney's
6 fees. (Lab. Code, § 226, subd. (e)(1).)

7 36. An employee is deemed to suffer injury if the employer fails to provide a wage
8 statement or if the employer fails to provide accurate and complete information as required by any one
9 or more of the items (1) to (9), inclusive, of subdivision (a) and the employee cannot promptly and
10 easily determine from the wage statement alone, i) the amount of gross/net wages paid to the employee
11 during the pay period or any of the other information required to be provided pursuant to Labor Code
12 section 226(a) items (2) to (4), inclusive, (6) and (9), ii) deductions made by the employer, iii) the name
13 and address of the employer and iv) the name of the employee and the last four digits of his or her
14 social security number or employee identification number. (Lab. Code, § 226, subds. (e)(2)(A), (B)(i)-
15 (iv).) "Promptly and easily determine" means a reasonable person would be able to readily ascertain
16 the information without reference to other documents or information. (Lab. Code, § 226, subd.
17 (e)(2)(C).)

18 37. As set forth above, Defendants intentionally and willfully failed to furnish accurate
19 itemized wage statements which complied with Labor Code section 226.

20 38. Wherefore, Plaintiff has been injured and requests relief as hereafter provided.

21 **FIFTH CAUSE OF ACTION**
22 **FAILURE TO PAY ALL WAGES DUE UPON CESSATION OF EMPLOYMENT**
23 **(Lab. Code, § 201, *et seq.*)**
 Against Defendants

24 39. Plaintiff hereby realleges and incorporates by reference each and every allegation
25 set forth above as though fully set forth herein, except as said paragraphs are inconsistent with the
26 allegations of this cause of action.

1 40. Labor Code section 201 requires an employer to pay an employee all wages earned
2 and unpaid at the time the employer discharges the employee. Labor Code section 202 requires an
3 employer to pay the employee all wages due no later than 72 hours after the employee quits his
4 employment.

5 41. Labor Code section 203 provides: "If an employer willfully fails to pay, without
6 abatement or reduction, in accordance with Sections 201, 201.5, 202, and 205.5, any wages of an
7 employee who is discharged or who quits, the wages of the employee shall continue as a penalty
8 from the due date thereof at the same rate until paid or until an action therefor is commenced; but
9 the wages shall not continue for more than 30 days".

10 42. During the relevant time period, Defendants failed to pay Plaintiff all earned but
11 unpaid wages upon cessation of employment.

12 43. Wherefore, Plaintiff requests relief as hereafter provided.

13 **SIXTH CAUSE OF ACTION**
14 **FAILURE TO PRODUCE PAYROLL RECORDS UPON REQUEST**
15 **(Lab. Code, § 226, subd. (c))**
16 **Against Defendants**

17 44. Plaintiff hereby realleges and incorporates by reference each and every allegation
18 set forth above as though fully set forth herein, except as said paragraphs are inconsistent with the
19 allegations of this cause of action.

20 45. Pursuant to California Labor Code Labor Code section 226(c), an employer who
21 receives a written or oral request to inspect or copy records pursuant to subdivision (b) pertaining
22 to a current or former employee shall comply with the request as soon as practicable, but no later
23 than 21 calendar days from the date of the request.

24 46. As set forth above, Plaintiff requested, in writing, copies of his wage statements, but
25 Defendant failed to comply with that request in a timely fashion.

26 47. Wherefore, Plaintiff seeks relief as set forth below.

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1 **SEVENTH CAUSE OF ACTION**
2 **FAILURE TO PRODUCE PERSONNEL RECORDS UPON REQUEST**
3 **(Lab. Code, § 1198.5)**
4 **Against Defendants**

5 48. Plaintiff hereby realleges and incorporates by reference each and every paragraph
6 set forth above as though fully set forth herein, except as said paragraphs are inconsistent with the
7 allegations of this cause of action.

8 49. Pursuant to Labor Code § 1198.5(a), “Every current and former employee, or his or
9 her representative, has the right to inspect and receive a copy of his personnel records that the
10 employer maintains relating to the employee’s performance or to any grievance concerning the
11 employee.” Pursuant to Labor Code § 1198.5(b) an “employer shall make the contents of those
12 personnel records available to the current or former employee, or his or her representative, at
13 reasonable intervals and at reasonable times, but not later than 30 calendar days from the date the
14 employer receives a written request, unless the current or former employee, or his representative,
15 and the employer agree in writing to a date beyond 30 calendar days to inspect the records and the
16 agreed-upon date does not exceed 35 days from the employer’s receipt of the written request.”

