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Superior Court of California,
County of San Diego
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Clerk of the Superior Court
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**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN DIEGO**

CESAR LIMON, individually and on behalf of
all others similarly situated and the State of
California under the Private Attorneys General
Act,

Plaintiffs,

vs.

SEDANO LINCOLN OF LM, INC., SEDANO
FORD OF LM, INC., CITY CHEVROLET OF
SAN DIEGO, MISSION BAY MOTORS, INC.,
CIRCLE MOTORS, INC., and MANUEL
SEDANO, JR., and DOES 1 through 50,
inclusive,

Defendants.

Case No. 37-2024-00018134-CU-OE-CTL

**REPRESENTATIVE ACTION
COMPLAINT**

1. Civil Penalties under the Private Attorneys
General Act (Labor Code §§ 2698 *et seq.*)

1 Plaintiff CESAR LIMON, individually and on behalf of all others similarly situated and the
2 State of California under the Private Attorneys General Act (“Plaintiff”) brings this
3 REPRESENTATIVE ACTION COMPLAINT against Defendants SEDANO LINCOLN OF LM,
4 INC., SEDANO FORD OF LM, INC., CITY CHEVROLET OF SAN DIEGO, MISSION BAY
5 MOTORS, INC., CIRCLE MOTORS, INC., and MANUEL SEDANO, JR. and DOES 1 through 50,
6 inclusive (collectively “Defendants”), alleging as follows:

7 **INTRODUCTION**

8 1. Plaintiff brings this representative PAGA action against Defendants for depriving him
9 and all other aggrieved employees of all lawful minimum, regular, and overtime wages owed, secretly
10 paying a lower wage scale, failing to pay all wages owed for nonproductive time, violating California’s
11 paid sick leave laws, failing to provide employees the opportunity to take all legally-compliant meal
12 and rest periods and pay associated premiums, failing to timely pay all wages during and upon
13 separation from employment, failing to provide accurate itemized wage statements, failing to maintain
14 records, and failing to reimburse all necessary business expenses.

15 2. For example, Defendants failed to pay Plaintiff and other aggrieved employees all
16 wages owed for the time they spent working off the clock, including completing online training
17 courses. Further, Defendants failed to pay Plaintiff and other aggrieved employees all overtime wages
18 owed and secretly paid them a lower wage rate than legally mandated because Defendants paid only
19 one-half (1/2) of aggrieved employees’ base wage instead of 1.5 times their regular rate of pay for
20 overtime purposes.

21 3. Plaintiff has been deputized by the state of California to seek civil penalties against
22 Defendants for the violations of the California Labor Code and IWC Wage Orders described above,
23 and hereby seeks all civil penalties available for the violations that he and other aggrieved employees
24 have suffered.

25 **JURISDICTION & VENUE**

26 4. Jurisdiction of this action is proper in this Court under Article VI, Section 10 of the
27 California Constitution as the causes of action are premised upon violations of California law.
28

5. The monetary damages and restitution sought exceed the minimal jurisdiction limits of the Superior Court.

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

7. Venue is proper in this Court under Code of Civil Procedure sections 393(a), 395, and/or 395.5 because, upon information and belief, Defendants conduct business and committed some of the alleged violations in this county.

PARTIES

A. Plaintiff Cesar Limon

8. Plaintiff Limon is an individual over 18 years of age who worked for Defendants in California as a non-exempt employee from about May 30, 2023 to October 2, 2023. Plaintiff worked as a Automotive Master Technician.

9. The State of California, via the Labor and Workforce Development Agency (“LWDA”), is the real party in interest in this action. (*Kim v. Reins Int’l California, Inc.* (2020) 9 Cal. 5th 73, 81 [The “government entity on whose behalf the plaintiff files suit is always the real party in interest.”])

B. Defendants

10. Defendant Sedano Lincoln of LM, Inc. is a California corporation that maintains operations and conducts business throughout the State of California, including in this county.

11. Defendant Sedano Ford of LM, Inc. is a California corporation that maintains operations and conducts business throughout the State of California, including in this county.

12. Defendant City Chevrolet of San Diego is a California corporation that maintains operations and conducts business throughout the State of California, including in this county.

13. Defendant Mission Bay Motors, Inc. is a California corporation that maintains operations and conducts business throughout the State of California, including in this county.

1 14. Defendant Circle Motors, Inc. is a California corporation that maintains operations and
2 conducts business throughout the State of California, including in this county.

3 15. Defendant Manuel Sedano, Jr. is an individual over the age 18 years of age.

4 16. Defendants own and operate a series of car dealerships in California, including San
5 Diego County.

6 17. The true names and capacities, whether individual, corporate, or otherwise, of the
7 parties sued as DOES 1 through 50, are presently unknown, unascertainable, or uncertain, and are sued
8 by such fictitious names under Code of Civil Procedure section 474. Upon information and belief,
9 each of DOES 1 through 50 constitutes a legal employer or is otherwise legally responsible in some
10 manner for the acts and omissions alleged herein. This Complaint may be amended to reflect their
11 true names and capacities once ascertained.

12 18. Upon information and belief, Defendants in this action are employers, co-employers,
13 joint employers, and/or part of an integrated employer enterprise, as each of the Defendants exercised
14 control over the wages, hours, and working conditions of the employees, suffered and permitted them
15 to work, and otherwise engaged them as employees under California law. All of the corporate
16 defendants are members of the "Sedano Automotive Group," an unincorporated entity owned and
17 operated by Defendant Manuel Sedano, Jr.. *See, e.g.,* the Sedano Automotive Group website at
18 <https://www.sedanoautogroup.com/>

19 19. Upon information and belief, at least some of the Defendants have common ownership,
20 common management, interrelationship of operations, and centralized control over labor relations and
21 are therefore part of an integrated enterprise and thus jointly and severally responsible for the acts and
22 omissions alleged herein, including pursuant to Labor Code sections 558, 558.1, and 1197.1.

23 20. Upon information and belief, Defendants acted in all respects pertinent to this action as
24 an alter-ego, agent, servant, joint employer, joint venturer, co-conspirator, partner, in an integrated
25 enterprise, or in some other capacity on behalf of all other co-defendants, such that the acts and
26 omissions of each defendant may be legally attributable to all others.

GENERAL ALLEGATIONS

21. Defendants failed to pay Plaintiff and the aggrieved employees at the lawful minimum wage rate for all hours worked, resulting in unpaid minimum wages.

22. For example, Defendants compelled Plaintiff and other aggrieved employees to complete online training courses to maintain certain certifications but did not pay them for the hours they spent completing the training courses. Plaintiff completed approximately six hours of online training off the clock through a program called STARS provided by Sedano Ford. Defendants failed to pay Plaintiff any wages for his time spent completing these courses.

23. When these Plaintiff and other aggrieved employees worked off the clock on days when they worked eight or more hours in a day and/or weeks when they worked forty or more hours in a week, Defendants also failed to pay all overtime wages owed.

24. Defendants systematically undercounted the number of hours that Plaintiff and other aggrieved employees worked and underpaid them as a result. For example, according to Plaintiff's timekeeping records for the pay period September 1, 2023 to September 15, 2023, Plaintiff recorded a total of 59.15 hours worked. *See Fig. 1 below.*

WEEKLY TIMESHEETS FOR COMP# 2											
PAGE 15 18 SEP 2023 SEDANO LINCOLN				DEPT = 500/550/600/650				FOR PERIODS 9./1./23 - 9.15.23			
CO#.	DEPT#	EMP#.	NAME.....	DATE....	CLOCK-IN	CLOCK-OUT	HRS..	REG...	O.T..	DT....	SICK. HOL.. VAC.. T
					TIMES	TIMES					
2	600803058	LIMON, CESAR	09/05/23	08:08AM	01:53PM	5.75	8.05				
				02:52PM*	05:10PM*	2.30					
2	600803058	LIMON, CESAR	09/06/23	08:20AM	01:38PM	5.30	7.83				
				02:42PM*	05:14PM*	2.53					
2	600803058	LIMON, CESAR	09/07/23	01:27PM*	04:51PM*	3.40	✓				
2	600803058	LIMON, CESAR	09/08/23	08:20AM	01:55PM	5.58	8.26				
				02:48PM*	05:29PM*	2.68					
2	600803058	LIMON, CESAR	09/11/23	08:09AM	01:12PM	5.05	8.07				
				02:12PM*	05:13PM*	3.02					
2	600803058	LIMON, CESAR	09/12/23	08:26AM	01:16PM	4.83	7.65				
				02:22PM*	05:11PM*	2.82					
2	600803058	LIMON, CESAR	09/13/23	08:07AM	12:15PM	4.13	7.96				
				01:08PM*	04:58PM*	3.83					
2	600803058	LIMON, CESAR	09/14/23	08:24AM	01:33PM	5.15	7.93				
				02:19PM*	05:06PM*	2.78					
2	600803058	LIMON, CESAR	TOTALS	*****	*****	59.15		0.00			
				**	*						

Fig. 1, Plaintiff's time records for Sept. 1-Sept. 15, 2023

25. However, Plaintiff's wage statement for that period reflects only payments for 26.21 hours. *Fig. 2 below.*

Company Code D47 GDU 26141239		Loc/Dept 01/600	Number 15129	Page 1 of 1	Earnings Statement		
Sedano Lincoln of LM 8850 Grossmont Blvd La Mesa, CA 91942					Period Starting: 09/01/2023 Period Ending: 09/15/2023 Pay Date: 09/22/2023		
					Business Phone: 619-464-1440		
					Cesar Limon 		

Earnings	<u>rate</u>	<u>hours/units</u>	<u>this period</u>	<u>year to date</u>	Other Benefits and Information	<u>this period</u>	<u>year to date</u>
Regular	33.0000	26.21	\$84.93	\$105.13	Total Hours Worked	26.21	245.61
Overtime		0.00	5.89	69.45			
Unapplied Time		0.00	956.94	8374.16			
Gross Pay			\$1,827.76	\$16,548.74			

Statutory Deductions	<u>this period</u>	<u>year to date</u>
Federal Income	-140.91	1430.24
Social Security	-113.32	1026.02
Medicare	-26.51	239.96
California State Income	0.00	0.00
California State DI	-16.45	148.94
Net Pay	\$1,530.57	

Important Notes	
Basis of pay: Hourly	

Fig. 2, Plaintiff's wage statement for Sept 1 – Sept 15, 2023.

26. Defendants also issued Plaintiff a "Technician Compensation Calculator" form for that period, which also fails to capture all of Plaintiff's hours. *See Fig. 3 below.*

TECHNICIAN COMPENSATION CALCULATOR

Name: CESAR LIMON

Date: 9/15/2023

SECTION 1 - BASE HOURLY WAGES FOR WEEK

A.	Base Hourly Rate:	\$ 31.00
B.	Total Non-Training Hours Worked for Week (including overtime):	58.77
C.	Total Training Hours Worked for Week (including overtime):	0.00
D.	Grand Total Hours Worked for Week (Including Overtime)	58.77
E.	Total Regular Overtime Hours Worked for Week:	0.38
F.	Total Double Time Hours Worked for Week:	0.00
G.	Total Rest and Recovery Break Hours (G1 + G2 + G3):	2.50
G1.	# DAYS 3.5 - 6 HOURS (1) x 10 ÷ 60 = 0.167	
G2.	# DAYS 6 - 10 HOURS (7) x 20 ÷ 60 = 2.333	
G3.	# DAYS 10 - 14 HOURS (0) x 30 ÷ 60 = 0.000	
I.	Regular Rate for Rest & Recovery Periods [(K + R) / (D - G)]:	\$ 31.00
J.	Total Pay for Rest & Recovery Breaks (G x I):	\$ 77.50
K.	Total Base Hourly Wages for Non-Rest/Recovery Breaks [A x (D - G)]:	\$ 1,744.37
L.	Total Base Hourly Wages for Week (J + K):	\$ 1,821.87

SECTION 2 - BONUSES

M.	Personal Flag Billing Rate:	\$ 33.00
N.	Total Flat Hours Flagged (Billed) for Week:	26.21
O.	Gross Personal Revenue (M x N):	\$ 864.93
P.	Personal Revenue Bonus: If O is greater than [K - (C x A)], then P is calculated as O - [K - (C x A)]. If O is less than [K - (C x A)], then P is zero	\$ -
Q.	Other Bonus:	\$ -
R.	Total Bonuses (Q + R):	\$ -

SECTION 3 - OVERTIME, VACATION PAY, & HOLIDAY PAY

Overtime						
S.	Blended Overtime Rate [(L + R) ÷ D]:	\$ 31.00				
T.	Blended Regular Overtime (S x 0.5 x E):	\$ 5.89				
U.	Blended Double Time (S x F):	\$ -				
Holiday / Vacation / Other Premiums						
V.	Holiday:	Rate: \$15.50	Hours: 0.00	\$ -		
W.	PTO / Vacation: / Sick:	Rate: \$33.00	Hours: 0.00	\$ -		
X.	Other Premiums:			\$ -		
Y.	Total Section 3 Payments (T + U + V + W + X):			\$ 5.89		

Z.	TOTAL WAGES (L + R + Y):	\$ 1,827.76
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Fig. 3, Plaintiff's Technician Compensation Calculator dated Sept 15, 2023

1 27. Column D supposedly lists the “Grand Total Hours Worked for Week (Including
2 Overtime)” but lists only 58.77 hours rather than the total of 59.15 hours that Plaintiff recorded.
3 Defendants went on to calculate Plaintiff’s “Total Base Hour Wages” based on the 58.77 figure,
4 thereby excluding 0.38 hours from Plaintiff’s base pay.

