

JUSTICE FOR WORKERS, P.C.
William C. Sung, SB# 280792
E-Mail: william@justiceforworkers.com
Tiffany L. Luu, SB# 335127
E-Mail: tluu@justiceforworkers.com
3600 Wilshire Boulevard, Suite 1815
Los Angeles, CA 90010
Tel: 323-922-2000
Fax: 323-922-2000

Attorneys for Plaintiff CYNTHIA NAGY

FILED
Superior Court of California
County of Los Angeles

04/25/2024

David W. Slayton, Executive Officer / Clerk of Court

By: R. Lozano Deputy

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES, CENTRAL DISTRICT**

CYNTHIA NAGY, an individual and on
behalf of all others similarly situated;

Plaintiff,

vs.

DALIA AUTO PLAZA, INC., a California
corporation; DALIA AUTO GROUP, INC., a
California corporation; DALIA CAR
COMPANY, INC., a California corporation;
DALIA H AUTOS, INC., a California
corporation; and ALAM KHAN, and
individual; and DOES 1 through 50,

Defendants.

Case No.: 24STCV03275

**FIRST AMENDED CLASS AND
REPRESENTATIVE ACTION
COMPLAINT:**

- (1) **MINIMUM WAGE VIOLATIONS
(LABOR CODE §§ 1182.12, 1194,
1194.2, 1197);**
- (2) **OVERTIME WAGE VIOLATIONS
(LABOR CODE §§ 204, 510, 1194,
1198);**
- (3) **MEAL PERIOD VIOLATIONS
(LABOR CODE §§ 226.7, 512, 558);**
- (4) **REST PERIOD VIOLATIONS
(LABOR CODE §§ 226.7, 516, 558);**
- (5) **WAGE STATEMENT PENALTIES
(LABOR CODE § 226);**
- (6) **WAITING TIME PENALTIES
(LABOR CODE §§ 201-203);**
- (7) **FAILURE TO REIMBURSE
NECESSARY BUSINESS EXPENSES
(LABOR CODE § 2802);**
- (8) **UNFAIR COMPETITION (BUS &
PROF CODE §§ 17200, *et seq.*); and**
- (9) **CIVIL PENALTIES UNDER THE
CALIFORNIA PRIVATE**

**ATTORNEYS GENERAL ACT
(LABOR CODE §§ 2698, *et seq.*)**

DEMAND FOR JURY TRIAL

Plaintiff CYNTHIA NAGY (“Plaintiff”), on behalf of herself and all others similarly situated, hereby brings this First Amended Class and Representative Action Complaint (“Complaint”) against Defendants DALIA AUTO PLAZA, INC., a California corporation; DALIA AUTO GROUP, INC., a California corporation; DALIA CAR COMPANY, INC., a California corporation; DALIA H AUTOS, INC., a California corporation; and ALAM KHAN, and individual, and DOES 1 to 50 (collectively “Defendants”), and on information and belief alleges as follows:

JURISDICTION AND VENUE

1. Plaintiff, on behalf of herself and all others similarly situated, hereby brings this Complaint for recovery of unpaid wages and penalties under California Business and Professions Code § 17200, *et seq.*, Labor Code §§ 201-204, 226, 226.7, 246, 510, 512, 516, 558, 1182.12, 1194, 1194.2, 1197, 1198, 2802, 2698, *et seq.*, and Industrial Welfare Commission (“IWC”) Wage Order 7-2001 (“Wage Order 7”), in addition to seeking injunctive relief, declaratory relief, and restitution. This Complaint is brought pursuant to California Code of Civil Procedure § 382. This Court has jurisdiction over Defendants’ violations of the Labor Code because the amount in controversy exceeds \$25,000.

2. Venue is proper in this judicial district because Defendants maintain offices, have agents, and/or transact business in the State of California, including Los Angeles County, and some of the acts and omissions complained of herein occurred in Los Angeles County. Furthermore, Plaintiff was employed by Defendants within Los Angeles County.