17 50. As set forth above, Plaintiff requested, in writing, copies of his personnel records,
18 but Allied Waste failed to comply with that request in a timely fashion.

19 51. Wherefore, Plaintiff seeks relief as set forth below.

20 **EIGHTH CAUSE OF ACTION**
21 **PRIVATE ATTORNEYS GENERAL ACT**
22 **(Lab. Code, § 2698 *et seq.*)**
23 **Against Defendants**

24 52. Plaintiff hereby realleges and incorporates by reference each and every allegation
25 set forth above as though fully set forth herein, except as said paragraphs are inconsistent with the
26 allegations of this cause of action.

27 53. Pursuant to Labor Code section 2699, subdivision (a), any provision of the Labor
28 Code which provides for a civil penalty to be assessed and collected by the LWDA for violations
of the Labor Code may, as an alternative, be recovered through a civil action brought by an

1 aggrieved employee on behalf of himself or herself and other current or former employees pursuant
2 to the procedures outlined in Labor Code section 2699.3.

3 54. Plaintiff was employed by Defendants and the alleged violations were committed
4 against her during her time of employment. Plaintiff is therefore an aggrieved employee as defined
5 by Labor Code section 2699, subdivision (c). Other current and former employees are also
6 aggrieved employees in that one or more of the alleged violations were also committed against
7 them during their time of employment with Defendants.

8 55. Pursuant to Labor Code section 2699, subdivision (f), the civil penalty recoverable
9 in a PAGA action is that which is provided for by the Labor Code or, where no civil penalty is
10 specifically provided, one hundred dollars (\$100) for each aggrieved employee per pay period for
11 the initial violation and two hundred dollars (\$200) for each aggrieved employee per pay period for
12 each subsequent violation.

13 56. Pursuant to California Labor Code section 2699, subdivision (g), an aggrieved
14 employee may recover the civil penalty on behalf of himself or herself and other current or former
15 employees against whom one or more of the alleged violations was committed. Furthermore, any
16 employee who prevails in any such action shall be entitled to an award of reasonable attorney's fees
17 and costs.

18 57. Pursuant to the PAGA, Plaintiff seeks to recover civil penalties against Defendants
19 for violations of the Labor Code.

20 58. Wherefore, Plaintiff and other employees (current and former) have been aggrieved
21 and Plaintiff, on behalf of the Labor and Workforce Development Agency, requests relief as
22 hereafter provided.

23 **PRAYER FOR RELIEF**

24 WHEREFORE, Plaintiff prays judgment against Defendants as follows:

25 **As to the First through Seventh Causes of Action:**

- 26 1. That this Court award injunctive relief, including that available under Labor Code
27 sections 226(h);

2. That this Court award unpaid wages, including rest and meal break premiums;
3. For liquidated damages under Labor Code section 1194.2;
4. That this Court award statutory penalties including, but not limited to, those available under Labor Code sections 203 and 226(e), (f), and 1198.5(k);
5. That this Court award statutory attorneys' fees and costs, including but not limited to those available under Labor Code sections 218.5, 226(e)(1) and (h), 1194, and 1198.5(l) as well as those available under Code of Civil Procedure section 1021.5;
6. That this Court award prejudgment and post-judgment interest according to any applicable provision of law or as otherwise permitted by law; and
7. That this Court award such other and further relief as the court deems just and proper.

As to the Eighth Cause of Action:

1. For civil penalties, including but not limited to those available under Labor Code sections 226.3, 558, 1197.1, and 2699(f);
2. For injunctive relief;
3. For statutory attorneys' fees and costs, including but not limited to those available under Labor Code section 2699(g);
4. For prejudgment and post-judgment interest according to any applicable provision of law or as otherwise permitted by law, including those available under Civil Code sections 3287(a) and 3289(b); and
5. For such other and further relief as the court deems just and proper.

///

DATED: February 27, 2024

MAYALL HURLEY P.C.