5 28. For the remaining 0.38 hours, Defendants purported to pay Plaintiff “overtime,” but
6 did so at only *half* of his base rate of \$31 per hour (*see* Column T in *Fig. 3 above*). Thus, Defendants
7 secretly paid Plaintiff only half of his base rate of pay for hours for which Plaintiff was owed 1.5 times
8 his regular rate of pay according to the terms of his employment and California law by obfuscating
9 their pay calculations in the Technician Compensation Calculator spreadsheet.

10 29. As such, Defendants not only secretly paid less than Plaintiff and other aggrieved
11 employees’ regular contractual wages, they also failed to pay all overtime wages owed.

12 30. Even though Plaintiff’s wage statement indicates that he was paid at \$33 per hour for
13 26.21 hours and the Technician Compensation Calculator suggests that his base rate of pay was \$31
14 per hour, Plaintiff only earned a total of \$1,827.76 for 59.15 hours, or \$30.90 per hour, a rate lower
15 than either his “Personal Flag Billing Rate” or his “Base Hourly Rate.”

16 31. Defendants failed to pay Plaintiff and other aggrieved employees at the proper rate for
17 rest and recovery periods because they paid for rest and recovery periods at employees’ base hourly
18 rate rather than their average hourly rate.

19 32. For example, Column I in *Fig. 3* shows that Defendants paid Plaintiff for rest and
20 recovery periods at his base rate of pay of \$31, even though his wage statement in *Fig. 2* and Column
21 M of *Fig. 3* state that Plaintiff earned \$33 per hour for 26.21 of his hours worked in that pay period.
22 As such, the proper regular rate of pay for Plaintiff’s rest and recovery periods should have included
23 Plaintiff’s “Personal Flag Billing Rate,” and not just his “Base Hourly Rate.”

24 33. Defendants failed to comply with California’s paid sick leave laws with respect to the
25 aggrieved employees. For example, during the course of his employment with Defendants, Plaintiff
26 requested three days of sick leave. However, Defendants did not pay Plaintiff any sick leave wages
27 for those days. The wage statement for Plaintiff’s final pay period shows that Plaintiff had accrued 40
28 hours of sick leave and was paid for 0 hours of sick time. *Fig. 4*.

Company Code Loc/Dept Number Page
047/GDU/26141239 01/600 15137 1 of 1
Sedano Lincoln of LM
8850 Grossmont Blvd.
La Mesa, CA 91942

Earnings Statement



Period Starting: 10/01/2023
Period Ending: 10/15/2023
Pay Date: 10/23/2023

Business Phone: 618-464-1440

Cesar Limon

Earnings	rate	hours/units	this period	year to date
Regular	33.0000	9.70	320.10	9557.13
Overtime			0.00	69.45
Unapplied Time		0.00	59.65	9741.61
Gross Pay			\$379.75	\$19,368.19
Statutory Deductions			this period	year to date
Federal Income			0.00	1644.59
Social Security			-23.55	1200.83
Medicare			-5.51	280.84
California State Income			0.00	0.00
California State DI			-3.42	174.32
Voluntary Deductions			this period	year to date
Employee Accounts			0.00	2016.76
Net Pay			\$347.27	

Other Benefits and Information	this period	year to date
Sick		
- Carry Over		0.00
- Accrued Hours	0.00	40.00
- Taken Hours	0.00	0.00
- Balance		40.00
Total Hours Worked	9.70	289.61

Important Notes
Basis of pay: Hourly

Fig. 4, Plaintiff's wage statement for Oct. 1 – Oct. 15, 2023.

34. Moreover, aside from Plaintiff's final two wage statements, Defendants failed to provide any written notice to Plaintiff of his accrued and available sick leave hours. For example, Plaintiff's wage statement in Fig. 2, above, provides no information about sick leave whatsoever.

35. To the extent that Defendants paid sick leave wages, they did so at the improper rate of pay as they failed to properly calculate the rate of pay based on all forms of qualifying compensation earned in the 90 days prior to taking sick leave.

36. Defendants failed to provide Plaintiff and other aggrieved employees with the opportunity to take full, timely, uninterrupted meal periods because of the pressure to complete work on the vehicles they were servicing. Defendants also failed to pay employees all meal period premiums owed when they could not take legally-compliant meal periods.

37. For example, Plaintiff's time records in Fig. 1 show that he was not able to take his meal period until after his fifth hour of work on five separate occasions between September 1, 2023 and September 15, 2023. Nevertheless, neither his wage statement nor the Technician Compensation Calculator for this period show any meal period premiums paid. See Figs. 2 and 3.

1 38. Plaintiff and other aggrieved employees were not provided the opportunity to take
2 timely, uninterrupted, off-duty rest periods because Defendants never explained or enforced any rest
3 period policy to them. Rather, Plaintiff and other aggrieved employees worked throughout their shifts
4 until they could clock out for meals or the end of their shifts. Even though the aggrieved employees
5 were not provided the opportunity to take legally-compliant rest periods, Defendant did not pay them
6 all rest period premiums owed.

7 39. To the extent that Defendants any meal and/or rest period premiums, they did so at the
8 improper rate of pay as they failed to properly calculate Plaintiff and other aggrieved employees'
9 regular rate of pay for the purposes of paying premiums.

10 40. Because Defendants failed to pay all wages and premiums in each pay period in which
11 such wages were earned at the lawful rate, Defendants violated Labor Code section 204 and/or 204b
12 (for weekly employees, as applicable). Defendants violated Labor Code sections 204 and 204b by
13 failing to pay all wages and premiums owed on the regular pay days scheduled each pay period within
14 seven calendar days of the close of the payroll period, as a result of the policies and practices set forth
15 in this complaint. As described above, Defendants failed to pay Plaintiff and other aggrieved
16 employees for the time they worked off the clock, failed them all wages at their proper rate of pay,
17 including regular and overtime wages, and failed to pay all premiums owed. As such, they failed to
18 comply with the requirements set forth in Section 204 to timely pay all wages owed.

19 41. Defendants also failed to timely pay aggrieved employees all of their wages upon
20 separation of employment, thus triggering waiting time penalties under Labor Code section 203.
21 However, Defendants have not paid all waiting time penalties owed.

22 42. For example, Plaintiff has still yet to be paid all payments owed to him several months
23 after he was terminated from employment. Moreover, Plaintiff did not receive his final paycheck until
24 a month after termination and has not been paid any waiting time penalties. As such, Defendants failed
25 to comply with the requirements set forth in Section 201 to timely pay all wages owed upon separation
26 of employment.

27 43. Defendants failed to provide accurate itemized wage statements to the aggrieved
28 employees each pay period because of the policies and practices set forth in this complaint.

1 Defendants violated Labor Code section 226(a)(1) and (5) by not listing the correct “gross wages
2 earned” or “net wages earned,” as the employees earned wages and premiums that were not paid,
3 resulting in an inaccurate reflection, and recording of “gross wages earned” on those wage statements.
4 Likewise, in violation of Labor Code section 226(a)(9), Defendants failed to state on employee wage
5 statements each pay period the applicable hourly rates in effect and the number of hours worked at
6 that rate, as Defendants failed to pay all wages and premiums owed to employees. The amounts stated
7 are instead depreciated and underpaid, resulting in an inaccurate reflection on the pay stub.

8 44. For example, as demonstrated in *Fig. 2* above, the wage statements that Defendant
9 issued to Plaintiff do not list his actual rates of pay, his hours worked at each rate of pay or his total
10 hours worked, or any meal and rest period premiums owed. In fact, Plaintiff’s wage statements only
11 serve to confuse and obfuscate the methods through which Defendants calculated Plaintiff’s pay.

12 45. Plaintiff and other aggrieved employees cannot promptly and easily determine from the
13 wage statements alone the wages paid or earned without reference to other documents or information.
14 Indeed, these wage statement violations are significant because they sow confusion among Plaintiff
15 and other aggrieved employees with respect to what amounts were owed and paid, at what rates, the
16 number of hours worked, and how those amounts were or should be calculated. The wage statements
17 reflect a false statement of earnings and concealed the underlying problems and underpayments of
18 employee wages.

19 46. Defendants required Plaintiff and other aggrieved employees to incur costs for work-
20 related purposes without full reimbursement. In direct consequence of their job duties, Plaintiff and
21 other aggrieved employees unavoidably and necessarily incurred these losses, expenditures, costs, and
22 as a matter of policy and practice.

23 47. As described above, Defendants required the aggrieved employees to complete online
24 training courses off the clock. The aggrieved employees had to use their own personal devices to
25 complete these courses. Moreover, Plaintiff and other aggrieved employees had to use their personal
26 cell phones to communicate with managers and service advisors about work.

27 48. Nevertheless, Defendants failed to reimburse Plaintiff and other aggrieved employees
28 any computer or cell phone expenses that they incurred in the discharge of their duties.

49. Because of the policies and practices set forth in this notice, including the failure to accurately account for wages earned or hours worked, Defendants failed to accurately maintain records in accordance with Labor Code section 1174 and the IWC Wage Orders.

FIRST CAUSE OF ACTION

CIVIL PENALTIES UNDER THE PRIVATE ATTORNEYS GENERAL ACT

Violation of Labor Code §§ 2698 *et seq.*

(By Plaintiff on Behalf of the State and the Aggrieved Employees Against All Defendants)

50. All outside paragraphs of this Complaint are incorporated into this section.

51. Plaintiff brings this cause of action as a proxy for the State of California on behalf of the following “aggrieved employees” pursuant to the Private Attorneys General Act (“PAGA”), codified as Labor Code section 2698 *et seq.*:

a. All current and former non-exempt employees who worked for Defendants in California at any time from one year prior to the postmark date of the initial PAGA notice through date of trial.

52. Plaintiff reserves the right to amend, supplement, or add to this description of the aggrieved employees, according to proof.

53. The State of California, via the Labor and Workforce Development Agency (“LWDA”), is the real party in interest in this action with respect to this cause of action. (*Kim v. Reins Int’l California, Inc.* (2020) 9 Cal. 5th 73, 81 [The “government entity on whose behalf the plaintiff files suit is always the real party in interest.”])

54. Labor Code section 2699(a) provides: “Notwithstanding any other provision of law,, any provision of this code that provides for a civil penalty to be assessed and collected by the Labor and Workforce Development Agency or any of its departments, divisions, commissions, boards, agencies, or employees, for a violation of this 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 Section 2699.3. “

55. Labor Code section 2699(f) provides: “For all provisions of this code except those for which a civil penalty is specifically provided, there is established a civil penalty for a violation of these

provisions, as follows: ... (2) If, at the time of the alleged violation, the person employs one or more employees, the civil penalty is one hundred dollars (\$100) for each aggrieved employee per pay period for the initial violation and two hundred dollars (\$200) for each aggrieved employee per pay period for each subsequent violation.”

56. Any allegations regarding violations of the IWC Wage Orders are enforceable as violations of Labor Code section 1198, which states: “[t]he employment of any employee for longer hours than those fixed by the order or under conditions of labor prohibited by the order is unlawful.”

57. Labor Code section 2699.3 sets forth the procedure for commencing an action for civil penalties under the PAGA.

58. On or about February 8, 2024, Plaintiff paid the requisite PAGA filing fee and provided written notice to the LWDA of Defendants’ alleged Labor Code violations, including the facts and theories to support the alleged violations by online electronic filing. Plaintiff then served a copy via certified mail to Defendants Sedano Lincoln of LM, Inc., Sedano Ford of LM, Inc., and Manuel Sedano, Jr. on February 12, 2024.

59. A true and correct copy of Plaintiff’s written PAGA notice, entitled “Notice of Labor Code Violations,” and certified mail receipts are attached hereto as Exhibit 1 and incorporated by reference as though fully set forth herein (the “PAGA notice”).

60. On or about February 12, 2024, Plaintiff filed a PAGA Notice Amendment naming City Chevrolet of San Diego, Mission Bay Motors, Inc., and Circle Motors, Inc. as additional defendants, and served the same via certified mail on February 16, 2024 on all named Defendants along with the original PAGA Notice.

61. A true and correct copy of Plaintiff’s PAGA Notice Amendment letter and certified mail receipts are attached hereto as Exhibit 2.

62. To date, neither Plaintiff nor Plaintiff’s counsel has received a response to Plaintiff’s written PAGA notice from the LWDA.

63. Within 33 calendar days of the postmark date of the notice sent by Plaintiff, neither Plaintiff nor Plaintiff’s counsel has received written notice by certified mail from any defendant providing a description of any actions taken to cure the alleged violations.