PARTIES

3. Plaintiff is, and at all times relevant herein was, an individual over the age of eighteen (18) and is a California resident. Within the statute of limitations periods applicable to each cause of action pled herein, Plaintiff was employed by Defendants as a non-exempt employee and misclassified as an exempt employee. Plaintiff was, and is, a victim of Defendants’ policies, practices, and/or customs complained of herein and has been deprived of the rights guaranteed by

1 Business and Professions Code § 17200, *et seq.*, Labor Code §§ 201-204, 226, 226.7, 246, 510, 512,
2 516, 558, 1182.12, 1194, 1194.2, 1197, 1198, 2802, 2698, *et seq.*, and Wage Order 7.

3 4. Plaintiff is informed and believes, and based thereon alleges, that during the
4 applicable statute of limitations for each cause of action pled herein and continuing to the present,
5 Defendants engaged in, and continue to engage in, business, and employed Plaintiff and other,
6 similarly-situated non-exempt and/or exempt misclassified employees within Los Angeles County,
7 and the State of California and, therefore, were (and are) doing business in Los Angeles County and
8 the State of California.

9 5. Plaintiff is informed and believes, and based thereon alleges, that during the
10 applicable statute of limitations for each cause of action pled herein and continuing to the present,
11 Defendant ALAM KHAN is an individual residing in California, as well as the Chief Executive
12 Officer of Defendants DALIA AUTO PLAZA, INC.; DALIA AUTO GROUP, INC.; DALIA CAR
13 COMPANY, INC.; and DALIA H AUTOS, INC. Plaintiff is further informed and believes, and
14 based thereon alleges, that Defendant ALAM KHAN violated, or caused to be violated, the above-
15 and below-referenced Labor Code statutes in violation of Labor Code §§ 558 and 558.1.

16 6. Plaintiff does not know the true names or capacities, whether individual, partner, or
17 corporate, of the defendants sued herein as DOES 1 to 50, inclusive, and for that reason, said
18 defendants are sued under such fictitious names, and Plaintiff will seek leave from this Court to
19 amend this Complaint when such true names and capacities are discovered. Plaintiff is informed,
20 and believes, and based thereon alleges, that each of said fictitious defendants, whether individual,
21 partners, or corporate, was responsible in some manner for the acts and omissions alleged herein,
22 and proximately caused Plaintiff and the Classes (as defined below) to be subject to the unlawful
23 employment practices, wrongs, injuries, and damages complained of herein.

24 7. At all times herein mentioned, each of said Defendants participated in the doing of
25 the acts hereinafter alleged to have been done by the named Defendant; and furthermore,
26 Defendants, and each of them, were the agents, servants, and employees of each of the other
27 defendants, as well as the agents of all Defendants, and at all times herein mentioned, were acting
28 within the course and scope of said agency and employment.

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

9. At all times herein mentioned, Defendants, and each of them, were members of, and engaged in, a joint venture, partnership, and common enterprise, and acting within the course and scope of, and in pursuance of, said joint venture, partnership, and common enterprise.

10. At all times herein mentioned, the acts and omissions of various Defendants, and each of them, concurred and contributed to the various acts and omissions of each and all of the other Defendants in proximately causing the injuries and damages as herein alleged.

FACTUAL ALLEGATIONS

11. Defendants own and operate a chain of car dealerships under the trade name Diamond Automotive Group in the Counties of Los Angeles and San Bernardino, California. Defendants employed Plaintiff at its dealership in Palmdale, California, first as an hourly-paid, non-exempt employee from approximately May 5, 2020 to approximately December 1, 2023 as a warranty administrator and then as a misclassified exempt employee from approximately December 1, 2023 to December 27, 2023 in the same position.

12. Defendants misclassified Plaintiff as an exempt employee because she did not customarily and regularly directs the work of two or more other employees, had no authority to hire or fire other employees and had no authority to make suggestions and recommendations as to the hiring or firing and as to the advancement and promotion or any other change of status of other employees, did not customarily and regularly exercises discretion and independent judgment, did not regularly and directly assists a proprietor or an employee employed in a bona fide executive or administrative capacity, and was not given special assignments and tasks.