By



JOHN P. BRISCOE
Attorneys for Plaintiff Omar Perez

EXHIBIT 1

CO. FILE DEPT. CLOCK VOHR NO. 075
PJ 010374 00040000E 1

TIFFANY MOTOR CO.
DBA GREENWOOD FORD
300 GATEWAY DRIVE
HOLLISTER, CA 95023

Period Beginning: 09/16/2023
Period Ending: 09/30/2023
Pay Date: 10/05/2023

Earnings Statement



OMAR PEREZ

Filing Status: Single/Married filing separately
Exemptions/Allowances:
Federal: Standard Withholding Table

Social Security Number: [REDACTED]

Earnings		rate	other/hours	this period	year to date
Advance	Commission			2,500.00	42,500.00
Spiff					7,253.65
					300.00
					50,053.65

Gross Pay \$2,500.00

Deductions

Federal Income Tax	-227.53
Social Security Tax	-155.00
Medicare Tax	-36.25
CA State Income Tax	-91.62
CA SDI Tax	-22.50

Other

Dental Care	62.70
P.C.F.	336.90
Spiff Memo	300.00
Vision Care	20.00

Net Pay \$1,967.10

Chkng -1,967.10

Net Check \$0.00

Your federal taxable wages this period are
\$2,500.00

Other Benefits and Information		this period	total to date
Sick		24.00	
401K Mex Elig/C		2,500.00	

Important Notes

YOUR COMPANY PHONE NUMBER IS 831-630-2219

BASIS OF PAY: COMMISSION

Additional Tax Withholding Information

Taxable Marital Status:
CA: Single
Exemptions/Allowances:
CA: 0

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TEAR HERE

1. VERIFY DOCUMENT AUTHENTICITY - COLORED AREA MUST CHANGE IN TONE GRADUALLY AND EVENLY FROM DARK AT TOP TO LIGHTER AT BOTTOM

TIFFANY MOTOR CO.
DBA GREENWOOD FORD
300 GATEWAY DRIVE
HOLLISTER, CA 95023

Advice number: 000004000003
Pay date: 10/05/2023

Deposited to the account of
OMAR PEREZ

account number [REDACTED] transit ABA XXXX XXXX amount \$1,967.10

NON-NEGOTIABLE

THE ORIGINAL DOCUMENT HAS AN ORIGINAL WATERMARK ON THE BACK. HOLD AT AN ANGLE TO VIEW WHEN CHECKING THE ENDORSEMENT.

EXHIBIT 2

NORTHERN CALIFORNIA

118 WEST OAK STREET
LODI, CALIFORNIA 95240
[BY APPT. ONLY - NO SERVICE ACCEPTED]

2453 GRAND CANAL BLVD.
STOCKTON, CALIFORNIA 95207

SOUTHERN CALIFORNIA

360 EAST 2ND STREET, SUITE 800
LOS ANGELES, CALIFORNIA 90012
[BY APPT. ONLY - NO SERVICE ACCEPTED]



112 SOUTH CHURCH STREET
LODI, CALIFORNIA 95240

TELEPHONE: (209) 477-3833
WWW.MAYALLLAW.COM

VLADIMIR F. KOZINA
STEVEN A. MALCOUN
MARK E. BERRY
WILLIAM J. GORHAM, III
NICHOLAS F. SCARDIGLI
ROBERT J. WASSERMANN
JENNY D. BAYSINGER
JOHN P. BRISCOE
VLADIMIR J. KOZINA

December 13, 2023

VIA CERTIFIED MAIL RETURN RECEIPT REQUESTED

Tiffany Motor Company
300 Gateway Drive
Hollister, CA 95023

Re: Omar Perez

To whom it may concern:

This office has been retained by Omar Perez in connection with claims arising out of his former employment with Tiffany Motor Company. Through the enclosed authorization, we hereby request the following records regarding your former employee:

1. Mr. Perez's itemized wage statements, pursuant to Labor Code § 226(b);
2. All documents signed by Mr. Perez relating to the obtaining or holding of employment, pursuant to Labor Code § 432;
3. Mr. Perez's personnel records, pursuant to Labor Code § 1198.5(b);
4. All records documenting the hours worked and paid sick days accrued and used by Mr. Perez, pursuant to Labor Code § 247.5(a); and
5. Mr. Perez's payroll records pursuant to Labor Code section 1174 and 29 C.F.R. §§ 516.2.