64. Now that at least 65 days have passed from Plaintiff notifying Defendants of these violations, without notice of cure from Defendants or notice from the LWDA of its intent to investigate the alleged allegations and issue the appropriate citations to Defendants, Plaintiff exhausted all prerequisites and commenced this civil action under Labor Code section 2699 *et seq.*

65. As set forth in the PAGA notice attached as Exhibit 1 and incorporated into this Complaint, Defendants committed the following violations and are liable for all corresponding civil penalties:

- a. ***Unpaid Hours Worked/Minimum Wage.*** Violation of Labor Code §§ 1194, 1197, 1198; IWC Wage Orders.
- b. ***Secretly Paying a Lower Wage.*** Violation of Labor Code § 223.
- c. ***Unpaid Hours Worked/Non-Productive, Rest, and Recovery Periods.*** Violation of Labor Code §§ 226.2; IWC Wage Orders.
- d. ***Unpaid Overtime.*** Violation of Labor Code §§ 510, 1194, 1198; IWC Wage Orders.
- e. ***Unpaid Paid Sick Leave.*** Violation of Labor Code §§ 246 through 248.7.
- f. ***Unpaid Meal Period Premium Wages.*** Violation of Labor Code §§ 226.7, 512, 1198; IWC Wage Orders.
- g. ***Unpaid Rest Period Premium Wages.*** Violation of Labor Code §§ 226.7, 516, 1198; IWC Wage Orders.
- h. ***Untimely Payment of Wages During Employment.*** Violation of Labor Code §§ 204, 204b, 210.
- i. ***Untimely Payment of Wages Upon Separation of Employment.*** Violation of Labor Code §§ 201, 202, 203, 256.
- j. ***Non-Compliant Wage Statements.*** Violation of Labor Code §§ 226, 226.3.
- k. ***Unreimbursed Employee Expenses.*** Violation of Labor Code §§ 2802, 2804.
- l. ***Failure to Maintain Accurate Records.*** Violation of Labor Code § 1174; IWC Wage Orders.

66. Plaintiff seeks to collect all recoverable civil penalties for the Labor Code violations alleged in this Complaint and the PAGA notice (including amendments thereto) against Defendants pursuant to Labor Code section 2699(a) and (f), in addition to attorneys' fees, costs, and interest to the extent permitted by law, including under Labor Code section 2699(g).

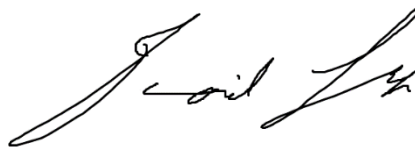
PRAYER

Plaintiff prays for judgment as follows:

- a. For recovery of damages in amount according to proof;
- b. For all recoverable pre- and post-judgment interest;
- c. For this action to be maintained as a representative action under the PAGA;
- d. For Plaintiff and counsel of record to be provided with all enforcement capability as if the action were brought by the State of California or the California Division of Labor Enforcement;
- e. For recovery of all civil penalties and other recoverable amounts under the PAGA;
- f. For reasonable attorneys' fees and costs of suit, including expert fees, to the extent permitted by law, including (without limitation) under Labor Code § 2699, and Code of Civil Procedure section 1021.5; and
- g. For such other relief the Court deems just and proper.

Dated: April 17, 2024

Ferraro Vega Employment Lawyers, Inc.



David X. Lin
Attorneys for Plaintiff Cesar Limon

EXHIBIT 1

Notice of Labor Code Violations

FERRARO VEGA

SAN DIEGO EMPLOYMENT LAWYERS

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ATTORNEYS AT LAW
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619-350-6855 fax
ferrarovega.com

February 8, 2024

NOTICE OF LABOR CODE VIOLATIONS CALIFORNIA LABOR CODE SECTIONS 2698 *et seq.*

VIA CERTIFIED U.S. MAIL
- Electronic Return Receipt -

Sedano Lincoln of LM, Inc.
c/o Edward J. Siegler
Agent for Service of Process
16633 Ventura Blvd. Ste 900
Encino, CA 91436

- PAGA Notice & Filing Fee -
Submitted electronically to the Labor and
Workforce Development Agency

Additional Addressees Listed on Last Page

Dear LWDA Officer and Company Representatives:

This letter serves as written notice under Labor Code section 2699.3 on behalf of **CESAR LIMON** (“Plaintiff(s)”) and all other “aggrieved employees” of the following “Defendant(s)”:

SEDANO LINCOLN OF LM, INC.;
SEDANO FORD OF LM, INC.;
SEDANO AUTOMOTIVE GROUP, INC.;
MANUEL SEDANO, JR.

Defendant(s) shall mean and include the foregoing in addition to any other related employer entities, individuals under Labor Code sections 558 and 558.1, and all others who may be later added upon further investigation and discovery as liable employers.

This office serves as legal counsel for Plaintiff. If the California Labor and Workforce Development Agency (“LWDA”) does not investigate the facts, allegations, and violations set forth in this notice within the statutorily prescribed 65-day period under Labor Code section 2699.3, Plaintiff intends to commence a civil action against Defendants as a proxy and agent of the State of California under the Private Attorneys General Act (“PAGA”). “PAGA allows an ‘aggrieved employee’—a person affected by at least one Labor Code violation committed by an employer—to pursue penalties for all the Labor Code violations committed by that

employer.” *Huff v. Securitas Security Services USA, Inc.* (2018) 23 Cal. App. 5th 745, 751; *Kim v. Reins International California, Inc.* (2020) 9 Cal. 73, 79. Plaintiff maintains standing to pursue these claims against Defendants, as Plaintiff experienced one or more of the alleged violations during the relevant statutory period, which continue through the present date. *Cf. Johnson v. Maxim Healthcare Servs., Inc.*, 281 Cal. Rptr. 3d 478, 481 (Cal. Ct. App. 2021).

Through this notice, Plaintiff requests that Defendants complete an internal investigation and audit of the wage and hour and employment practices at issue and make a good faith effort to correct any violations. Plaintiff attempts to identify the non-compliant policies and practices affecting the aggrieved employees so that the parties may resolve the underlying damages and penalties in judgment or settlement approved by the Superior Court of California under Labor Code section 2699(k). Defendants are notified that any attempt to resolve this case should be conducted in coordination with Plaintiff’s counsel to protect the interests of Plaintiff, the aggrieved employees, and the State of California via the LWDA. Plaintiff advises Defendants this letter should be also considered a reasonable attempt at settlement of this matter, subject to an exchange of additional documents and information. *Graham v. Daimler Chrysler Corp.* (2004) 24 Cal. 4th 553, 561.

- BACKGROUND -

Defendants own and operate car dealerships in California. Defendants employed Plaintiff during the PAGA Period in the position of Automotive Master Technician from about May 30, 2023 to October 2, 2023. During their employment Plaintiff and the other aggrieved employees were subject to the wage and hour and employment protections set forth in the California Labor Code and IWC Wage Orders.

Through this notice, Plaintiff informs the LWDA of the Labor Code violations set forth herein. The “aggrieved employees” include Plaintiff and the following individuals:

All current and former non-exempt employees who worked for Defendants in the State of California during one-year period preceding the date of this notice through the current date and the date of trial in any pending action (the “aggrieved employees” and the “PAGA Period”).

Plaintiff reserves the right to expand or narrow the definition of the “aggrieved employees” in the forthcoming civil action. Furthermore, Plaintiff seeks all recoverable civil penalties for Defendants’ violations and reserves the right to supplement this notice as further investigation is completed and further facts, witnesses, and violations are uncovered.

- PAGA CLAIMS -

Unpaid Hours Worked/Minimum aWage **Violation of Labor Code §§ 1194, 1197, 1198; IWC Wage Orders**

Defendants violated Labor Code sections 1194, 1197, and 1198, along with the California Minimum Wage Order, the applicable local minimum wage ordinances, and the “Hours and Days of Work” and “Minimum Wages” sections of the applicable IWC Wage Orders with respect to the aggrieved employees.

Labor Code section 1194 renders it unlawful for an employee to receive less than the legal minimum wage for hours worked in California. Labor Code section 1197 further mandates that “[t]he minimum wage for employees fixed by the commission is the minimum wage to be paid to employees, and the payment of a lower wage than the minimum so fixed is unlawful.” Labor Code section 1198 renders “employment of any employee for longer hours than those fixed by the order or under conditions of labor prohibited by the [IWC Wage Orders]” unlawful. The California Minimum Wage Order and the applicable sections of the IWC Wage Orders further require payment of minimum wages for all hours worked. The “Minimum Wages” sections of the applicable IWC Wage Order provide that “[e]very employer shall pay to each employee, on the established payday for the period involved, not less than the applicable minimum wage for all hours worked in the payroll period, whether the remuneration is measured by time, piece, commission, or otherwise.” The foregoing California wage laws require payment of “not less than the applicable minimum wage *for all hours worked* in the payroll period” and California law does not allow averaging of pay over the hours worked in the pay period, even if the total pay results in an average above the minimum wage. *Armenta v. Osmose, Inc.* (2005) 135 Cal. App. 3d 314, 324.

Defendants failed to pay Plaintiff and the aggrieved employees at the lawful minimum wage rate for all hours worked, resulting in unpaid minimum wages. Defendants compelled Plaintiff and other aggrieved employees to complete online training courses to maintain certain certifications but did not pay them for the hours they spent completing the training courses. Plaintiff completed approximately six hours of online training off the clock through program called STARS provided by Sedano Ford. Defendants failed to pay Plaintiff any wages for his time spent completing these courses.

As a result, Plaintiff may recover civil penalties as an individual and on behalf of the State of California and the aggrieved employees, as provided under Labor Code sections 558 (\$50/\$100), 1197.1 (\$100/\$250), 1199 / “Penalties” section of the IWC Wage Orders (\$50/\$100), and 2699 (\$100/\$200) per violation per pay period per employee, along with all other civil penalties permitted by law.

Secretly Paying a Lower Wage
Violation of Labor Code § 223

Labor Code section 223 renders it unlawful to secretly pay a lower wage while purporting to pay the wage designated by statute or contract. Defendants systematically undercounted the number of hours that Plaintiff and other aggrieved employees worked, and underpaid them as a result. For example, according to Plaintiff's timekeeping records for the pay period September 1, 2023 to September 15, 2023, Plaintiff recorded a total of 59.15 hours worked. See Fig. 1 below.

```
WEEKLY TIMESHEETS FOR COMP# 2
PAGE 15 18 SEP 2023 SEDANO LINCOLN DEPT = 500/550/600/650 FOR PERIODS 9./1./23 - 9.15.23
CO#. DEPT# EMP#. NAME..... DATE.... CLOCK-IN CLOCK-OUT HRS.. REG... O.T... DT.... SICK. HOL.. VAC.. T
      TIMES      TIMES
2    600803058 LIMON, CESAR 09/05/23 08:08AM 01:53PM 5.75 8.05
      02:52PM* 05:10PM* 2.30
2    600803058 LIMON, CESAR 09/06/23 08:20AM 01:38PM 5.30 7.83
      02:42PM* 05:14PM* 2.53
2    600803058 LIMON, CESAR 09/07/23 01:27PM* 04:51PM* 3.40 ✓
2    600803058 LIMON, CESAR 09/08/23 08:20AM 01:55PM 5.58 8.26
      02:48PM* 05:29PM* 2.68
2    600803058 LIMON, CESAR 09/11/23 08:09AM 01:12PM 5.05 8.07
      02:12PM* 05:13PM* 3.02
2    600803058 LIMON, CESAR 09/12/23 08:26AM 01:16PM 4.83 7.65
      02:22PM* 05:11PM* 2.82
2    600803058 LIMON, CESAR 09/13/23 08:07AM 12:15PM 4.13 7.96
      01:08PM* 04:58PM* 3.83
2    600803058 LIMON, CESAR 09/14/23 08:24AM 01:33PM 5.15 7.93
      02:19PM* 05:06PM* 2.78
2    600803058 LIMON, CESAR TOTALS ***** ***** 59.15 0.00
      ** *

```

Fig. 1, time records for Sept. 1-Sept. 15, 2023

However, Plaintiff's wage statement for that period reflects only payments for 26.21 hours. Fig. 2 below.

Company Code Loc/Dept Number Page
D47300 26141239 01A600 15129 1 of 1
Sedano Lincoln of LM
8850 Grossmont Blvd
La Mesa, CA 91942

Earnings Statement



Period Starting: 09/01/2023
Period Ending: 09/15/2023
Pay Date: 09/22/2023

Business Phone: 619-464-1440

Cesar Limon

Earnings	rate	hours/units	this period	year to date
Regular	33.0000	26.21	\$64.93	8105.13
Overtime		0.00	5.89	69.45
Unapplied Time		0.00	956.94	8374.16
Gross Pay			\$1,827.76	\$16,548.74

Other Benefits and Information	this period	year to date
Total Hours Worked	26.21	245.61

Important Notes

Basis of pay: Hourly

Statutory Deductions	this period	year to date
Federal Income	-140.91	1430.24
Social Security	-113.32	1026.02
Medicare	-26.51	239.96
California State Income	0.00	0.00
California State DI	-16.45	148.94
Net Pay		\$1,530.57

Fig. 2, wage statement for Sept 1 – Sept 15, 2023

Defendants also issued Plaintiff a “Technician Compensation Calculator” for that period, which also fails to capture all of Plaintiff’s hours. See Fig. 3 below.