13. Throughout Plaintiff's employment with Defendants, Defendants' timekeeping and/or payroll policies and practices resulted in Plaintiff and other non-exempt and/or exempt

1 misclassified employees not being compensated for all hours actually worked. Plaintiff and other
2 non-exempt and/or exempt misclassified employees regularly worked more than eight hours in a
3 workday or 40 hours in a workweek. Upon information and belief, Defendants required Plaintiff
4 and other non-exempt and/or exempt misclassified employees to perform work before their
5 scheduled shifts, after their scheduled shifts, and/or during off-the-clock meal breaks, and failed to
6 compensate employees for this time. Upon information and belief, Defendants also failed to
7 incorporate multiple rates of pay and/or all non-discretionary remuneration, including commissions,
8 into the regular rate of pay. As a result, Plaintiff and other non-exempt and/or exempt misclassified
9 employees were not compensated for all earned minimum and overtime wages.

10 14. Defendants failed to provide Plaintiff and other non-exempt and/or exempt
11 misclassified employees with all legally compliant meal periods due to Defendants' meal period
12 policies/practices, which have frequently resulted in late (commencing after the fifth hour of work),
13 short (less than 30 minutes), and/or missed meal periods. Upon information and belief, Plaintiff and
14 other non-exempt and/or exempt misclassified employees were not able to take their legally
15 compliant meal breaks due to work demands imposed by Defendants. Upon information and belief,
16 Defendants do not keep accurate records of Plaintiff's and other non-exempt and/or exempt
17 misclassified employees' hours worked, including accurate time records showing when employees
18 take their meal periods. On those occasions when Plaintiff and other non-exempt and/or exempt
19 misclassified employees were not provided with all legally compliant meal periods to which they
20 were entitled, Defendants failed to compensate Plaintiff and other non-exempt and/or exempt
21 misclassified employees with the required meal period premium(s) for each workday there was a
22 meal period violation as mandated by Labor Code § 226.7. Upon information and belief,
23 Defendants maintained no mechanism for the payment of meal period premium payments as
24 required by Labor Code § 226.7 in the event that a legally compliant meal period was not provided
25 to their non-exempt and/or exempt misclassified employees.

26 15. Plaintiff and other non-exempt and/or exempt misclassified employees were not
27 authorized and permitted to take all required rest periods due to Defendants' unlawful rest period
28 policies/practices, which failed to authorize and permit a net 10-minute rest period for every four

1 hours worked, or major fraction thereof. Plaintiff and other non-exempt and/or exempt misclassified
2 employees were not able to take their legally compliant rest breaks due to work demands imposed
3 by Defendants. Additionally, although Plaintiff and other non-exempt and/or exempt misclassified
4 employees occasionally worked shifts in excess of 10 hours, Plaintiff and other non-exempt and/or
5 exempt misclassified employees were not authorized and permitted a third rest period during shifts
6 in excess of 10 hours. On those occasions when Plaintiff and other non-exempt and/or exempt
7 misclassified employees were not authorized and permitted to take all legally compliant rest periods
8 to which they were entitled, Defendants failed to compensate them with the required rest period
9 premium(s) for each workday there was a rest period violation as mandated by Labor Code § 226.7.
10 Upon information and belief, Defendants maintained no mechanism for the payment of rest period
11 premium payments as required by Labor Code § 226.7, in the event that a legally compliant rest
12 period was not authorized and permitted to their non-exempt and/or exempt misclassified
13 employees.

14 16. Additionally, upon information and belief, Defendants violated Labor Code § 246 by
15 failing to incorporate multiple rates of pay and/or all non-discretionary remuneration, including
16 commissions, into the paid sick leave pay rate.

17 17. As a result of Defendants' failure to pay all minimum and overtime wages, failure to
18 pay all meal and rest period premium wages, and unlawful timekeeping and payroll practices as
19 alleged above, Defendants maintained inaccurate payroll records and issued inaccurate wage
20 statements to Plaintiff and other non-exempt and/or exempt misclassified employees. As a further
21 result of Defendants' failure to pay all minimum and overtime wages, sick leave wages, and meal
22 and rest period premium wages, Defendants failed to timely pay all final wages to Plaintiff and
23 other former non-exempt and/or exempt misclassified employees upon their separation of
24 employment from Defendants.

