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**Electronically Filed
by Superior Court of CA,
County of Santa Clara,
on 3/27/2024 10:41 AM
Reviewed By: R. Walker
Case #24CV429231
Envelope: 14832070**

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SANTA CLARA**

AHMAD REZA SHADKAM, individually
and on behalf of all others similarly
situated,

Plaintiffs,

v.

3566 STEVENS CREEK HOLDINGS OF
CALIFORNIA, LLC; SUNNYVALE
CHRYSLER-JEEP-DODGE, LLC and
DOES 1 through 20, inclusive,

Defendants.

Case No. 24CV429231

*Assigned for All Purposes to:
Judge Honorable Charles F. Adams; Dept. 7*

**[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. Failure to Pay Wages for Non-Productive Time
6. Unlawful Deductions;
7. Failure to Provide Accurate Itemized Wage Statements;
8. Failure to Pay All Wages Due Upon Separation of Employment;
9. Violation of Business and Professions Code §§ 17200, *et seq.*; and
10. Enforcement of Labor Code § 2698 *et seq.* (“PAGA”)

1 Plaintiff Ahmad Reza Shadkam, individually and on behalf of others similarly situated,
2 alleges as follows:

3 **NATURE OF ACTION AND INTRODUCTORY STATEMENT**

4 1. Plaintiff Ahmad Reza Shadkam (“Plaintiff”) brings this putative class action and
5 representative action pursuant to the Private Attorneys General Act of 2004, Cal. Lab. Code. §
6 2698 *et seq.*, against defendants 3566 Stevens Creek Holdings of California, LLC; Sunnyvale
7 Chrysler-Jeep-Dodge, LLC; and DOES 1 through 20, inclusive (collectively, “Defendants”), on
8 Plaintiff’s own behalf and on behalf of California citizens who are and were employed by
9 Defendants as non-exempt employees throughout California.

10 2. Defendants provide services or goods throughout California.

11 3. Through this action, Plaintiff alleges 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. Plaintiff is informed and believe, and thereon alleges, 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 provide lawful meal periods or compensation in lieu thereof;
- 19 (c) failing to authorize or permit lawful rest breaks or provide compensation
20 in lieu thereof;
- 21 (d) failing to pay wages to piece-rate or commission workers for time spent
22 in rest breaks and/or recovery periods, and non-productive time;
- 23 (e) making improper deductions from employees’ earned wages;
- 24 (f) failing to provide accurate itemized wage statements;
- 25 (g) failing to pay wages timely during employment; and
- 26 (h) failing to pay all wages due upon separation of employment.

27 5. Plaintiff seeks monetary relief against Defendants on behalf of Plaintiff and all
28 others similarly situated in California to recover, among other things, unpaid wages, benefits,

1 interest, attorneys' fees, costs and expenses, and penalties pursuant to Labor Code §§ 201, 202,
2 203, 204, 210, 221, 223, 224, 225.5, 226, 226.2, 226.3, 226.7, 246, 510, 512, 558, 1174, 1174.5,
3 1182.12, 1194, 1194.2, 1197, 1197.1, 1198, 2698, *et seq.*, and Code of California Civil
4 Procedure § 1021.5.

5 **JURISDICTION AND VENUE**

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

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

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

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

21 **THE PARTIES**

22 10. Plaintiff is a resident of California and worked for Defendants during the relevant
23 time periods as alleged herein.

24 11. Plaintiff is informed and believes, and thereon alleges that at all times hereinafter
25 mentioned, Defendants were and are subject to the Labor Code and IWC Wage Orders as
26 employers, whose employees were and are engaged throughout this county and the State of
27 California.

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

5 13. Plaintiff is informed and believes, and thereon alleges, that DOES 1 through 20
6 are or were the partners, agents, owners, shareholders, managers, or employees of Defendants at
7 all relevant times.

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

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

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

22 17. Plaintiff is informed and believes, and thereon alleges, that each of said
23 Defendants is in some manner intentionally, negligently, or otherwise responsible for the acts,
24 omissions, occurrences, and transactions alleged herein.