TECHNICIAN COMPENSATION CALCULATOR

Name: CESAR LIMON

Date: 9/15/2023

SECTION 1 - BASE HOURLY WAGES FOR WEEK		
A.	Base Hourly Rate:	\$ 31.00
B.	Total Non-Training Hours Worked for Week (including overtime):	58.77
C.	Total Training Hours Worked for Week (including overtime):	0.00
D.	Grand Total Hours Worked for Week (Including Overtime)	58.77
E.	Total Regular Overtime Hours Worked for Week:	0.38
F.	Total Double Time Hours Worked for Week:	0.00
G.	Total Rest and Recovery Break Hours (G1 + G2 + G3):	2.50
G1.	# DAYS 3.5 - 6 HOURS (1) x 10 ÷ 60 = 0.167	
G2.	# DAYS 6 - 10 HOURS (7) x 20 ÷ 60 = 2.333	
G3.	# DAYS 10 - 14 HOURS (0) x 30 ÷ 60 = 0.000	
I.	Regular Rate for Rest & Recovery Periods [(K + R) / (D - G)]:	\$ 31.00
J.	Total Pay for Rest & Recovery Breaks (G x I):	\$ 77.50
K.	Total Base Hourly Wages for Non-Rest/Recovery Breaks [A x (D - G)]:	\$ 1,744.37
L.	Total Base Hourly Wages for Week (J + K):	\$ 1,821.87

SECTION 2 - BONUSES		
M.	Personal Flag Billing Rate:	\$ 33.00
N.	Total Flat Hours Flagged (Billed) for Week:	26.21
O.	Gross Personal Revenue (M x N):	\$ 864.93
P.	Personal Revenue Bonus: If O is greater than [K - (C x A)], then P is calculated as O - [K - (C x A)]. If O is less than [K - (C x A)], then P is zero	\$ -
Q.	Other Bonus:	\$ -
R.	Total Bonuses (Q + R):	\$ -

SECTION 3 - OVERTIME, VACATION PAY, & HOLIDAY PAY						
Overtime						
S.	Blended Overtime Rate [(L + R) ÷ D]:				\$	31.00
T.	Blended Regular Overtime (S x 0.5 x E):				\$	5.89
U.	Blended Double Time (S x F):				\$	-
Holiday / Vacation / Other Premiums						
V.	Holiday:	Rate:	\$15.50	Hours:	0.00	\$ -
W.	PTO / Vacation: / Sick:	Rate:	\$33.00	Hours:	0.00	\$ -
X.	Other Premiums:				\$	-
Y.	Total Section 3 Payments (T + U + V + W + X):				\$	5.89

Z.	TOTAL WAGES (L + R + Y):	\$ 1,827.76
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Fig. 3, Technician Compensation Calculator dated Sept 15, 2023

Column D supposedly lists the “Grand Total Hours Worked for Week (Including Overtime)” but lists only 58.77 hours rather than the total of 59.15 hours that Plaintiff recorded. Defendants went on to calculate Plaintiff’s “Total Base Hour Wages” based on the 58.77 figure, thereby excluding 0.38 hours from Plaintiff’s base pay.

For the remaining 0.38 hours, Defendants purported to pay him “overtime,” but did so at only *half* of his base rate of \$31 per hour (*see* Column T in *Fig. 3 above*). Thus, Defendants secretly paid Plaintiff only half of his base rate of pay for hours for which Plaintiff was owed 1.5 times his regular rate of pay according to the terms of his employment and California law by obfuscating their pay calculations in the Technician Compensation Calculator spreadsheet.

Even though Plaintiff’s wage statement indicates that he was paid at \$33 per hour for 26.21 hours and the Technician Compensation Calculator suggests that his base rate of pay was \$31 per hour, Plaintiff only earned a total of \$1,827.76 for 59.15 hours, or \$30.90 per hour, a rate lower than either his “Personal Flag Billing Rate” or his “Base Hourly Rate.”

As a result, Plaintiff may recover civil penalties as an individual and on behalf of the State of California and the aggrieved employees, as provided under Labor Code sections 558 (\$50/\$100), 1197.1 (\$100/\$250), 1199 / “Penalties” section of the IWC Wage Orders (\$50/\$100), and 2699 (\$100/\$200) per violation per pay period per employee, along with all other civil penalties permitted by law.

Unpaid Hours Worked/Non-Productive, Rest, and Recovery Periods
Violation of Labor Code §§ 226.2; IWC Wage Orders

In addition to the foregoing unpaid wage violations, Defendants also violated Labor Code sections 226.2 and the “Hours and Days of Work,” “Minimum Wages,” and “Rest Periods” sections of the applicable IWC Wage Orders with respect to the aggrieved employees.

Labor Code section 226.2(a)(1) also requires employers to compensate employees for “rest and recovery periods and other non-productive time spent separate from any piece rate compensation.” Under Labor Code section 226.2(a)(3), rest and recovery periods must be paid at an hourly rate that is no less than the higher of (i) an average hourly rate taken by dividing an employee’s total compensation for the workweek (exclusive of overtime and rest and recovery compensation) by the employee’s total hours worked and (ii) the applicable minimum wage. Under Labor Code section 226.2(a)(4), other nonproductive time must be paid at an hourly rate that is no less than the applicable minimum wage.

Furthermore, the “Hours and Days of Work,” “Minimum Wages,” and “Rest Periods” sections of the applicable IWC Wage Orders—as addressed in *Vaquero v. Stoneledge Furniture, LLC* (2017) 9 Cal. App. 5th 98—require employers to separately compensate all employees, not just piece-rate employees, for all hours worked, including rest periods and nonproductive time, to comply with California’s minimum wage obligations.

Here, Defendants failed to pay Plaintiff and other aggrieved employees at the proper rate for rest and recovery periods because they paid for rest and recovery periods at employees' base hourly rate rather than their average hourly rate. For example, Column I in *Fig. 3* shows that Defendants paid Plaintiff for rest and recovery periods at his base rate of pay of \$31, even though his wage statement in *Fig. 2* and Column M of *Fig. 3* state that Plaintiff earned \$33 per hour for 26.21 of his hours worked in that pay period.

As a result, Plaintiff may recover civil penalties as an individual and on behalf of the State of California and the aggrieved employees, as provided under Labor Code sections 558 (\$50/\$100), 1197.1 (\$100/\$250), 1199 / "Penalties" section of the IWC Wage Orders) (\$50/\$100), and 2699 (\$100/\$200) per violation per pay period per employee, along with all other civil penalties permitted by law.

Unpaid Overtime **Violation of Labor Code §§ 510, 1194, 1198; IWC Wage Orders**

Defendants violated Labor Code sections 510, 1194, and 1198, along with the "Hours and Days of Work" sections of the applicable IWC Wage Orders with respect to the aggrieved employees.

Labor Code section 510 requires "[a]ny work in excess of eight hours in one workday and any work in excess of 40 hours in any one workweek and the first eight hours worked on the seventh day of work in any one workweek shall be compensated at the rate of no less than one and one-half times the regular rate of pay for an employee;" and "any work in excess of 12 hours in one day shall be compensated at the rate of no less than twice the regular rate of pay for an employee;" and "any work in excess of eight hours on any seventh day of a workweek shall be compensated at the rate of no less than twice the regular rate of pay of an employee." Labor Code section 1194 renders it unlawful for an employee to receive less than the legal overtime rate for overtime hours worked in California. Labor Code section 1198 renders "employment of any employee for longer hours than those fixed by the order or under conditions of labor prohibited by the [IWC Wage Orders]" unlawful. The IWC Wage Orders further require payment of overtime wages for all overtime hours worked, including the "Hours and Days of Work" sections.

Defendants failed to pay Plaintiff and the aggrieved employees overtime wages and the lawful rate of pay for overtime hours worked, resulting in unpaid overtime wages. As described above, Defendants failed to pay Plaintiff and the aggrieved employees all overtime wages owed because they failed to pay for the time employees spent completing online training course and when they did pay overtime wages, they did so at only one half of employees' base rate rather than 1.5 times the proper regular rate of pay.

As a result, Plaintiff may recover civil penalties as an individual and on behalf of the State of California and the aggrieved employees, as provided under Labor Code sections 558 (\$50/\$100), 1199 / "Penalties" section of the IWC Wage Orders) (\$50/\$100), and 2699

(\$100/\$200) per violation per pay period per employee, along with all other civil penalties permitted by law.

Unpaid Paid Sick Leave
Violation of Labor Code §§ 246 through 248.7

Defendants violated Labor Code sections 246 through 248.7 with respect to the aggrieved employees.

Labor Code section 246 requires employers to provide paid sick leave to its workforce on the terms set forth in the statute. Employers must comply with the accrual, use, and notice provisions of Labor Code sections 246, 246.5, 247, and must further ensure that they maintain the paid sick leave records required by Labor Code section 247.5. Employers have the option of providing 24 hours of paid sick leave to employees or to allow employees to accrue paid sick leave each pay period. If an employer chooses the accrual method, employees must accrue sick leave at a rate of one hour for every thirty hours worked in a given pay period as set forth in Labor Code section 246(b)(1). Under the accrual method, employees must begin accruing paid sick leave at the commencement of employment.

Employers must pay sick leave in accordance with one of the three permissible methods provided in Labor Code section 246(l): (1) “the same manner as the regular rate of pay for the workweek;” (2) “by dividing the employee’s total wages, not including overtime premium pay, by the employee’s total hours worked in the full pay periods of the prior 90 days;” or (3) “for exempt employee ... in the same manner as the employer calculates wages for other forms of paid leave time.” Labor Code sections 248.6 and 248.7 similarly require paid sick leave to be paid at a regular rate-based calculation in excess of the base hourly rate and at the lawful accrual rate.

Under Labor Code section 246(i), employers must provide employees “with written notice of the amount of paid sick leave available ... for use on either the employee’s itemized wage statement ... or in a separate writing provided on the designated pay date with the employee’s payment of wages.”

Defendants failed to comply with California’s paid sick leave laws with respect to the aggrieved employees. During the course of his employment with Defendants, Plaintiff requested three days of sick leave. However, Defendants did not pay Plaintiff any sick leave pay for those days. The wage statement for Plaintiff’s final pay period shows that Plaintiff had accrued 40 hours of sick leave and was paid for 0 hours of sick time. *Fig. 4.*

Company Code

D47/GDU 26141239

Loc/Dept

01/600

Number

15137

Page

1 of 1

Sedano Lincoln of LM

8850 Grossmont Blvd

La Mesa, CA 91942

Earnings Statement

Period Starting:

10/01/2023

Period Ending:

10/15/2023

Pay Date:

10/23/2023

Business Phone:

619-464-1440

Cesar Limon

Earnings

rate

hours/units

this period

year to date

Regular

33.0000

9.70

320.10

9557.13

Overtime

0.00

69.45

Unapplied Time

0.00

59.65

9741.61

Gross Pay

\$379.75

\$19,368.19

Statutory Deductions

this period

year to date

Federal Income

0.00

1644.59

Social Security

-23.55

1200.83

Medicare

-5.51

280.84

California State Income

0.00

0.00

California State DI

-3.42

174.32

Voluntary Deductions

this period

year to date

Employee Accounts

0.00

2016.76

Net Pay

\$347.27

Other Benefits and Information

this period

year to date

Sick

- Carry Over

0.00

- Accrued Hours

0.00

40.00

- Taken Hours

0.00

0.00

- Balance

40.00

Total Hours Worked

9.70

289.61

Important Notes

Basis of pay: Hourly

226.7(c), like “regular rate of pay” under section 510(a), encompasses all nondiscretionary payments, not just hourly wages”). “[T]ime records showing noncompliant meal periods raise a rebuttable presumption of meal period violations, including at the summary judgment stage.” *Donohue v. AMN Services, LLC* (2021) 11 Cal. 5th 58, 61. Labor Code section 1198 renders “employment of any employee for longer hours than those fixed by the order or under conditions of labor prohibited by the [IWC Wage Orders]” unlawful. The IWC Wage Orders, including Section 11 (Meal Periods), further require one uninterrupted 30-minute meal period after no more than five hours of work and a second meal period after no more than 10 hours of work and an additional hour of pay at the employee’s regular rate of compensation for each workday that a compliant meal period is not provided. Pursuant to Section 11(A) of the IWC Wage Orders, the California Supreme Court has held that the on-duty meal period exception is “exceedingly narrow” and applies only when (1) “the nature of the work prevents the employee from being relieved of all duty” and (2) *both* “the employer and employee have agreed, in writing, to the on-duty meal period.” *Augustus v. AMB Security Services, Inc.* (2016) 2 Cal. 5th 257, 266-276 (emphasis added). If these two requirements are not met, then the employer owes the employee one hour of premium pay for each non-compliant meal period taken under the purported on-duty meal arrangement. *Naranjo v. Spectrum Security Services, Inc.* (2019) 40 Cal. 5th 444, 459.

Defendants failed to provide Plaintiff and other aggrieved employees with the opportunity to take full, timely, uninterrupted meal periods because of the pressure to complete work on the vehicles they were servicing. However, Defendants failed to pay employees all meal period premiums owed when they could not take legally-compliant meal periods. For example, Plaintiff’s time records in *Fig. 1* show that he was not able to take his meal period until after his fifth hour of work on five separate occasions between September 1, 2023 and September 15, 2023. Nevertheless, neither his wage statement nor the Technician Compensation Calculator for this period show any meal period premiums paid. *See Figs. 2 and 3.*

As a result, Plaintiff may recover civil penalties as an individual and on behalf of the State of California and the aggrieved employees as provided under Labor Code section 2699 (\$100/\$200) per violation per pay period per employee, along with all other civil penalties permitted by law.

Unpaid Rest Period Premium Wages **Violation of Labor Code §§ 226.7, 516, 1198; IWC Wage Orders**

Defendants violated Labor Code sections 226.7, 516, and 1198, and the related sections of the IWC Wage Orders with respect to Plaintiff and the aggrieved employees.