25 18. Additionally, Defendants required Plaintiff and other non-exempt and/or exempt
26 misclassified employees to incur necessary business expenses, but Defendants failed to reimburse
27 Plaintiff and other non-exempt and/or exempt misclassified employees for the cost of these
28 expenses.

1 **CLASS ACTION ALLEGATIONS**

2 19. **Class Definitions:** Plaintiff brings this action on behalf of herself and the following
3 Classes pursuant to § 382 of the California Code of Civil Procedure:

- 4 a. Minimum Wage Class: All current and former non-exempt and/or exempt
5 misclassified employees of Defendants in the State of California who were subject to
6 Defendants' timekeeping and payroll policies and/or practices, during the four years
7 immediately preceding the filing of this action through the present.
- 8 b. Overtime Class: All current and former non-exempt and/or exempt misclassified
9 employees of Defendants in the State of California who worked more than eight
10 hours per day and/or 40 hours per week and were subject to Defendants' timekeeping
11 policies and/or practices, during the four years immediately preceding the filing of
12 this action through the present.
- 13 c. Meal Period Class: All current and former non-exempt and/or exempt misclassified
14 employees of Defendants in the State of California who: (i) worked at least one shift
15 in excess of 5.0 hours; and/or (ii) worked at least one shift in excess of 10.0 hours,
16 during the four years immediately preceding the filing of this action through the
17 present.
- 18 d. Rest Period Class: All current and former non-exempt and/or exempt misclassified
19 employees of Defendants in the State of California who worked at least one shift of
20 3.5 or more hours, during the four years immediately preceding the filing of this
21 action through the present.
- 22 e. Wage Statement Class: All current and former non-exempt and/or exempt
23 misclassified employees of Defendants in the State of California who received a
24 wage statement, during the one year immediately preceding the filing of this action
25 through the present.
- 26 f. Waiting Time Penalty Class: All of Defendants' formerly employed members of the
27 Minimum Wage Class, Overtime Class, Rest Period Class, and/or Meal Period Class
28 during the three years immediately preceding the filing of this action through the

present.

- g. Expense Reimbursement Class: All current and former non-exempt and/or exempt misclassified employees of Defendants in the State of California who were not reimbursed for all necessary business expenses, during the four years immediately preceding the filing of this action through the present.

20. **Numerosity/Ascertainability**: The members of the Classes are so numerous that joinder of all members would be impractical, if not impossible. The membership of the Classes is unknown to Plaintiff at this time; however, it is estimated that the members of the Classes number greater than 50 individuals. The identity of such membership is readily ascertainable via inspection of Defendants' employment records, including payroll records.

21. **Common Questions of Law and Fact Predominate/Well-Defined Community of Interest**: There are predominant common questions of law and fact as to Plaintiff and members of the Classes, which predominate over questions affecting only individual members including, without limitation to:

- a. Whether Defendants properly paid all overtime wages to members of the Overtime Class;
- b. Whether Defendants paid at least the minimum wage for all hours worked to members of the Minimum Wage Class;
- c. Whether Defendants provided all legally compliant meal periods or paid meal period premium wages due to members of the Meal Period Class pursuant to Labor Code §§ 226.7 and 512;
- d. Whether Defendants authorized and permitted all legally compliant rest periods or paid all rest period premium wages due to members of the Rest Period Class pursuant to Labor Code §§ 226.7 and 516;
- e. Whether Defendants furnished legally compliant wage statements to members of the Wage Statement Class pursuant to Labor Code § 226;
- f. Whether Defendants reimbursed members of the Expense Reimbursement Class for all necessary business expenses pursuant to Labor Code § 2802; and

1 g. Whether Defendants timely paid all final wages to members of the Waiting Time
2 Class at the time of their separation of employment pursuant to Labor Code §§ 201
3 and 202.

4 These common questions of law and fact set forth above are numerous and substantial and
5 stem from Defendants' policies and/or practices applicable to each individual class member. As
6 such, the common questions predominate over individual questions concerning each individual
7 class member's showing as to their eligibility for recovery or as to the amount of their damages.