25 **CLASS ACTION ALLEGATIONS**

26 18. Plaintiff brings this action under Code of Civil Procedure § 382 on Plaintiff's own
27 behalf and on behalf of all others similarly situated who were affected by Defendants' Labor
28 Code, Business and Professions Code §§ 17200, and IWC Wage Order violations.

1 19. All claims alleged herein arise under California law for which Plaintiff seeks
2 relief authorized by California law.

3 20. Plaintiff's proposed class consists of and is defined as follows:

4 Class

5 All California citizens currently or formerly employed by Defendants as non-
6 exempt employees in the State of California at any time between July 22, 2019¹
7 and the date of class certification ("Class").

8 21. Plaintiff also seeks to certify the following subclasses of employees:

9 Waiting Time Subclass

10 All members of the Class who separated their employment with Defendant at any
11 time between July 22, 2020 and the date of class certification ("Waiting Time
12 Subclass").

13 22. Plaintiff reserves the right to modify or re-define the Class, establish additional
14 subclasses, or modify or re-define any class or subclass definition as appropriate based on
15 investigation, discovery, and specific theories of liability.

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

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

21 (a) Whether Defendants failed to pay Plaintiff and Class Members all wages
22 (including minimum wages and overtime wages) for all hours worked by
23 Plaintiff and Class Members.

24 (b) Whether Defendants required Plaintiff and Class Members to work over
25 eight (8) hours per day, over twelve (12) hours per day, and/or over forty
26

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

(40) hours per week and failed to pay them proper overtime compensation for all overtime hours worked.

(c) Whether Defendants deprived Plaintiff and Class Members of timely meal periods or required Plaintiff and Class Members to work through meal periods without legal compensation.

(d) Whether Defendants deprived Plaintiff and Class Members of rest breaks or required Plaintiff and Class Members to work through rest breaks.

(e) Whether Defendants failed to properly pay Plaintiff and Class Members for non-productive time, including rest breaks and recovery periods when they were paid on a piece-rate, commission, or draw basis.

(f) Whether Defendants made unlawful deductions from Plaintiff's and Class Members' wages.

(g) Whether Defendants failed to provide Plaintiff and Class Members accurate itemized wage statements.

(h) Whether Defendants failed to pay wages timely to Plaintiff and Class Members;

(i) Whether Defendants failed to timely pay the Waiting Time Subclass all wages due upon termination or within seventy-two (72) hours of resignation.

(j) Whether Defendants' conduct was willful or reckless.

(k) Whether Defendants engaged in unfair business practices in violation of Business and Professions Code §§ 17200, *et seq.*

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

(a) Numerosity: The Class Members are so numerous that joinder of all members is impractical. Although the members of the Class are unknown to Plaintiff at this time, on information and belief, the Class is estimated to be greater than fifty (50) individuals. The

1 identities of the Class Members are readily ascertainable by inspection of Defendants'
2 employment and payroll records.

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

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

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

23 (e) Public Policy Considerations: Employers in the State of California violate
24 employment and labor laws every day. Current employees are often afraid to assert their rights
25 out of fear of direct or indirect retaliation. Former employees are fearful of bringing actions
26 because they believe their former employers might damage their future endeavors through
27 negative references and/or other means. Class actions provide class members who are not named
28

1 in the complaint with a type of anonymity that allows for the vindication of their rights while
2 affording them privacy protections.

3
4 **GENERAL ALLEGATIONS**

5 26. At all relevant times mentioned herein, Defendants employed Plaintiff and other
6 California residents as non-exempt employees throughout California at Defendants' California
7 business location(s).

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

9 28. Plaintiff is informed and believes, and thereon alleges, that at all times herein
10 mentioned, Defendants were advised by skilled lawyers, employees, and other professionals who
11 were knowledgeable about California's wage and hour laws, employment and personnel
12 practices, and the requirements of California law.