Labor Code sections 226.7 and 516 and the IWC Wage Orders require that employers authorize and permit an uninterrupted 10-minute rest period for each four-hour period (or major fraction thereof) that an employee works. Labor Code section 226.7 requires that if a rest period is non-compliant, the employer must pay one additional hour of pay at the employee’s “regular rate” of compensation. *Ferra v. Loews Hollywood Hotel, LLC* (2021) 11 Cal.

5th 858, 862 (“We hold that the terms are synonymous: “regular rate of compensation” under section 226.7(c), like “regular rate of pay” under section 510(a), encompasses all nondiscretionary payments, not just hourly wages”). Labor Code section 1198 renders “employment of any employee for longer hours than those fixed by the order or under conditions of labor prohibited by the [IWC Wage Orders]” unlawful. The IWC Wage Orders, including Section 12 (Rest Periods), further require one uninterrupted 10-minute rest period for each four-hour period (or major fraction thereof) worked and an additional hour of pay at the employee’s regular rate of compensation for each workday that a compliant rest period is not authorized or permitted.

Plaintiff and other aggrieved employees were not provided the opportunity to take timely, uninterrupted, off-duty rest periods because Defendants never explained or enforced any rest period policy to them. Rather, Plaintiff and other aggrieved employees worked throughout their shifts until they could clock out for meals or the end of their shifts. Even though the aggrieved employees were not provided the opportunity to take legally-compliant rest periods, Defendant did not pay them all rest period premiums owed.

As a result, Plaintiff may recover civil penalties as an individual and on behalf of the State of California and the aggrieved employees, as provided under Labor Code section 2699 (\$100/\$200) per violation per pay period per employee, along with all other civil penalties permitted by law.

Untimely Payment of Wages During Employment **Violation of Labor Code §§ 204, 204b, 210**

Defendants violated Labor Code sections 204 and/or 204b and 210, as applicable, with respect to Plaintiff and the aggrieved employees.

Labor Code section 204(a) requires payment of “all wages” for non-exempt employees at least twice each calendar month. Labor Code section 204(d) states all wages due must be paid “not more than seven calendar days following the close of the payroll period.” Labor Code section 204b applies to employees paid on a weekly basis and also requires the payment for all labor within the required pay periods. Labor Code section 210 provides “every person who fails to pay the wages of an employee as provided in Section ... 204 ... shall be subject to a civil penalty” of \$100 for an initial violation and \$200 plus 25% of the amount unlawfully withheld for a subsequent violation.

Because Defendants failed to pay all wages and premiums in each pay period in which such wages were earned at the lawful rate, Defendants violated Labor Code section 204 and/or 204b (for weekly employees, as applicable). Defendants violated Labor Code sections 204 and 204b by failing to pay all wages and premiums owed on the regular pay days scheduled each pay period within seven calendar days of the close of the payroll period, as a result of the policies and practices set forth in this notice. As described above, Defendants failed to pay Plaintiff and other aggrieved employees for the time they worked off the clock, failed them all

wages at their proper rate of pay, including regular and overtime wages, and failed to pay all premiums owed. As such, they failed to comply with the requirements set forth in Section 204 to timely pay all wages owed.

As a result, Plaintiff may recover civil penalties as an individual and on behalf of the State of California and the aggrieved employees as provided under Labor Code section 2699 (\$100/\$200) per violation per pay period per employee, and Labor Code section 210 (\$100/\$200) per violation per pay period, along with all other civil penalties permitted by law.

Untimely Payment of Wages Upon Separation of Employment
Violation of Labor Code §§ 201, 202, 203, 256

Defendants violated Labor Code sections 201, 202, and 203 with respect to the aggrieved employees by failing to pay all wages and premiums owed upon termination of employment.

Labor Code section 201 requires that if an employer fires an employee, the wages must be paid immediately. Labor Code section 202 requires that if an employee quits without providing 72 hours' notice, his or her wages must be paid no later than 72 hours thereafter. Labor Code section 202 states that if an employee provides 72 hours' notice, the final wages are payable upon his or her final day of employment. Labor Code section 203 requires an employer who fails to comply with Labor Code sections 201 or 202 to pay a waiting time penalty for each employee, up to a period of 30 days additional compensation.

Defendants failed to pay all wages and premiums owed to aggrieved employees during their employment as set forth in this notice, and also failed to timely pay those amounts to departing employees upon separation of employment. Defendants did not pay waiting time penalties for the late payments. As a result, Defendants violated Labor Code sections 201, 202, and 203.

As described above, Defendants failed to pay Plaintiff and other aggrieved employees for the time they worked off the clock, failed them all wages at their proper rate of pay, including regular and overtime wages, and failed to pay all premiums owed. Plaintiff has still yet to be paid all payments owed to him several months after he was terminated from employment. Moreover, Plaintiff did not receive his final paycheck until a month after termination and has not been paid any waiting time penalties. As such, Defendants failed to comply with the requirements set forth in Section 201 to timely pay all wages owed upon separation of employment.

As a result, Plaintiff may recover civil penalties on behalf of aggrieved employees and the State of California as provided under Labor Code section 2699 (\$100/\$200) per violation per pay period per employee, along with all other civil penalties permitted by law.

Non-Compliant Wage Statements
Violation of Labor Code §§ 226, 226.3

Defendants violated Labor Code sections 226(a) and 226.3 with respect to the aggrieved employees by failing to furnish itemized wage statements each pay period that accurately list all information required by Labor Code section 226(a)(1) through (9).

Labor Code section 226(a) requires an employer to furnish wage statements to employees semimonthly or at the time of each payment of wages, “an accurate itemized statement in writing showing:” (1) gross wages earned, (2) total hours worked, (3) the number of piece rate units earned and applicable piece-rate in effect, (4) all deductions, (5) net wages earned, (6) the inclusive dates of the pay period, (7) the name of the employee and last four digits of SSN or an EIN, (8) the name and address of the legal name of the employer, and (9) all applicable hourly rates in effect during the pay period and the number of hours worked at each hourly rate by the employee.

Defendants failed to provide accurate itemized wage statements to the aggrieved employees each pay period as a result of the policies and practices set forth in this notice. Defendants violated Labor Code section 226(a)(1) and (5) by not listing the correct “gross wages earned” or “net wages earned,” as the employees earned wages and premiums that were not paid, resulting in an inaccurate reflection, and recording of “gross wages earned” on those wage statements. Likewise, in violation of Labor Code section 226(a)(9), Defendants failed to state on employee wage statements each pay period the applicable hourly rates in effect and the number of hours worked at that rate, as Defendants failed to pay all wages and premiums owed to employees. The amounts stated are instead depreciated and underpaid, resulting in an inaccurate reflection on the pay stub.

As discussed above, the wage statements that Defendant issued to Plaintiff do not list his actual rates of pay, his hours worked at each rate of pay or his total hours worked, or any meal and rest period premiums owed. In fact, Plaintiff’s wage statements only serve to confuse and obfuscate the methods through which Defendants

Plaintiff and other aggrieved employees cannot promptly and easily determine from the wage statement alone the wages paid or earned without reference to other documents or information. Indeed, these wage statement violations are significant because they sow confusion among Plaintiff and other aggrieved employees with respect to what amounts were owed and paid, at what rates, the number of hours worked, and how those amounts were or should be calculated. The wage statements reflect a false statement of earnings and concealed the underlying problems and underpayments of employee wages.

As a result, Plaintiff may recover civil penalties as an individual and on behalf of the State of California and the aggrieved employees, as provided under Labor Code sections 226.3 (\$250/\$1,000) and 2699 (\$100/\$200) per violation per pay period per employee, along with all other civil penalties permitted by law.

Unreimbursed Employee Expenses
Violation of Labor Code §§ 2802, 2804

Defendants violated Labor Code section 2802 with respect to the aggrieved employees by failing to reimburse the aggrieved employees for all necessary expenditures or losses incurred as part of their job duties.

Labor Code section 2802 requires an employer to “indemnify his or her employee for all necessary expenditures or losses incurred by the employee in direct consequence of the discharge of his or her duties, or of his or her obedience to the directions of the employer, even though unlawful, unless the employee, at the time of obeying the directions, believed them to be unlawful.” *See, e.g., Espinoza v. West Coast Tomato Growers, LLC*, 2016 WL 4468175 at *4, n.2 (S.D. Cal. Aug. 24, 2016, No. 14-CV-2984 W (KSC)).

Labor Code section 2804 affirms that “[a]ny contract or agreement, express or implied, made by any employee to waive the benefits of this article or any part thereof, is null and void, and this article shall not deprive any employee or his personal representative of any right or remedy to which he is entitled under the laws of this State.”

Defendants required Plaintiff and the aggrieved employees to incur costs for work-related purposes without full reimbursement. In direct consequence of their job duties, Plaintiff and the aggrieved employees unavoidably and necessarily incurred these losses, expenditures, costs, and as a matter of policy and practice. As described above, Defendants required Plaintiff to complete online training courses off the clock. Plaintiff had to complete these courses on his home computer. Moreover, Plaintiff had to use his personal cell phone to communicate with managers and service advisors about work. Nevertheless, Defendants failed to reimburse Plaintiff and the aggrieved employees any computer or cell phone expenses that they incurred in the discharge of their duties.

As a result, Plaintiff may recover civil penalties as an individual and on behalf of the State of California and the aggrieved employees, as provided under Labor Code section 2699 (\$100/\$200) per violation per pay period per employee, along with all other civil penalties permitted by law.

Failure to Maintain Accurate Records
Violation of Labor Code § 1174; IWC Wage Orders

Defendants violated Labor Code sections 1174 and the IWC Wage Orders by failing to maintain accurate employee payroll records with respect to Plaintiff and other aggrieved employees.

Labor Code section 1174 requires that employers maintain accurate “payroll records showing the hours worked daily by and the wages paid to, and the number of piece-rate units earned

by and any applicable piece rate paid to, employees employed at the respective plants or establishments.” Section 7(A) of the IWC Wage Orders, which may be enforced through Labor Code section 1198, mandates similar recordkeeping obligations.

Because of the policies and practices set forth in this notice, including the failure to accurately account for wages earned or hours worked, Defendants failed to accurately maintain records in accordance with Labor Code section 1174 and the IWC Wage Orders.

As a result, Plaintiff may recover civil penalties as an individual and on behalf of the State of California and the aggrieved employees, as provided under Labor Code section 1174.5 (\$500) and 2699 (\$100/\$200), along with all other civil penalties permitted by law.

Attorneys’ Fees and Costs
Labor Code § 2699(g)

Plaintiff has been compelled to retain the services of counsel to protect the interests of other aggrieved employees and the State of California. Plaintiff continues to incur attorneys’ fees and costs, which are recoverable under California law, including Labor Code section 2699(g).

- LITIGATION HOLD NOTICE -

This letter imposes a duty upon all defendants and their respective employees, officers, directors, executives, attorneys, human resource and payroll personnel, accountants, and other agents to preserve all physical and electronic evidence, including electronically stored information and emails, which relate to the employment of Plaintiff and the aggrieved employees specified in this notice. Evidence includes, but is not limited to, Defendants’ written employment and payroll policies and handbooks; the aggrieved employees’ personnel files and payroll records, such as paystubs, time records, wage statements, compensation reports, as well as the underlying electronically data in Excel or similar format. Memoranda and internal and external correspondence relating to the subject matter of this notice shall also be maintained. Failure to preserve and retain relevant evidence may constitute spoliation of evidence and result in an adverse inference or sanctions.

If you have any questions regarding the scope of your obligations to preserve evidence, please consult your legal counsel and always err on the side of caution. Periodic or regularly scheduled purges or deletions of information covered by this hold must be suspended immediately.

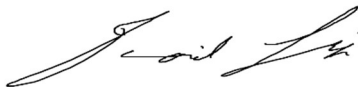
- CONCLUSION -

If the LWDA does not pursue enforcement, Plaintiff intends to bring representative claims on behalf of the State of California and the aggrieved employees seeking civil penalties for

violations of the Labor Code and the IWC Wage Orders, along with attorneys' fees, costs, interest, and other appropriate relief.

Please advise if the LWDA intends to investigate any of the factual or legal allegations set forth in this notice. Defendants may contact Plaintiff's counsel with any questions regarding this letter or the forthcoming lawsuit.

Sincerely,

A handwritten signature in black ink, appearing to read "David X. Lin", with a stylized, flowing script.

David X. Lin

Cc Plaintiff Cesar Limon
Jeffrey M. Nellis
Associate Attorney at Fisher Phillips
jnellis@fisherphillips.com

ADDITIONAL ADDRESSEES

Sedano Ford of LM, Inc.

c/o Edward J. Siegler
Agent for Service of Process
16633 Ventura Blvd. Ste 900
Encino, CA 91436

Sedano Auto Group, Inc.

c/o Lurie, Zepeda, Schmalz, Hogen & Martin, APC
Registered Corporate Agent
1875 Century Park E #2100
Los Angeles, CA 90067

Sedano Auto Group, Inc.

Attn: Rosa Chavez Zavala
12300 Palm Ave
Bakersfield, CA 93312

Manuel Sedano, Jr.