8 22. **Typicality:** The claims of Plaintiff are typical of the claims of the Classes because
9 Plaintiff was employed by Defendants as a non-exempt employee in California during the statute(s)
10 of limitations period applicable to each cause of action pled in the Complaint. As alleged herein,
11 Plaintiff, like the members of the Classes, was not paid all minimum and overtime wages owed due
12 to Defendants' timekeeping and payroll policies/practices, was not provided all required meal
13 periods, was not authorized and permitted all rest periods, did not receive premium pay for non-
14 compliant meal and rest periods, was not paid all final wages upon separation of employment, was
15 not provided with accurate, compliant, itemized wage statements, and was not reimbursed for all
16 necessary business expenses.

17 23. **Adequacy of Representation:** Plaintiff is fully prepared to take all necessary steps
18 to represent fairly and adequately the interests of the members of the Classes. Moreover, Plaintiff's
19 attorneys are ready, willing and able to fully and adequately represent the members of the Classes
20 and Plaintiff. Plaintiff's attorneys have litigated numerous wage-and-hour class actions in state and
21 federal courts in the past and are committed to vigorously prosecuting this action on behalf of the
22 members of the Classes.

23 24. **Superiority:** The Labor Code is broadly remedial in nature and serves an important
24 public interest in establishing minimum working conditions and standards in California. These laws
25 and labor standards protect the average working employee from exploitation by employers who
26 have the responsibility to follow the laws and who may seek to take advantage of superior economic
27 and bargaining power in setting onerous terms and conditions of employment. The nature of this
28 action and the format of laws available to Plaintiff and members of the Classes make the class

1 action format a particularly efficient and appropriate procedure to redress the violations alleged
2 herein. If each employee were required to file an individual lawsuit, Defendants would necessarily
3 gain an unconscionable advantage since they would be able to exploit and overwhelm the limited
4 resources of each individual plaintiff with their vastly superior financial and legal resources.

5 25. Moreover, requiring each member of the Class(es) to pursue an individual remedy
6 would also discourage the assertion of lawful claims by employees who would be disinclined to file
7 an action against their former and/or current employer for real and justifiable fear of retaliation and
8 permanent damages to their careers at subsequent employment. The claims of the individual
9 members of the Class are not sufficiently large to warrant vigorous individual prosecution
10 considering all of the concomitant costs and expenses attending hereto.

11 26. Furthermore, the prosecution of separate actions by the individual class members,
12 even if possible, would create a substantial risk of inconsistent or varying verdicts or adjudications
13 with respect to the individual class members against Defendants herein; and which would establish
14 potentially incompatible standards of conduct for Defendants; and/or legal determinations with
15 respect to individual class members which would, as a practical matter, be dispositive of the interest
16 of the other class members not parties to adjudications or which would substantially impair or
17 impede the ability of the class members to protect their interests. As such, the Classes identified
18 hereinabove are maintainable as classes under § 382 of the Code of Civil Procedure.

19 **FIRST CAUSE OF ACTION**

20 **MINIMUM WAGE VIOLATIONS**

21 **(Against All Defendants)**

22 27. Plaintiff re-alleges and incorporates by reference all preceding paragraphs as though
23 fully set forth herein.

24 28. Labor Code §§ 1182.12, 1197, and Wage Order 7, § 4 establish the right of
25 employees to be paid minimum wages for all hours worked, in amounts set by state or local law.
26 Labor Code §§ 1194(a) and 1194.2(a) provide that an employee who has not been paid the legal
27 minimum wage as required by Labor Code § 1197 may recover the unpaid balance together with
28 attorneys' fees and costs of suit, as well as liquidated damages in an amount equal to the unpaid

1 wages and interest accrued thereon. At all relevant times herein, Defendants failed to conform its
2 pay practices to the requirements of the law by failing to pay Plaintiff and members of the
3 Minimum Wage Class for all hours worked, including, but not limited to, all hours they were
4 subject to the control of Defendants and/or suffered or permitted to work under the Labor Code and
5 Wage Order 7.

6 29. Labor Code § 1198 makes unlawful the employment of an employee under
7 conditions that the IWC prohibits. California Labor Code § 1194(a) and 1194.2(a) provide that an
8 employer who has failed to pay its employees the legal minimum wage is liable to pay those
9 employees the unpaid balance of the unpaid wages as well as liquidated damages in an amount
10 equal to the wages due and interest thereon.