13 29. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
14 should have known that Plaintiff and Class Members were entitled to receive wages for all time
15 worked (including minimum wages and overtime wages) and that they were not receiving all
16 wages earned for work that was required to be performed. In violation of the Labor Code and
17 IWC Wage Orders, Plaintiff and Class Members were not paid all wages (including minimum
18 wages and overtime wages) for all hours worked at the correct rate and within the correct time.

19 30. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
20 should have known that Plaintiff and Class Members were entitled to receive all required meal
21 periods or payment of one (1) additional hour of pay at Plaintiff's and Class Members' regular
22 rate of pay when they did not receive a timely, uninterrupted meal period. In violation of the
23 Labor Code and IWC Wage Orders, Plaintiff and Class Members did not receive all meal periods
24 or payment of one (1) additional hour of pay at Plaintiff's and Class Members' regular rate of
25 pay when they did not receive a timely, uninterrupted meal period.

26 31. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
27 should have known that Plaintiff and Class Members were entitled to receive all rest breaks or
28 payment of one (1) additional hour of pay at Plaintiff's and Class Members' regular rate of pay

1 when a rest break was late, missed, or interrupted. In violation of the Labor Code and IWC Wage
2 Orders, Plaintiff and Class Members did not receive all rest breaks or payment of one (1)
3 additional hour of pay at Plaintiff's and Class Members' regular rate of pay when a rest break
4 was missed, late, or interrupted.

5 32. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
6 should have known they had a duty to separately compensate Plaintiff and Class Members who
7 earned piece-rate pay, commission pay, or were paid on a draw basis for time spent in rest breaks
8 or other non-productive time. In violation of the Labor Code, Defendants did not pay all wages
9 owed.

10 33. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
11 should have known that Plaintiff 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 Plaintiff's and Class Members' wages.

14 34. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
15 should have known that Plaintiff and Class Members were entitled to receive itemized wage
16 statements that accurately showed the following information pursuant to the Labor Code: (1)
17 gross wages earned; (2) total hours worked by the employee; (3) the number of piece-rate units
18 earned and any applicable piece rate if the employee is paid on a piece-rate basis; (4) all
19 deductions, provided that all deductions made on written orders of the employee may be
20 aggregated and shown as one item; (5) net wages earned; (6) the inclusive dates of the period for
21 which the employee is paid; (7) the name of the employee and only the last four digits of his or
22 her social security number or an employee identification number other than a social security
23 number; (8) the name and address of the legal entity that is the employer; and (9) all applicable
24 hourly rates in effect during the pay period and the corresponding number of hours worked at
25 each hourly rate by the employee. In violation of the Labor Code, Plaintiff and Class Members
26 were not provided with accurate itemized wage statements.

27 35. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
28 should have known that the Waiting Time Subclass was entitled to timely payment of wages due

1 upon separation of employment. In violation of the Labor Code, the Waiting Time Subclass did
2 not receive payment of all wages within the permissible time periods.

3 36. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
4 should have known they had a duty to compensate Plaintiff and Class Members, and Defendants
5 had the financial ability to pay such compensation but willfully, knowingly, and intentionally
6 failed to do so in order to increase Defendants' profits.

7 37. Therefore, Plaintiff brings this lawsuit seeking monetary and injunctive relief
8 against Defendants on Plaintiff's own behalf and on behalf of all Class Members to recover,
9 among other things, unpaid wages (including minimum wages and overtime wages), unpaid meal
10 period premium payments, unpaid rest period premium payments, interest, attorneys' fees,
11 penalties, costs, and expenses.

12 **FIRST CAUSE OF ACTION**

13 **FAILURE TO PAY MINIMUM WAGES**

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

15 38. Plaintiff hereby re-alleges and incorporates by reference all paragraphs above as
16 though fully set forth herein.

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

20 40. Plaintiff and Class Members were employees entitled to the protections of Labor
21 Code §§ 1194 and 1197.

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

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

26 43. Defendants' failure to pay Plaintiff and Class Members the required minimum
27 wage violates Labor Code §§ 1194 and 1197. Pursuant to these sections, Plaintiff and Class
28

1 Members are entitled to recover the unpaid balance of their minimum wage compensation as
2 well as interest, costs, and attorneys' fees.