8850 Grossmont Blvd
La Mesa, CA 91942

EXHIBIT 2

Amendment to Notice of Labor Code Violations

FERRARO VEGA

SAN DIEGO EMPLOYMENT LAWYERS

Nicholas J. Ferraro
nick@ferrarovega.com
Lauren N. Vega
lauren@ferrarovega.com

ATTORNEYS AT LAW
3160 Camino del Rio South, Suite 308
San Diego, California 92108

619-693-7727
619-350-6855 fax
ferrarovega.com

February 12, 2024

NOTICE OF LABOR CODE VIOLATIONS CALIFORNIA LABOR CODE SECTIONS 2698 *et seq.*

VIA CERTIFIED U.S. MAIL
- Electronic Return Receipt -

Sedano Lincoln of LM, Inc.
c/o Edward J. Siegler
Agent for Service of Process
16633 Ventura Blvd. Ste 900
Encino, CA 91436

- PAGA Notice & Filing Fee -
Submitted electronically to the Labor and
Workforce Development Agency

Additional Addressees Listed on Last Page

Dear LWDA Officer and Company Representatives:

This letter serves as amendment to the written notice under Labor Code section 2699.3 submitted on February 8, 2024, a copy of which is attached as **Exhibit 1**. Plaintiff hereby incorporates by reference all facts, theories, and allegations set forth in his original February 8, 2024 notice letter, and amends his previously filed notice as follows:

In Plaintiff's original notice mistakenly listed "SEDANO AUTOMOTIVE GROUP, INC." as a Defendant. The correct name of the entity is "SEDANO AUTO GROUP, INC." which is also referred to publicly as "SEDANO AUTOMOTIVE GROUP." *See Fig. 1 below.*



SEDANO LINCOLN

📍 8930 La Mesa Blvd, La Mesa, CA 91942

📞 Sales: 619-704-0280

📞 Service: 619-704-0281

📞 Parts: 619-704-0276

VISIT WEBSITE

NEW INVENTORY

USED INVENTORY

SCHEDULE SERVICE

ORDER PARTS

Copyright © 2024 Sedano Automotive Group

Advanced Automotive Dealer Websites by [Dealer Inspire](#)

Fig. 1, screenshot from SedanoAutoGroup.com

Plaintiff also hereby names the following additional Defendants:

**CITY CHEVROLET OF SAN DIEGO
MISSION BAY MOTORS, INC.
CIRCLE MOTORS, INC.**

Therefore, the term “Defendants” henceforth shall refer to:

**SEDANO LINCOLN OF LM, INC.;
SEDANO FORD OF LM, INC.;
SEDANO AUTO GROUP, INC.;
CITY CHEVROLET OF SAN DIEGO;
MISSION BAY MOTORS, INC.;
CIRCLE MOTORS, INC.; and
MANUEL SEDANO, JR.**

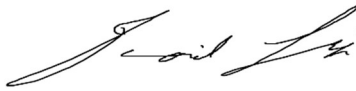
All references to “Defendants” in Plaintiff’s original February 8, 2024 notice, **Ex. 1**, shall also collectively refer to the Defendants named above.

- CONCLUSION -

If the LWDA does not pursue enforcement, Plaintiff intends to bring representative claims on behalf of the State of California and the aggrieved employees seeking civil penalties for violations of the Labor Code and the IWC Wage Orders, along with attorneys' fees, costs, interest, and other appropriate relief.

Please advise if the LWDA intends to investigate any of the factual or legal allegations set forth in this notice. Defendants may contact Plaintiff's counsel with any questions regarding this letter or the forthcoming lawsuit.

Sincerely,

A handwritten signature in black ink, appearing to read "David X. Lin", with a stylized flourish at the end.

David X. Lin

Cc Plaintiff Cesar Limon

Jeffrey M. Nellis
Associate Attorney at Fisher Phillips
jnellis@fisherphillips.com

Edward J. Siegler
e.siegler@verizon.net

ADDITIONAL ADDRESSEES

Sedano Ford of LM, Inc.

c/o Edward J. Siegler
Agent for Service of Process
16633 Ventura Blvd. Ste 900
Encino, CA 91436

Sedano Auto Group, Inc.

c/o Lurie, Zepeda, Schmalz, Hogen & Martin, APC
Registered Corporate Agent
1875 Century Park E #2100
Los Angeles, CA 90067

Sedano Auto Group, Inc.

Attn: Rosa Chavez Zavala
12300 Palm Ave
Bakersfield, CA 93312

City Chevrolet of San Diego

c/o Edward J. Siegler
16633 Ventura Blvd. Ste 900
Encino, CA 91436

Mission Bay Motors, Inc.

c/o Edward J. Siegler
16633 Ventura Blvd. Ste 900
Encino, CA 91436

Circle Motors, Inc.

3131 National City Blvd.
National City, CA 91950

Manuel Sedano, Jr.

8850 Grossmont Blvd
La Mesa, CA 91942

Exhibit 1

FERRARO VEGA

SAN DIEGO EMPLOYMENT LAWYERS

Nicholas J. Ferraro
nick@ferrarovega.com
Lauren N. Vega
lauren@ferrarovega.com

ATTORNEYS AT LAW
3160 Camino del Rio South, Suite 308
San Diego, California 92108

619-693-7727
619-350-6855 fax
ferrarovega.com

February 8, 2024

NOTICE OF LABOR CODE VIOLATIONS CALIFORNIA LABOR CODE SECTIONS 2698 *et seq.*

VIA CERTIFIED U.S. MAIL
- Electronic Return Receipt -

Sedano Lincoln of LM, Inc.
c/o Edward J. Siegler
Agent for Service of Process
16633 Ventura Blvd. Ste 900
Encino, CA 91436

- PAGA Notice & Filing Fee -
Submitted electronically to the Labor and
Workforce Development Agency

Additional Addressees Listed on Last Page

Dear LWDA Officer and Company Representatives:

This letter serves as written notice under Labor Code section 2699.3 on behalf of **CESAR LIMON** (“Plaintiff(s)”) and all other “aggrieved employees” of the following “Defendant(s)”:

SEDANO LINCOLN OF LM, INC.;
SEDANO FORD OF LM, INC.;
SEDANO AUTOMOTIVE GROUP, INC.;
MANUEL SEDANO, JR.

Defendant(s) shall mean and include the foregoing in addition to any other related employer entities, individuals under Labor Code sections 558 and 558.1, and all others who may be later added upon further investigation and discovery as liable employers.

This office serves as legal counsel for Plaintiff. If the California Labor and Workforce Development Agency (“LWDA”) does not investigate the facts, allegations, and violations set forth in this notice within the statutorily prescribed 65-day period under Labor Code section 2699.3, Plaintiff intends to commence a civil action against Defendants as a proxy and agent of the State of California under the Private Attorneys General Act (“PAGA”). “PAGA allows an ‘aggrieved employee’—a person affected by at least one Labor Code violation committed by an employer—to pursue penalties for all the Labor Code violations committed by that

employer.” *Huff v. Securitas Security Services USA, Inc.* (2018) 23 Cal. App. 5th 745, 751; *Kim v. Reins International California, Inc.* (2020) 9 Cal. 73, 79. Plaintiff maintains standing to pursue these claims against Defendants, as Plaintiff experienced one or more of the alleged violations during the relevant statutory period, which continue through the present date. *Cf. Johnson v. Maxim Healthcare Servs., Inc.*, 281 Cal. Rptr. 3d 478, 481 (Cal. Ct. App. 2021).

Through this notice, Plaintiff requests that Defendants complete an internal investigation and audit of the wage and hour and employment practices at issue and make a good faith effort to correct any violations. Plaintiff attempts to identify the non-compliant policies and practices affecting the aggrieved employees so that the parties may resolve the underlying damages and penalties in judgment or settlement approved by the Superior Court of California under Labor Code section 2699(k). Defendants are notified that any attempt to resolve this case should be conducted in coordination with Plaintiff’s counsel to protect the interests of Plaintiff, the aggrieved employees, and the State of California via the LWDA. Plaintiff advises Defendants this letter should be also considered a reasonable attempt at settlement of this matter, subject to an exchange of additional documents and information. *Graham v. Daimler Chrysler Corp.* (2004) 24 Cal. 4th 553, 561.

- BACKGROUND -

Defendants own and operate car dealerships in California. Defendants employed Plaintiff during the PAGA Period in the position of Automotive Master Technician from about May 30, 2023 to October 2, 2023. During their employment Plaintiff and the other aggrieved employees were subject to the wage and hour and employment protections set forth in the California Labor Code and IWC Wage Orders.

Through this notice, Plaintiff informs the LWDA of the Labor Code violations set forth herein. The “aggrieved employees” include Plaintiff and the following individuals:

All current and former non-exempt employees who worked for Defendants in the State of California during one-year period preceding the date of this notice through the current date and the date of trial in any pending action (the “aggrieved employees” and the “PAGA Period”).

Plaintiff reserves the right to expand or narrow the definition of the “aggrieved employees” in the forthcoming civil action. Furthermore, Plaintiff seeks all recoverable civil penalties for Defendants’ violations and reserves the right to supplement this notice as further investigation is completed and further facts, witnesses, and violations are uncovered.

- PAGA CLAIMS -

Unpaid Hours Worked/Minimum aWage **Violation of Labor Code §§ 1194, 1197, 1198; IWC Wage Orders**

Defendants violated Labor Code sections 1194, 1197, and 1198, along with the California Minimum Wage Order, the applicable local minimum wage ordinances, and the “Hours and Days of Work” and “Minimum Wages” sections of the applicable IWC Wage Orders with respect to the aggrieved employees.

Labor Code section 1194 renders it unlawful for an employee to receive less than the legal minimum wage for hours worked in California. Labor Code section 1197 further mandates that “[t]he minimum wage for employees fixed by the commission is the minimum wage to be paid to employees, and the payment of a lower wage than the minimum so fixed is unlawful.” Labor Code section 1198 renders “employment of any employee for longer hours than those fixed by the order or under conditions of labor prohibited by the [IWC Wage Orders]” unlawful. The California Minimum Wage Order and the applicable sections of the IWC Wage Orders further require payment of minimum wages for all hours worked. The “Minimum Wages” sections of the applicable IWC Wage Order provide that “[e]very employer shall pay to each employee, on the established payday for the period involved, not less than the applicable minimum wage for all hours worked in the payroll period, whether the remuneration is measured by time, piece, commission, or otherwise.” The foregoing California wage laws require payment of “not less than the applicable minimum wage *for all hours worked* in the payroll period” and California law does not allow averaging of pay over the hours worked in the pay period, even if the total pay results in an average above the minimum wage. *Armenta v. Osmose, Inc.* (2005) 135 Cal. App. 3d 314, 324.

Defendants failed to pay Plaintiff and the aggrieved employees at the lawful minimum wage rate for all hours worked, resulting in unpaid minimum wages. Defendants compelled Plaintiff and other aggrieved employees to complete online training courses to maintain certain certifications but did not pay them for the hours they spent completing the training courses. Plaintiff completed approximately six hours of online training off the clock through program called STARS provided by Sedano Ford. Defendants failed to pay Plaintiff any wages for his time spent completing these courses.

As a result, Plaintiff may recover civil penalties as an individual and on behalf of the State of California and the aggrieved employees, as provided under Labor Code sections 558 (\$50/\$100), 1197.1 (\$100/\$250), 1199 / “Penalties” section of the IWC Wage Orders (\$50/\$100), and 2699 (\$100/\$200) per violation per pay period per employee, along with all other civil penalties permitted by law.

Secretly Paying a Lower Wage
Violation of Labor Code § 223

Labor Code section 223 renders it unlawful to secretly pay a lower wage while purporting to pay the wage designated by statute or contract. Defendants systematically undercounted the number of hours that Plaintiff and other aggrieved employees worked, and underpaid them as a result. For example, according to Plaintiff's timekeeping records for the pay period September 1, 2023 to September 15, 2023, Plaintiff recorded a total of 59.15 hours worked. See Fig. 1 below.

```
WEEKLY TIMESHEETS FOR COMP# 2
PAGE 15 18 SEP 2023 SEDANO LINCOLN DEPT = 500/550/600/650 FOR PERIODS 9./1./23 - 9.15.23
CO#. DEPT# EMP#. NAME..... DATE.... CLOCK-IN CLOCK-OUT HRS.. REG... O.T... DT.... SICK. HOL.. VAC.. T
      TIMES      TIMES
2    600803058 LIMON, CESAR 09/05/23 08:08AM 01:53PM 5.75 8.05
      02:52PM* 05:10PM* 2.30
2    600803058 LIMON, CESAR 09/06/23 08:20AM 01:38PM 5.30 7.83
      02:42PM* 05:14PM* 2.53
2    600803058 LIMON, CESAR 09/07/23 01:27PM* 04:51PM* 3.40 ✓
2    600803058 LIMON, CESAR 09/08/23 08:20AM 01:55PM 5.58 8.26
      02:48PM* 05:29PM* 2.68
2    600803058 LIMON, CESAR 09/11/23 08:09AM 01:12PM 5.05 8.07
      02:12PM* 05:13PM* 3.02
2    600803058 LIMON, CESAR 09/12/23 08:26AM 01:16PM 4.83 7.65
      02:22PM* 05:11PM* 2.82
2    600803058 LIMON, CESAR 09/13/23 08:07AM 12:15PM 4.13 7.96
      01:08PM* 04:58PM* 3.83
2    600803058 LIMON, CESAR 09/14/23 08:24AM 01:33PM 5.15 7.93
      02:19PM* 05:06PM* 2.78
2    600803058 LIMON, CESAR TOTALS ***** ***** 59.15 0.00
      ** *

```

Fig. 1, time records for Sept. 1-Sept. 15, 2023

However, Plaintiff's wage statement for that period reflects only payments for 26.21 hours. Fig. 2 below.