11 30. As a consequence of Defendants' non-payment of minimum wages, Plaintiff and
12 members of the Minimum Wage Class seek recovery of the balance of unpaid wages, including
13 interest thereon, statutory penalties, attorneys' fees, and costs of suit according to Labor Code §§
14 218.6, 558, 1194, 1194.2, and 1199, Code of Civil Procedure § 1021.5; and Civil Code §§ 3287 and
15 3289.

16 **SECOND CAUSE OF ACTION**
17 **OVERTIME WAGE VIOLATIONS**
18 **(Against All Defendants)**

19 31. Plaintiff re-alleges and incorporates by reference all preceding paragraphs as though
20 fully set forth herein.

21 32. This cause of action is brought pursuant to Labor Code §§ 204, 510, 1194, 1198, and
22 Wage Order 7, § 3, which provide that non-exempt and/or exempt misclassified employees are
23 entitled to all overtime wages and compensation for all overtime hours worked and provide a
24 private right of action for the failure to pay all overtime compensation for overtime work
25 performed.

26 33. At all times relevant herein, Defendants were required to properly compensate non-
27 exempt and/or exempt misclassified employees, including Plaintiff and members of the Overtime
28 Class, for all overtime hours worked pursuant to Labor Code § 1194 and Wage Order 7. Wage

1 Order 7, § 3 requires an employer to pay an employee one and one-half (1½) times and two times
2 the employee's regular rate of pay for overtime and double time hours work. Defendants caused
3 Plaintiff and members of the Overtime Class to work overtime hours but failed to compensate these
4 employees for all overtime hours actually worked.

5 34. As a consequence of Defendants' non-payment of overtime wages, Plaintiff and
6 members of the Overtime Class seek recovery of the balance of unpaid overtime wages, including
7 interest thereon, statutory penalties, attorneys' fees, and costs of suit according to Labor Code §§
8 204, 210, 216, 218.6, 510, 1194, and 1198; Code of Civil Procedure § 1021.5; and Civil Code §§
9 3287 and 3289.

10 **THIRD CAUSE OF ACTION**
11 **MEAL PERIOD VIOLATIONS**
12 **(Against All Defendants)**

13 35. Plaintiff re-alleges and incorporates by reference all preceding paragraphs as though
14 fully set forth herein.

15 36. Plaintiff is informed and believes, and based thereon alleges, that Defendants failed
16 in their affirmative obligation to provide all of their non-exempt and/or exempt misclassified
17 employees in California, including Plaintiff and members of the Meal Period Class, with all legally
18 compliant meal periods in accordance with the mandates of the Labor Code and Wage Order 7, §
19 11.

20 37. Despite Defendants' violations, Defendants did not pay an additional hour of pay to
21 Plaintiff and members of the Meal Period Class at their respective regular rates of compensation, in
22 accordance with California Labor Code §§ 204, 210, 226.7, and 512.

23 38. As a consequence of Defendants' unlawful meal period practices, Plaintiff and
24 members of the Meal Period Class seek recovery of unpaid premium wages for meal period
25 violations including interest thereon, statutory penalties, and costs of suit, pursuant to Labor Code
26 §§ 226.7, 512, 558, Wage Order 7, and Civil Code §§ 3287 and 3289.

27 ///

28 ///

1 **FOURTH CAUSE OF ACTION**

2 **REST PERIOD VIOLATIONS**

3 **(Against All Defendants)**

4 39. Plaintiff re-alleges and incorporates by reference all preceding paragraphs as though
5 fully set forth herein.

6 40. Labor Code §§ 226.7, 516, 558, and Wage Order 7, § 12 and establish the right of
7 employees to be provided with a rest period of at least 10 minutes for each four-hour period
8 worked, or major fraction thereof. Plaintiff is informed and believes, and based thereon alleges, that
9 despite Defendants' failure to authorize and permit Plaintiff and members of the Rest Period Class
10 to take all legally compliant rest periods as alleged herein, Defendants did not pay these individuals
11 an additional hour of pay at their respective regular rate for the rest periods that they failed to
12 authorize and permit them to take, as required by Labor Code § 226.7.