3 44. Pursuant to Labor Code § 1194.2, Plaintiff and Class Members are entitled to
4 recover liquidated damages in an amount equal to the wages unlawfully unpaid and the accrued
5 interest thereon.

6 **SECOND CAUSE OF ACTION**

7 **FAILURE TO PAY OVERTIME**

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

9 45. Plaintiff hereby re-alleges and incorporates by reference all paragraphs above as
10 though fully set forth herein.

11 46. Labor Code § 1198 and the applicable IWC Wage Order provide that it is
12 unlawful to employ persons without compensating them at a rate of pay either one and one-half
13 (1½) or two (2) times the person's regular rate of pay, depending on the number of hours
14 worked by the person on a daily or weekly basis.

15 47. Specifically, the applicable IWC Wage Orders provide that Defendants are and
16 were required to pay overtime compensation to Plaintiff and Class Members at the rate of one
17 and one-half times (1½) their regular rate of pay when working and for all hours worked in
18 excess of eight (8) hours in a day or more than forty (40) hours in a workweek and for the first
19 eight (8) hours of work on the seventh day of work in a workweek.

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

24 49. California Labor Code § 510 codifies the right to overtime compensation at one
25 and one-half (1½) times the regular hourly rate for hours worked in excess of eight (8) hours in a
26 day or forty (40) hours in a week and for the first eight (8) hours worked on the seventh
27 consecutive day of work, and overtime compensation at twice the regular hourly rate for hours
28

1 worked in excess of twelve (12) hours in a day or in excess of eight (8) hours in a day on the
2 seventh day of work in a workweek.

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

6 51. Plaintiff and Class Members were employees entitled to the protections of
7 California Labor Code §§ 510 and 1194.

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

11 53. During the relevant time period, Defendants failed to pay Plaintiff and Class
12 Members overtime wages for all overtime hours worked. To the extent these hours qualify for
13 the payment of overtime wages, Plaintiff and Class Members were not paid proper overtime
14 wages.

15 54. In violation of California law, Defendants knowingly and willfully refused to
16 perform their obligations and compensate Plaintiff and Class Members for all wages earned and
17 all hours worked.

18 55. Defendants' failure to pay Plaintiff and Class Members the unpaid balance of
19 overtime compensation, as required by California law, violates the provisions of Labor Code §§
20 510 and 1198, and is therefore unlawful.

21 56. Pursuant to Labor Code § 1194, Plaintiff and Class Members are entitled to
22 recover their unpaid overtime and double time compensation as well as interest, costs, and
23 attorneys' fees.

24 **THIRD CAUSE OF ACTION**

25 **FAILURE TO PROVIDE MEAL PERIODS**

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

27 57. Plaintiff hereby re-alleges and incorporates by reference all paragraphs above as
28 though fully set forth herein.

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

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

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

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

18 62. During the relevant time period, Plaintiff and Class Members worked more than
19 five (5) or ten (10) hours and did not receive all compliant meal periods because their meal
20 periods were missed, late, short, interrupted, and/or they were not permitted to take a second
21 meal period.

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

25 64. At all relevant times, Defendants failed to pay Plaintiff and Class Members meal
26 period premiums for missed, late, and/or short meal periods pursuant to Labor Code § 226.7(b)
27 and section 11 of the applicable IWC Wage Order.

28

1 65. As a result of Defendants' failure to pay Plaintiff and Class Members an
2 additional hour of pay for each day a compliant meal period was not provided, Plaintiff and
3 Class Members suffered and continue to suffer a loss of wages and compensation.

4 **FOURTH CAUSE OF ACTION**

5 **FAILURE TO PERMIT REST BREAKS**

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

7 66. Plaintiff hereby re-alleges and incorporates by reference all paragraphs above as
8 though fully set forth herein.

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

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

16 69. During the relevant time period, Plaintiff and Class Members did not receive all
17 ten (10) minute rest periods for every four (4) hours or major fraction thereof worked, including
18 working in excess of ten (10) hours, because they were required to work through their rest
19 periods and/or were not authorized to take their rest periods.