Please contact me if you wish to discuss the foregoing requests.

Sincerely,

MAYALL HURLEY P.C.

By

A handwritten signature in blue ink, appearing to read 'John P. Briscoe', written over a horizontal line.

JOHN P. BRISCOE

Enclosure



Employee Records Request

Pursuant to California Labor Code sections 226(b), 247.5, 432, and 1198.5, I, Omar Perez (DOB 11/7/1999) hereby authorize Tiffany Motor Company to release copies of my payroll records, records of paid/accrued sick days, personnel records and personnel file to Mayall Hurley P.C. Please send my records to:

John P. Briscoe, Esq.
Mayall Hurley P.C.
112 S. Church St.
Lodi, CA 95240
jbriscoe@mayalllaw.com

Dated: 12/12/2023

DocuSigned by:

EG6E22F26FGA46F...

Signature

Omar Perez

Print Name

EXHIBIT 3

NORTHERN CALIFORNIA

118 WEST OAK STREET
LODI, CALIFORNIA 95240
[BY APPT. ONLY – NO SERVICE ACCEPTED]

2453 GRAND CANAL BLVD.
STOCKTON, CALIFORNIA 95207

SOUTHERN CALIFORNIA

360 EAST 2ND STREET, SUITE 800
LOS ANGELES, CALIFORNIA 90012
[BY APPT. ONLY – NO SERVICE ACCEPTED]



112 SOUTH CHURCH STREET
LODI, CALIFORNIA 95240

TELEPHONE: (209) 477-3833
WWW.MAYALLLAW.COM

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NICHOLAS F. SCARDIGLI
ROBERT J. WASSERMANN
JENNY D. BAYSINGER
JOHN P. BRISCOE
VLADIMIR J. KOZINA

December 22, 2023

SUBMITTED ELECTRONICALLY

Labor and Workforce Development Agency
Attn: PAGA Administrator
1515 Clay Street, Suite 801
Oakland, California 94612

SENT VIA CERTIFIED MAIL

Tiffany Motor Company
300 Gateway Drive
Hollister, CA 95023

Re: Omar Perez/Tiffany Motor Company

To whom it may concern:

This firm represents Omar Perez (“Perez”) in connection with claims arising from his former employment with Tiffany Motor Company. In accordance with Labor Code section 2699.3, this letter shall serve as Perez’s written notice to the Labor and Workforce Development Agency (“LWDA”) and Tiffany Motor Company regarding the following violations, and facts and theories supporting those violations, on Perez’s behalf and, as a proxy for the LWDA, on behalf of current and other former California employees of Tiffany Motor Company.

Perez was hired by Tiffany Motor Company was employed by Tiffany Motor Company (dba Greenwood Ford, a car dealership, in Hollister, California) from March 15, 2021 through March 2022, and again from November 2022 through October 21, 2023. Perez was employed as a car salesman and was paid spiffs and commissions *only* (and draws against future commissions).

Perez was denied paid rest periods throughout his employment with Tiffany Motor Company. Not once was Perez relieved of all duty and permitted the chance to take an uninterrupted and *paid* ten-minute rest period for every four hours worked. Again, Perez was paid only commissions and spiffs, and thus was not paid an hourly wage (and Tiffany Motor Company did not pay for rest periods). Perez’s employment

Labor and Workforce Development Agency
Tiffany Motor Company
Re: Omar Perez/Tiffany Motor Company
December 22, 2023
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was covered by Wage Order No. 7 (see section 2(H)), and he thus was entitled, under that Wage Order, to paid rest periods. (*Id.*, section 12(A); see also *Vaquero v. Stoneledge Furniture LLC* (2017) 9 Cal.App.5th 98, 110-111.) By failing to provide such paid rest periods, Tiffany Motor Company violated Labor Code section 226.7.

Perez was also denied meal periods to which he was entitled. Despite working a full-time schedule (with shifts of eight hours or more), Perez was never relieved of all duty and permitted the opportunity to take an uninterrupted thirty-minute meal period for every workshift that was more than five hours. Perez was not so much as instructed as to when he was supposed to take a meal period. Perez was not paid an hour's pay at his regular rate of compensation for every meal period he was not permitted to take. Accordingly, Tiffany Motor Company violated Labor Code section 512, and further violated Labor Code section 226.7.