Company Code Loc/Dept Number Page
D47300 26141239 01/600 15129 1 of 1
Sedano Lincoln of LM
8850 Grossmont Blvd
La Mesa, CA 91942

Earnings Statement



Period Starting: 09/01/2023
Period Ending: 09/15/2023
Pay Date: 09/22/2023

Business Phone: 619-464-1440

Cesar Limon

Earnings	rate	hours/units	this period	year to date
Regular	33.0000	26.21	\$84.93	8105.13
Overtime		0.00	5.89	69.45
Unapplied Time		0.00	956.94	8374.16
Gross Pay			\$1,827.76	\$16,548.74

Other Benefits and Information	this period	year to date
Total Hours Worked	26.21	245.61

Important Notes

Basis of pay: Hourly

Statutory Deductions	this period	year to date
Federal Income	-140.91	1430.24
Social Security	-113.32	1026.02
Medicare	-26.51	239.96
California State Income	0.00	0.00
California State DI	-16.45	148.94
Net Pay		\$1,530.57

Fig. 2, wage statement for Sept 1 – Sept 15, 2023

Defendants also issued Plaintiff a “Technician Compensation Calculator” for that period, which also fails to capture all of Plaintiff’s hours. See Fig. 3 below.

TECHNICIAN COMPENSATION CALCULATOR

Name: CESAR LIMON

Date: 9/15/2023

SECTION 1 - BASE HOURLY WAGES FOR WEEK		
A.	Base Hourly Rate:	\$ 31.00
B.	Total Non-Training Hours Worked for Week (including overtime):	58.77
C.	Total Training Hours Worked for Week (including overtime):	0.00
D.	Grand Total Hours Worked for Week (Including Overtime)	58.77
E.	Total Regular Overtime Hours Worked for Week:	0.38
F.	Total Double Time Hours Worked for Week:	0.00
G.	Total Rest and Recovery Break Hours (G1 + G2 + G3):	2.50
G1.	# DAYS 3.5 - 6 HOURS (1) x 10 ÷ 60 = 0.167	
G2.	# DAYS 6 - 10 HOURS (7) x 20 ÷ 60 = 2.333	
G3.	# DAYS 10 - 14 HOURS (0) x 30 ÷ 60 = 0.000	
I.	Regular Rate for Rest & Recovery Periods [(K + R) / (D - G)]:	\$ 31.00
J.	Total Pay for Rest & Recovery Breaks (G x I):	\$ 77.50
K.	Total Base Hourly Wages for Non-Rest/Recovery Breaks [A x (D - G)]:	\$ 1,744.37
L.	Total Base Hourly Wages for Week (J + K):	\$ 1,821.87

SECTION 2 - BONUSES		
M.	Personal Flag Billing Rate:	\$ 33.00
N.	Total Flat Hours Flagged (Billed) for Week:	26.21
O.	Gross Personal Revenue (M x N):	\$ 864.93
P.	Personal Revenue Bonus: If O is greater than [K - (C x A)], then P is calculated as O - [K - (C x A)]. If O is less than [K - (C x A)], then P is zero	\$ -
Q.	Other Bonus:	\$ -
R.	Total Bonuses (Q + R):	\$ -

SECTION 3 - OVERTIME, VACATION PAY, & HOLIDAY PAY						
Overtime						
S.	Blended Overtime Rate [(L + R) ÷ D]:				\$	31.00
T.	Blended Regular Overtime (S x 0.5 x E):				\$	5.89
U.	Blended Double Time (S x F):				\$	-
Holiday / Vacation / Other Premiums						
V.	Holiday:	Rate:	\$15.50	Hours:	0.00	\$ -
W.	PTO / Vacation: / Sick:	Rate:	\$33.00	Hours:	0.00	\$ -
X.	Other Premiums:				\$	-
Y.	Total Section 3 Payments (T + U + V + W + X):				\$	5.89

Z.	TOTAL WAGES (L + R + Y):	\$ 1,827.76
----	---------------------------------	--------------------

Fig. 3, Technician Compensation Calculator dated Sept 15, 2023

Column D supposedly lists the “Grand Total Hours Worked for Week (Including Overtime)” but lists only 58.77 hours rather than the total of 59.15 hours that Plaintiff recorded. Defendants went on to calculate Plaintiff’s “Total Base Hour Wages” based on the 58.77 figure, thereby excluding 0.38 hours from Plaintiff’s base pay.

For the remaining 0.38 hours, Defendants purported to pay him “overtime,” but did so at only *half* of his base rate of \$31 per hour (*see* Column T in *Fig. 3 above*). Thus, Defendants secretly paid Plaintiff only half of his base rate of pay for hours for which Plaintiff was owed 1.5 times his regular rate of pay according to the terms of his employment and California law by obfuscating their pay calculations in the Technician Compensation Calculator spreadsheet.

Even though Plaintiff’s wage statement indicates that he was paid at \$33 per hour for 26.21 hours and the Technician Compensation Calculator suggests that his base rate of pay was \$31 per hour, Plaintiff only earned a total of \$1,827.76 for 59.15 hours, or \$30.90 per hour, a rate lower than either his “Personal Flag Billing Rate” or his “Base Hourly Rate.”

As a result, Plaintiff may recover civil penalties as an individual and on behalf of the State of California and the aggrieved employees, as provided under Labor Code sections 558 (\$50/\$100), 1197.1 (\$100/\$250), 1199 / “Penalties” section of the IWC Wage Orders (\$50/\$100), and 2699 (\$100/\$200) per violation per pay period per employee, along with all other civil penalties permitted by law.

Unpaid Hours Worked/Non-Productive, Rest, and Recovery Periods
Violation of Labor Code §§ 226.2; IWC Wage Orders

In addition to the foregoing unpaid wage violations, Defendants also violated Labor Code sections 226.2 and the “Hours and Days of Work,” “Minimum Wages,” and “Rest Periods” sections of the applicable IWC Wage Orders with respect to the aggrieved employees.

Labor Code section 226.2(a)(1) also requires employers to compensate employees for “rest and recovery periods and other non-productive time spent separate from any piece rate compensation.” Under Labor Code section 226.2(a)(3), rest and recovery periods must be paid at an hourly rate that is no less than the higher of (i) an average hourly rate taken by dividing an employee’s total compensation for the workweek (exclusive of overtime and rest and recovery compensation) by the employee’s total hours worked and (ii) the applicable minimum wage. Under Labor Code section 226.2(a)(4), other nonproductive time must be paid at an hourly rate that is no less than the applicable minimum wage.

Furthermore, the “Hours and Days of Work,” “Minimum Wages,” and “Rest Periods” sections of the applicable IWC Wage Orders—as addressed in *Vaquero v. Stoneledge Furniture, LLC* (2017) 9 Cal. App. 5th 98—require employers to separately compensate all employees, not just piece-rate employees, for all hours worked, including rest periods and nonproductive time, to comply with California’s minimum wage obligations.

Here, Defendants failed to pay Plaintiff and other aggrieved employees at the proper rate for rest and recovery periods because they paid for rest and recovery periods at employees' base hourly rate rather than their average hourly rate. For example, Column I in *Fig. 3* shows that Defendants paid Plaintiff for rest and recovery periods at his base rate of pay of \$31, even though his wage statement in *Fig. 2* and Column M of *Fig. 3* state that Plaintiff earned \$33 per hour for 26.21 of his hours worked in that pay period.

As a result, Plaintiff may recover civil penalties as an individual and on behalf of the State of California and the aggrieved employees, as provided under Labor Code sections 558 (\$50/\$100), 1197.1 (\$100/\$250), 1199 / "Penalties" section of the IWC Wage Orders) (\$50/\$100), and 2699 (\$100/\$200) per violation per pay period per employee, along with all other civil penalties permitted by law.

Unpaid Overtime **Violation of Labor Code §§ 510, 1194, 1198; IWC Wage Orders**

Defendants violated Labor Code sections 510, 1194, and 1198, along with the "Hours and Days of Work" sections of the applicable IWC Wage Orders with respect to the aggrieved employees.

Labor Code section 510 requires "[a]ny work in excess of eight hours in one workday and any work in excess of 40 hours in any one workweek and the first eight hours worked on the seventh day of work in any one workweek shall be compensated at the rate of no less than one and one-half times the regular rate of pay for an employee;" and "any work in excess of 12 hours in one day shall be compensated at the rate of no less than twice the regular rate of pay for an employee;" and "any work in excess of eight hours on any seventh day of a workweek shall be compensated at the rate of no less than twice the regular rate of pay of an employee." Labor Code section 1194 renders it unlawful for an employee to receive less than the legal overtime rate for overtime hours worked in California. Labor Code section 1198 renders "employment of any employee for longer hours than those fixed by the order or under conditions of labor prohibited by the [IWC Wage Orders]" unlawful. The IWC Wage Orders further require payment of overtime wages for all overtime hours worked, including the "Hours and Days of Work" sections.

Defendants failed to pay Plaintiff and the aggrieved employees overtime wages and the lawful rate of pay for overtime hours worked, resulting in unpaid overtime wages. As described above, Defendants failed to pay Plaintiff and the aggrieved employees all overtime wages owed because they failed to pay for the time employees spent completing online training course and when they did pay overtime wages, they did so at only one half of employees' base rate rather than 1.5 times the proper regular rate of pay.

As a result, Plaintiff may recover civil penalties as an individual and on behalf of the State of California and the aggrieved employees, as provided under Labor Code sections 558 (\$50/\$100), 1199 / "Penalties" section of the IWC Wage Orders) (\$50/\$100), and 2699

(\$100/\$200) per violation per pay period per employee, along with all other civil penalties permitted by law.

Unpaid Paid Sick Leave
Violation of Labor Code §§ 246 through 248.7

Defendants violated Labor Code sections 246 through 248.7 with respect to the aggrieved employees.

Labor Code section 246 requires employers to provide paid sick leave to its workforce on the terms set forth in the statute. Employers must comply with the accrual, use, and notice provisions of Labor Code sections 246, 246.5, 247, and must further ensure that they maintain the paid sick leave records required by Labor Code section 247.5. Employers have the option of providing 24 hours of paid sick leave to employees or to allow employees to accrue paid sick leave each pay period. If an employer chooses the accrual method, employees must accrue sick leave at a rate of one hour for every thirty hours worked in a given pay period as set forth in Labor Code section 246(b)(1). Under the accrual method, employees must begin accruing paid sick leave at the commencement of employment.

Employers must pay sick leave in accordance with one of the three permissible methods provided in Labor Code section 246(l): (1) “the same manner as the regular rate of pay for the workweek;” (2) “by dividing the employee’s total wages, not including overtime premium pay, by the employee’s total hours worked in the full pay periods of the prior 90 days;” or (3) “for exempt employee ... in the same manner as the employer calculates wages for other forms of paid leave time.” Labor Code sections 248.6 and 248.7 similarly require paid sick leave to be paid at a regular rate-based calculation in excess of the base hourly rate and at the lawful accrual rate.

Under Labor Code section 246(i), employers must provide employees “with written notice of the amount of paid sick leave available ... for use on either the employee’s itemized wage statement ... or in a separate writing provided on the designated pay date with the employee’s payment of wages.”

Defendants failed to comply with California’s paid sick leave laws with respect to the aggrieved employees. During the course of his employment with Defendants, Plaintiff requested three days of sick leave. However, Defendants did not pay Plaintiff any sick leave pay for those days. The wage statement for Plaintiff’s final pay period shows that Plaintiff had accrued 40 hours of sick leave and was paid for 0 hours of sick time. *Fig. 4.*



226.7(c), like “regular rate of pay” under section 510(a), encompasses all nondiscretionary payments, not just hourly wages”). “[T]ime records showing noncompliant meal periods raise a rebuttable presumption of meal period violations, including at the summary judgment stage.” *Donohue v. AMN Services, LLC* (2021) 11 Cal. 5th 58, 61. Labor Code section 1198 renders “employment of any employee for longer hours than those fixed by the order or under conditions of labor prohibited by the [IWC Wage Orders]” unlawful. The IWC Wage Orders, including Section 11 (Meal Periods), further require one uninterrupted 30-minute meal period after no more than five hours of work and a second meal period after no more than 10 hours of work and an additional hour of pay at the employee’s regular rate of compensation for each workday that a compliant meal period is not provided. Pursuant to Section 11(A) of the IWC Wage Orders, the California Supreme Court has held that the on-duty meal period exception is “exceedingly narrow” and applies only when (1) “the nature of the work prevents the employee from being relieved of all duty” and (2) *both* “the employer and employee have agreed, in writing, to the on-duty meal period.” *Augustus v. AMB Security Services, Inc.* (2016) 2 Cal. 5th 257, 266-276 (emphasis added). If these two requirements are not met, then the employer owes the employee one hour of premium pay for each non-compliant meal period taken under the purported on-duty meal arrangement. *Naranjo v. Spectrum Security Services, Inc.* (2019) 40 Cal. 5th 444, 459.