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

23 71. At all relevant times, Defendants failed to pay Plaintiff and Class Members rest
24 period premiums for missed, late, and/or interrupted rest periods pursuant to Labor Code §
25 226.7(b) and section 12 of the applicable IWC Wage Order.

26 72. As a result of Defendants' failure to pay Plaintiff and Class Members an
27 additional hour of pay for each day a compliant rest period was not provided, Plaintiff and Class
28 Members suffered and continue to suffer a loss of wages and compensation.

1 **FIFTH CAUSE OF ACTION**

2 **FAILURE TO PAY WAGES FOR NON-PRODUCTIVE TIME**

3 (Violation of Labor Code §§ 226.2; Violation of IWC Wage Order)

4 73. Plaintiff hereby re-alleges and incorporates by reference all paragraphs above as
5 though fully set forth herein.

6 74. Labor Code § 226.2 requires employees who are paid on a piece-rate or
7 commission basis to be compensated for rest and recovery periods and other nonproductive time
8 separate from any piece-rate or commission compensation.

9 75. Labor Code § 226.2(a) provides that employees compensated on a piece-rate or
10 commission basis shall be compensated for rest and recovery periods, and other nonproductive
11 time separate from any piece-rate or commission compensation. Employees shall be
12 compensated at a regular hourly rate that is no less than the higher of (a) An average hourly rate
13 determined by dividing the total compensation for the workweek, exclusive of compensation for
14 rest and recovery periods and any premium compensation for overtime, by the total hours
15 worked during the workweek, exclusive of rest and recovery periods. (b) The applicable
16 minimum wage

17 76. During the relevant time period, Plaintiff and Class Members paid on a piece-rate
18 or commission basis were not compensated for rest and recovery periods and other
19 nonproductive time separate from any piece-rate or commission compensation.

20 77. At all relevant times, Defendants knowingly and intentionally failed to comply
21 with Labor Code § 226.2 denying compensation for rest and recovery periods and other non-
22 productive time.

23 78. As a result of Defendants' failure to pay Plaintiff and Class Members
24 compensated rest and recovery periods and/or other non-productive time, Plaintiff and Class
25 Members suffered and continue to suffer a loss of wages and compensation.

26 79. Pursuant to Labor Code § 226.2, Plaintiff and Class Members are entitled to
27 recover their unpaid compensation.
28

1 **SIXTH CAUSE OF ACTION**

2 **UNLAWFUL DEDUCTIONS FROM EARNED WAGES**

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

4 80. Plaintiff hereby re-alleges and incorporates by reference all paragraphs above as
5 though fully set forth herein.

6 81. Labor Code § 221 provides that employers may not collect or receive from an
7 employee any part of wages theretofore paid by said employer to said employee.

8 82. Labor Code § 223 provides that where a contract requires an employer to
9 maintain the designated wage scale, it is unlawful to pay a lower wage while purporting to pay
10 the wage designated by contract.

11 83. Labor Code § 224 prohibits employers from making deductions from an
12 employee's wages not authorized by the employee in writing or permitted by law.

13 84. During the relevant time period, Defendants had a policy and practice of making
14 unlawful deductions from earned wages of Plaintiff and Class Members.

15 85. As a result of Defendants' failure to refrain from making improper deductions
16 from earned wages, Plaintiff and Class Members suffered and continue to suffer a loss of wages
17 and compensation, the exact amount of damages and/or penalties is all in an amount to be shown
18 according to proof at trial.

19 **SEVENTH CAUSE OF ACTION**

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

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

22 86. Plaintiff hereby re-alleges and incorporates by reference all paragraphs above as
23 though fully set forth herein.