Perez was also, impermissibly, not paid any wages for "nonproductive time." Perez's principal duty was to sell vehicles. However, he was required to attend sales meetings, training sessions, attending vehicle demonstrations, and other mandatory work functions and perform other tasks; these other tasks, meetings, etc. did not contribute to the earning of commissions. *Perez was paid nothing* for this "nonproductive time"; thus, Tiffany Motor Company violated Labor Code sections 1182.12 and 1197. (See also *Vaquero, supra*, 9 Cal.App.5th at p. 110; *Gonzalez v. Downtown LA Motors, LP* (2013) 215 Cal.App.5th 36, 48-49.)

Because he was not paid premiums for denied rest and meal periods, and was not paid for nonproductive time, *supra*, the wage statements furnished to Perez failed to show gross wages earned, net wages earned, and all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each rate. Independent of any other violation of the Labor Code, the wage statements furnished to Perez did not show total hours worked. (**Exhibit A.**) Accordingly, Tiffany Motor Company violated Labor Code section 226, subdivisions (a)(1), (2), (5), and (9).

The foregoing violations, and each of them, were committed as against current and other former employees of Tiffany Motor Company, and within the last year.

If the LWDA believes that it needs additional information to determine whether to investigate these claims, please contact me immediately to request the additional information, which I will provide to the extent it is available to me or my client.

If the LWDA does not intend to investigate these violations, Perez intends to file a civil complaint against Tiffany Motor Company, pursuant to the Labor Code Private Attorneys General Act of 2004 (Labor Code, § 2698 *et seq.*), on his behalf and, as a

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proxy for the LWDA, on behalf of all aggrieved current and former employees. Thank you for your attention in this matter.

Sincerely,

MAYALL HURLEY P.C.

By 

JOHN P. BRISCOE

Exhibit A



Earnings Statement

Period Beginning: 09/16/2023
Period Ending: 09/30/2023
Pay Date: 10/05/2023

OMAR PEREZ

CO. FILE DEPT. CLOCK YCHR NO. 075
PJ 010074 0000100008 1

SEC 000106

TIFFANY MOTOR CO.
DBA GREENWOOD FORD
300 GATEWAY DRIVE
HOLLISTER, CA 95023

Filing Status: Single/Married filing separately
Exemptions/Allowances:
Federal: Standard Withholding Table

Social Security Number: XXX-XX-XXXX

Earnings	rate		other/hours		this period	year to date
	Commission	Spiff				
Advance					2,500.00	42,500.00
Commission						7,253.65
Spiff						300.00
Gross Pay					\$2,500.00	50,053.65

Deductions

Statutory		year to date
Federal Income Tax	-227.53	4,529.46
Social Security Tax	-155.00	3,077.31
Medicare Tax	-36.25	719.69
CA State Income Tax	-91.62	1,819.97
CA SDI Tax	-22.50	446.71
Other		
Dental Care		62.70
P.C.F.		336.90
Spiff Memo		300.00
Vision Care		20.00
Net Pay	\$1,967.10	
Chrg	-1,967.10	
Net Check	\$0.00	

Your federal taxable wages this period are
\$2,500.00

Other Benefits and Information		this period	total to date
Sick		24.00	
401K Max EligC		2,500.00	

Important Notes

YOUR COMPANY PHONE NUMBER IS 651-650-2219

BASIS OF PAY: COMMISSION

Additional Tax Withholding Information

Taxable Marital Status:
CA Single
Exemptions/Allowances:
CA 0

TIFFANY MOTOR CO.
DBA GREENWOOD FORD
300 GATEWAY DRIVE
HOLLISTER, CA 95023

Deposited to the account of
OMAR PEREZ

Advise number: 000004000008
Pay date: 10/05/2023

account number: xxxxxxxx
transit ABA: xxx xxx
amount: \$1,967.10

NON-NEGOTIABLE

THIS IS NOT A CHECK

VERIFY DOCUMENT AUTHENTICITY. COLORED AREA MUST CHANGE IN TONE GRADUALLY AND EVENLY FROM DARK AT TOP TO LIGHTER AT BOTTOM.

TEAR HERE

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