Defendants failed to provide Plaintiff and other aggrieved employees with the opportunity to take full, timely, uninterrupted meal periods because of the pressure to complete work on the vehicles they were servicing. However, Defendants failed to pay employees all meal period premiums owed when they could not take legally-compliant meal periods. For example, Plaintiff’s time records in *Fig. 1* show that he was not able to take his meal period until after his fifth hour of work on five separate occasions between September 1, 2023 and September 15, 2023. Nevertheless, neither his wage statement nor the Technician Compensation Calculator for this period show any meal period premiums paid. *See Figs. 2 and 3.*

As a result, Plaintiff may recover civil penalties as an individual and on behalf of the State of California and the aggrieved employees as provided under Labor Code section 2699 (\$100/\$200) per violation per pay period per employee, along with all other civil penalties permitted by law.

Unpaid Rest Period Premium Wages **Violation of Labor Code §§ 226.7, 516, 1198; IWC Wage Orders**

Defendants violated Labor Code sections 226.7, 516, and 1198, and the related sections of the IWC Wage Orders with respect to Plaintiff and the aggrieved employees.

Labor Code sections 226.7 and 516 and the IWC Wage Orders require that employers authorize and permit an uninterrupted 10-minute rest period for each four-hour period (or major fraction thereof) that an employee works. Labor Code section 226.7 requires that if a rest period is non-compliant, the employer must pay one additional hour of pay at the employee’s “regular rate” of compensation. *Ferra v. Loews Hollywood Hotel, LLC* (2021) 11 Cal.

5th 858, 862 (“We hold that the terms are synonymous: “regular rate of compensation” under section 226.7(c), like “regular rate of pay” under section 510(a), encompasses all nondiscretionary payments, not just hourly wages”). Labor Code section 1198 renders “employment of any employee for longer hours than those fixed by the order or under conditions of labor prohibited by the [IWC Wage Orders]” unlawful. The IWC Wage Orders, including Section 12 (Rest Periods), further require one uninterrupted 10-minute rest period for each four-hour period (or major fraction thereof) worked and an additional hour of pay at the employee’s regular rate of compensation for each workday that a compliant rest period is not authorized or permitted.

Plaintiff and other aggrieved employees were not provided the opportunity to take timely, uninterrupted, off-duty rest periods because Defendants never explained or enforced any rest period policy to them. Rather, Plaintiff and other aggrieved employees worked throughout their shifts until they could clock out for meals or the end of their shifts. Even though the aggrieved employees were not provided the opportunity to take legally-compliant rest periods, Defendant did not pay them all rest period premiums owed.

As a result, Plaintiff may recover civil penalties as an individual and on behalf of the State of California and the aggrieved employees, as provided under Labor Code section 2699 (\$100/\$200) per violation per pay period per employee, along with all other civil penalties permitted by law.

Untimely Payment of Wages During Employment **Violation of Labor Code §§ 204, 204b, 210**

Defendants violated Labor Code sections 204 and/or 204b and 210, as applicable, with respect to Plaintiff and the aggrieved employees.

Labor Code section 204(a) requires payment of “all wages” for non-exempt employees at least twice each calendar month. Labor Code section 204(d) states all wages due must be paid “not more than seven calendar days following the close of the payroll period.” Labor Code section 204b applies to employees paid on a weekly basis and also requires the payment for all labor within the required pay periods. Labor Code section 210 provides “every person who fails to pay the wages of an employee as provided in Section ... 204 ... shall be subject to a civil penalty” of \$100 for an initial violation and \$200 plus 25% of the amount unlawfully withheld for a subsequent violation.

Because Defendants failed to pay all wages and premiums in each pay period in which such wages were earned at the lawful rate, Defendants violated Labor Code section 204 and/or 204b (for weekly employees, as applicable). Defendants violated Labor Code sections 204 and 204b by failing to pay all wages and premiums owed on the regular pay days scheduled each pay period within seven calendar days of the close of the payroll period, as a result of the policies and practices set forth in this notice. As described above, Defendants failed to pay Plaintiff and other aggrieved employees for the time they worked off the clock, failed them all

wages at their proper rate of pay, including regular and overtime wages, and failed to pay all premiums owed. As such, they failed to comply with the requirements set forth in Section 204 to timely pay all wages owed.

As a result, Plaintiff may recover civil penalties as an individual and on behalf of the State of California and the aggrieved employees as provided under Labor Code section 2699 (\$100/\$200) per violation per pay period per employee, and Labor Code section 210 (\$100/\$200) per violation per pay period, along with all other civil penalties permitted by law.

Untimely Payment of Wages Upon Separation of Employment
Violation of Labor Code §§ 201, 202, 203, 256

Defendants violated Labor Code sections 201, 202, and 203 with respect to the aggrieved employees by failing to pay all wages and premiums owed upon termination of employment.

Labor Code section 201 requires that if an employer fires an employee, the wages must be paid immediately. Labor Code section 202 requires that if an employee quits without providing 72 hours' notice, his or her wages must be paid no later than 72 hours thereafter. Labor Code section 202 states that if an employee provides 72 hours' notice, the final wages are payable upon his or her final day of employment. Labor Code section 203 requires an employer who fails to comply with Labor Code sections 201 or 202 to pay a waiting time penalty for each employee, up to a period of 30 days additional compensation.

Defendants failed to pay all wages and premiums owed to aggrieved employees during their employment as set forth in this notice, and also failed to timely pay those amounts to departing employees upon separation of employment. Defendants did not pay waiting time penalties for the late payments. As a result, Defendants violated Labor Code sections 201, 202, and 203.

As described above, Defendants failed to pay Plaintiff and other aggrieved employees for the time they worked off the clock, failed them all wages at their proper rate of pay, including regular and overtime wages, and failed to pay all premiums owed. Plaintiff has still yet to be paid all payments owed to him several months after he was terminated from employment. Moreover, Plaintiff did not receive his final paycheck until a month after termination and has not been paid any waiting time penalties. As such, Defendants failed to comply with the requirements set forth in Section 201 to timely pay all wages owed upon separation of employment.

As a result, Plaintiff may recover civil penalties on behalf of aggrieved employees and the State of California as provided under Labor Code section 2699 (\$100/\$200) per violation per pay period per employee, along with all other civil penalties permitted by law.

Non-Compliant Wage Statements
Violation of Labor Code §§ 226, 226.3

Defendants violated Labor Code sections 226(a) and 226.3 with respect to the aggrieved employees by failing to furnish itemized wage statements each pay period that accurately list all information required by Labor Code section 226(a)(1) through (9).

Labor Code section 226(a) requires an employer to furnish wage statements to employees semimonthly or at the time of each payment of wages, “an accurate itemized statement in writing showing:” (1) gross wages earned, (2) total hours worked, (3) the number of piece rate units earned and applicable piece-rate in effect, (4) all deductions, (5) net wages earned, (6) the inclusive dates of the pay period, (7) the name of the employee and last four digits of SSN or an EIN, (8) the name and address of the legal name of the employer, and (9) all applicable hourly rates in effect during the pay period and the number of hours worked at each hourly rate by the employee.

Defendants failed to provide accurate itemized wage statements to the aggrieved employees each pay period as a result of the policies and practices set forth in this notice. Defendants violated Labor Code section 226(a)(1) and (5) by not listing the correct “gross wages earned” or “net wages earned,” as the employees earned wages and premiums that were not paid, resulting in an inaccurate reflection, and recording of “gross wages earned” on those wage statements. Likewise, in violation of Labor Code section 226(a)(9), Defendants failed to state on employee wage statements each pay period the applicable hourly rates in effect and the number of hours worked at that rate, as Defendants failed to pay all wages and premiums owed to employees. The amounts stated are instead depreciated and underpaid, resulting in an inaccurate reflection on the pay stub.

As discussed above, the wage statements that Defendant issued to Plaintiff do not list his actual rates of pay, his hours worked at each rate of pay or his total hours worked, or any meal and rest period premiums owed. In fact, Plaintiff’s wage statements only serve to confuse and obfuscate the methods through which Defendants

Plaintiff and other aggrieved employees cannot promptly and easily determine from the wage statement alone the wages paid or earned without reference to other documents or information. Indeed, these wage statement violations are significant because they sow confusion among Plaintiff and other aggrieved employees with respect to what amounts were owed and paid, at what rates, the number of hours worked, and how those amounts were or should be calculated. The wage statements reflect a false statement of earnings and concealed the underlying problems and underpayments of employee wages.

As a result, Plaintiff may recover civil penalties as an individual and on behalf of the State of California and the aggrieved employees, as provided under Labor Code sections 226.3 (\$250/\$1,000) and 2699 (\$100/\$200) per violation per pay period per employee, along with all other civil penalties permitted by law.

Unreimbursed Employee Expenses
Violation of Labor Code §§ 2802, 2804

Defendants violated Labor Code section 2802 with respect to the aggrieved employees by failing to reimburse the aggrieved employees for all necessary expenditures or losses incurred as part of their job duties.

Labor Code section 2802 requires an employer to “indemnify his or her employee for all necessary expenditures or losses incurred by the employee in direct consequence of the discharge of his or her duties, or of his or her obedience to the directions of the employer, even though unlawful, unless the employee, at the time of obeying the directions, believed them to be unlawful.” *See, e.g., Espinoza v. West Coast Tomato Growers, LLC*, 2016 WL 4468175 at *4, n.2 (S.D. Cal. Aug. 24, 2016, No. 14-CV-2984 W (KSC)).

Labor Code section 2804 affirms that “[a]ny contract or agreement, express or implied, made by any employee to waive the benefits of this article or any part thereof, is null and void, and this article shall not deprive any employee or his personal representative of any right or remedy to which he is entitled under the laws of this State.”

Defendants required Plaintiff and the aggrieved employees to incur costs for work-related purposes without full reimbursement. In direct consequence of their job duties, Plaintiff and the aggrieved employees unavoidably and necessarily incurred these losses, expenditures, costs, and as a matter of policy and practice. As described above, Defendants required Plaintiff to complete online training courses off the clock. Plaintiff had to complete these courses on his home computer. Moreover, Plaintiff had to use his personal cell phone to communicate with managers and service advisors about work. Nevertheless, Defendants failed to reimburse Plaintiff and the aggrieved employees any computer or cell phone expenses that they incurred in the discharge of their duties.

As a result, Plaintiff may recover civil penalties as an individual and on behalf of the State of California and the aggrieved employees, as provided under Labor Code section 2699 (\$100/\$200) per violation per pay period per employee, along with all other civil penalties permitted by law.

Failure to Maintain Accurate Records
Violation of Labor Code § 1174; IWC Wage Orders

Defendants violated Labor Code sections 1174 and the IWC Wage Orders by failing to maintain accurate employee payroll records with respect to Plaintiff and other aggrieved employees.

Labor Code section 1174 requires that employers maintain accurate “payroll records showing the hours worked daily by and the wages paid to, and the number of piece-rate units earned

by and any applicable piece rate paid to, employees employed at the respective plants or establishments.” Section 7(A) of the IWC Wage Orders, which may be enforced through Labor Code section 1198, mandates similar recordkeeping obligations.

Because of the policies and practices set forth in this notice, including the failure to accurately account for wages earned or hours worked, Defendants failed to accurately maintain records in accordance with Labor Code section 1174 and the IWC Wage Orders.

As a result, Plaintiff may recover civil penalties as an individual and on behalf of the State of California and the aggrieved employees, as provided under Labor Code section 1174.5 (\$500) and 2699 (\$100/\$200), along with all other civil penalties permitted by law.

Attorneys’ Fees and Costs
Labor Code § 2699(g)

Plaintiff has been compelled to retain the services of counsel to protect the interests of other aggrieved employees and the State of California. Plaintiff continues to incur attorneys’ fees and costs, which are recoverable under California law, including Labor Code section 2699(g).

- LITIGATION HOLD NOTICE -

This letter imposes a duty upon all defendants and their respective employees, officers, directors, executives, attorneys, human resource and payroll personnel, accountants, and other agents to preserve all physical and electronic evidence, including electronically stored information and emails, which relate to the employment of Plaintiff and the aggrieved employees specified in this notice. Evidence includes, but is not limited to, Defendants’ written employment and payroll policies and handbooks; the aggrieved employees’ personnel files and payroll records, such as paystubs, time records, wage statements, compensation reports, as well as the underlying electronically data in Excel or similar format. Memoranda and internal and external correspondence relating to the subject matter of this notice shall also be maintained. Failure to preserve and retain relevant evidence may constitute spoliation of evidence and result in an adverse inference or sanctions.

If you have any questions regarding the scope of your obligations to preserve evidence, please consult your legal counsel and always err on the side of caution. Periodic or regularly scheduled purges or deletions of information covered by this hold must be suspended immediately.

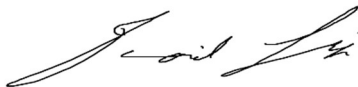
- CONCLUSION -

If the LWDA does not pursue enforcement, Plaintiff intends to bring representative claims on behalf of the State of California and the aggrieved employees seeking civil penalties for

violations of the Labor Code and the IWC Wage Orders, along with attorneys' fees, costs, interest, and other appropriate relief.

Please advise if the LWDA intends to investigate any of the factual or legal allegations set forth in this notice. Defendants may contact Plaintiff's counsel with any questions regarding this letter or the forthcoming lawsuit.

Sincerely,

A handwritten signature in black ink, appearing to read "David X. Lin", with a stylized flourish at the end.

David X. Lin

Cc Plaintiff Cesar Limon
Jeffrey M. Nellis
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