24 87. Labor Code § 226(a) requires Defendants to provide each employee with an
25 accurate wage statement in writing showing nine pieces of information, including, the following:
26 (1) gross wages earned, (2) total hours worked by the employee, (3) the number of piece-rate
27 units earned and any applicable piece rate if the employee is paid on a piece-rate basis, (4) all
28 deductions, provided that all deductions made on written orders of the employee may be

1 aggregated and shown as one item, (5) net wages earned, (6) the inclusive dates of the period for
2 which the employee is paid, (7) the name of the employee and the last four digits of his or her
3 social security number or an employee identification number other than a social security number,
4 (8) the name and address of the legal entity that is the employer, and (9) all applicable hourly
5 rates in effect during the pay period and the corresponding number of hours worked at each
6 hourly rate by the employee.

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

12 89. As a result of Defendants' knowing and intentional failure to comply with Labor
13 Code § 226(a), Plaintiff and Class Members have suffered injury and damage to their statutorily-
14 protected rights. Specifically, Plaintiff and Class Members are deemed to suffer an injury
15 pursuant to Labor Code § 226(e) where, as here, Defendants intentionally violated Labor Code §
16 226(a). Plaintiff and Class Members were denied both their legal right to receive, and their
17 protected interest in receiving, accurate itemized wage statements under Labor Code § 226(a). In
18 addition, because Defendants failed to provide the accurate rates of pay on wage statements,
19 Defendants prevented Plaintiff and Class Members from determining if all hours worked were
20 paid at the appropriate rate and the extent of the underpayment. Plaintiff had to file this lawsuit
21 in order to analyze the extent of the underpayment, thereby causing Plaintiff to incur expenses
22 and lost time. Plaintiff would not have had to engage in these efforts and incur these costs had
23 Defendants provided the accurate hours worked, wages earned, and rates of pay. This has also
24 delayed Plaintiff's ability to demand and recover the underpayment of wages from Defendants.

25 90. Plaintiff and Class Members are entitled to recover from Defendants the greater of
26 all actual damages caused by Defendants' failure to comply with Labor Code § 226(a) or fifty
27 dollars (\$50.00) for the initial pay period in which a violation occurred and one hundred dollars
28

1 (\$100.00) per employee for each violation in subsequent pay periods in an amount not exceeding
2 four thousand dollars (\$4,000.00) per employee, plus attorneys' fees and costs.

3 91. Defendants' violations of California Labor Code § 226(a) prevented Plaintiff and
4 Class Members from knowing, understanding, and disputing the wages paid to them and resulted
5 in an unjustified economic enrichment to Defendants. As a result of Defendants' knowing and
6 intentional failure to comply with California Labor Code § 226(a), Plaintiff and Class Members
7 have suffered an injury, in the exact amount of damages and/or penalties to be shown according
8 to proof at trial.

9 **EIGHTH CAUSE OF ACTION**

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

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

12 92. Plaintiff hereby re-alleges and incorporates by reference all paragraphs above as
13 though fully set forth herein.

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

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

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

26 96. Labor Code § 203 provides that if an employer willfully fails to pay wages owed
27 immediately upon discharge or resignation in accordance with Labor Code §§ 201 and 202, then
28 the wages of the employee shall continue as a penalty from the due date at the same rate until

1 paid or until an action is commenced; but the wages shall not continue for more than thirty (30)
2 days.

3 97. Pursuant to Labor Code § 203, the Waiting Time Subclass is entitled to recover
4 from Defendants the statutory penalty, which is defined as the Waiting Time Subclass members'
5 regular daily wages at their regular hourly rate of pay for each day they were not paid, up to a
6 maximum of thirty (30) days.

7 **NINTH CAUSE OF ACTION**

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

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

10 98. Plaintiff hereby re-alleges and incorporates by reference all paragraphs above as
11 though fully set forth herein.

12 99. California Business and Professions Code §§ 17200, *et seq.*, prohibits acts of
13 unfair competition, which includes any “unlawful, unfair or fraudulent business act or practice . .
14 . .”

15 100. A violation of California Business and Professions Code §§ 17200, *et seq.*, may
16 be predicated on a violation of any state or federal law. In the instant case, Defendants’ policies
17 and practices violated state law, causing Plaintiff and Class Members to suffer and continue to
18 suffer injuries-in-fact.

19 101. Defendants’ policies and practices violated state law in at least the following
20 respects:

- 21 (a) Failing to pay all wages earned (including minimum wage and overtime
22 wages) to Plaintiff and Class Members at the proper rate and in a timely
23 manner in violation of Labor Code §§ 204, 510, 1194, 1194.2, 1197, 1198.
- 24 (b) Failing to provide compliant meal periods without paying Plaintiff and
25 Class Members premium wages for every day said meal periods were not
26 provided in violation of Labor Code §§ 226.7 and 512.
- 27 (c) Failing to authorize or permit compliant rest breaks without paying
28 Plaintiff and Class Members premium wages for every day said rest

breaks were not authorized or permitted in violation of Labor Code § 226.7.

(d) Failing to pay all wages earned by piece rate or commission workers for non-productive time including rest and recovery periods in violation of Labor Code § 226.2.

(e) Failing to refrain from making unlawful deductions from wages in violation of Labor Code §§ 221, 223, and 224.

(f) Failing to provide Plaintiff and Class Members with accurate itemized wage statements in violation of Labor Code § 226.

(g) Failing to timely pay all earned wages to the members of the Waiting Time Subclass upon separation of employment in violation of Labor Code §§ 201, 202, and 203.

102. As alleged herein, Defendants systematically engaged in unlawful conduct in violation of the California Labor Code and IWC Wage Orders, such as failing to pay all wages (including minimum, non-productive time, rest break time, and overtime wages), failing to provide meal periods and rest breaks or compensation in lieu thereof, failing to furnish accurate wage statements, making unlawful deductions, and failing to pay all wages due and owing upon separation of employment in a timely manner to the Waiting Time Subclass, all in order to decrease their costs of doing business and increase their profits.

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

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

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

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

107. Plaintiff seeks to enforce important rights affecting the public interest within the meaning of California Code of Civil Procedure § 1021.5. Defendants' conduct, as alleged herein, has been and continues to be unfair, unlawful, and harmful to Plaintiff, Class Members, and the general public. Based on Defendants' conduct as alleged herein, Plaintiff and Class Members are entitled to an award of attorneys' fees pursuant to California Code of Civil Procedure § 1021.5.

TENTH CAUSE OF ACTION

ENFORCEMENT OF LABOR CODE §§ 2698 ET SEQ. (“PAGA”)

108. Plaintiff hereby re-alleges and incorporate by reference the previous paragraphs as though fully set forth herein.

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

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

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

a. violation of Labor Code §§ 201, 202, 203, 204, 210, 246, 510, 1182.12, 1194, 1197, and 1198 for failure to timely pay all earned wages at the

correct rate of pay (including minimum wage, sick pay, and overtime wages) owed to Plaintiff and other aggrieved employees during employment and upon separation of employment as herein alleged;

b. violation of Labor Code §§ 226.7 and 512 for failure to provide meal periods to Plaintiff and other aggrieved employees and failure to pay premium wages for missed meal periods as herein alleged;

c. violation of Labor Code § 226.7 for failure to permit rest breaks to Plaintiff and other aggrieved employees and failure to pay premium wages for missed rest periods as herein alleged;

d. violation of Labor Code § 226.2 for failure to pay all wages earned by piece rate or commission workers for non-productive time including rest and recovery periods as herein alleged;

e. violation of Labor Code § 221, 223, and 224 for failure to refrain from making unlawful deductions from wages as herein alleged;

f. violation of Labor Code § 226 for failure to provide accurate itemized wage statements to Plaintiff and other aggrieved employees as herein alleged;

g. violation of Labor Code §§ 1174 and 1174.5 for failure to maintain accurate and complete records showing, among other things, the hours worked daily by and the wages paid to aggrieved employees.

112. Plaintiff is an “aggrieved employee” because he was employed by the alleged violator and had one or more of the violations committed against him, and therefore is properly suited to represent the interests of all other aggrieved employees.

113. Plaintiff has exhausted the procedural requirements under Labor Code § 2699.3 as to Defendants and is therefore able to pursue a claim for penalties on behalf of himself and all other aggrieved employees under PAGA.

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114. Pursuant to Labor Code §§ 2699(a), 2699.3 and 2699.5, Plaintiff is entitled to recover civil penalties, in addition to other remedies, for violations of the Labor Code sections cited above.

115. For bringing this action, Plaintiff is entitled to attorney's fees and costs incurred herein.

PRAYER FOR RELIEF

On Plaintiff's own behalf and on behalf of all others similarly situated, Plaintiff prays for relief and judgment against Defendants, jointly and severally, as follows:

1. For certification under California Code of Civil Procedure § 382 of the proposed Class and any other appropriate subclass;

2. For appointment of Ahmad Reza Shadkam as class representative;

3. For appointment of Aegis Law Firm, PC, as class counsel for all purposes;

4. For compensatory damages in an amount according to proof at trial;

5. For an award of damages in the amount of unpaid compensation including, but not limited to, unpaid wages, unreimbursed expenses, benefits, and penalties;

6. For economic and/or special damages in an amount according to proof at trial;

7. For liquidated damages pursuant to Labor Code § 1194.2;

8. For statutory penalties to the extent permitted by law, including those pursuant to the Labor Code and IWC Wage Orders;

9. For injunctive relief as provided by the California Labor Code and California Business and Professions Code §§ 17200, *et seq.*;

10. For restitution as provided by Business and Professions Code §§ 17200, *et seq.*;

11. For an order requiring Defendants to restore and disgorge all funds to each employee acquired by means of any act or practice declared by this Court to be unlawful, unfair, or fraudulent and, therefore, constituting unfair competition under Business and Professions Code §§ 17200, *et seq.*;

12. For pre-judgment interest:

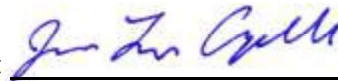
13. For civil penalties;

1 14. For reasonable attorneys' fees, costs of suit, and interest to the extent permitted
2 by law, including, but not limited to, Code of Civil Procedure § 1021.5 and Labor Code §§
3 226(e), 1194, and 2698 *et seq.*; and

4 15. For such other relief as the Court deems just and proper.
5

6 Dated: March 27, 2024

AEGIS LAW FIRM, PC

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8 By: 
9 Jessica L. Campbell
10 Attorneys for Plaintiff
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1 **CERTIFICATE OF SERVICE**

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

5 On March 27, 2024, I served the foregoing document(s) entitled:

6 • **FIRST AMENDED CLASS ACTION COMPLAINT**

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 Tina M. Starr (SBN 231309)
10 MIRHOSSEINI LAW GROUP, APC
11 1502 N. Broadway
12 Santa Ana, CA 92706
13 Tel: 714-560-9100
14 Fax: 714-560-9120
15 tina@armlaw.net

16 *Attorneys for Defendants:*

17 3566 STEVENS CREEK HOLDINGS OF CALIFORNIA, LLC; SUNNYVALE
18 CHRYSLER- JEEP-DODGE, LLC

19 ☐ **(BY MAIL)** I am readily familiar with the firm's practice of collection and processing
20 correspondence for mailing. Under that practice it would be deposited with the U.S.
21 Postal Service on that same day with postage thereon fully prepaid at Irvine, California
22 in the ordinary course of business. I am aware that on motion of the party served,
23 service is presumed invalid if postage cancellation date or postage meter date is more
24 than one day after date of deposit for mailing this affidavit. (*Cal Code Civ. Proc.* §
25 1013(a); *Fed. R. Civ. Proc.* 5(a); *Fed. R. Civ. Proc.* 5(c).)

26 ☐ **(BY OVERNIGHT MAIL)** I am personally and readily familiar with the business
27 practice of Aegis Law Firm PC for collection and processing correspondence for
28 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).)

☒ **(BY ELECTRONIC TRANSMISSION)** I caused said document(s) to be served via
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).)

☐ **(BY PERSONAL SERVICE)** I delivered the foregoing document by hand delivery to
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 March 27, 2024, at Irvine, California.

4 
5 _____
6 Jacquelyn Enciso
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