13 41. As a consequence of Defendants' unlawful rest period practices, Plaintiff and
14 members of the Rest Period Class seek recovery of unpaid premium wages for rest period violations
15 including interest thereon, statutory penalties, and costs of suit, statutory penalties, attorneys' fees,
16 and costs of suit according to Labor Code §§ 226.7, 516, 558, Wage Order 7, and Civil Code §§
17 3287 and 3289.

18 **FIFTH CAUSE OF ACTION**

19 **WAGE STATEMENT PENALTIES**

20 **(Against All Defendants)**

21 42. Plaintiff re-alleges and incorporates by reference all preceding paragraphs as though
22 fully set forth herein.

23 43. Plaintiff is informed and believes, and based thereon alleges, that Defendants
24 knowingly and intentionally, as a matter of uniform policy and practice, failed to furnish Plaintiff
25 and members of the Wage Statement Class with accurate and complete, itemized wage statements
26 that included, among other requirements, all hours worked, total gross wages earned, all rates of pay
27 and corresponding number of hours worked, total net wages earned, the inclusive dates of the pay
28 period, and/or the correct name and address of the legal entity that is the employer in violation of

1 Labor Code § 226.

2 44. Defendants' failure to furnish Plaintiff and members of the Wage Statement Class
3 with accurate and complete, itemized wage statements resulted in actual injury, as said failures led
4 to, among other things, the non-payment of minimum and overtime wages and meal and rest period
5 premium wages owed and deprived them of the information necessary to identify the discrepancies
6 in Defendants' reported payroll data.

7 45. As a consequence of Defendants' unlawful wage statement practices, Plaintiff and
8 members of the Wage Statement Class seek damages and/or statutory penalties, reasonable
9 attorneys' fees, and costs of suit according to California Labor Code § 226.

10 **SIXTH CAUSE OF ACTION**

11 **WAITING TIME PENALTIES**

12 **(Against All Defendants)**

13 46. Plaintiff re-alleges and incorporates by reference all preceding paragraphs as though
14 fully set forth herein.

15 47. This cause of action is brought pursuant to Labor Code §§ 201-203, which require an
16 employer to pay all wages immediately at the time of separation of employment in the event the
17 employer discharges the employee or the employee provides at least 72 hours of notice of their
18 intent to quit. In the event the employee provides less than 72 hours of notice of their intent to quit,
19 said employee's wages become due and payable not later than 72 hours upon said employee's last
20 date of employment.

21 48. Plaintiff is informed and believes, and based thereon alleges, that Defendants failed
22 to timely pay Plaintiff and members of the Waiting Time Class all final wages due to them at their
23 separation from employment, including unpaid minimum and overtime wages as well as unpaid
24 meal and rest period premium wages.

25 49. Furthermore, Plaintiff is informed and believes, and based thereon alleges, that as a
26 matter of uniform policy and practice, Defendants continue to fail to pay Plaintiff and members of
27 the Waiting Time Class all earned wages at the end of employment in a timely manner pursuant to
28 the requirements of Labor Code §§ 201-202.

1 50. Defendants' failure to pay all final wages was willful within the meaning of Labor
2 Code § 203. Defendants' willful failure to timely pay Plaintiff and the members of the Waiting
3 Time Class their earned wages upon separation from employment results in continued payment of
4 daily wages up to thirty days from the time the wages were due.

5 51. As a consequence of Defendants' unlawful practices, Plaintiff and members of the
6 Waiting Time Class seek statutory penalties, and costs of suit according to California Labor Code §
7 203.

8 **SEVENTH CAUSE OF ACTION**

9 **FAILURE TO REIMBURSE NECESSARY BUSINESS EXPENSES**

10 **(Against All Defendants)**

11 52. Plaintiff re-alleges and incorporates by reference all preceding paragraphs as though
12 fully set forth herein.

13 53. At all relevant times herein, Defendants were subject to Labor Code § 2802, which
14 states that "an employer shall indemnify his or her employees for all necessary expenditures or
15 losses incurred by the employee in direct consequence of the discharge of his or her duties, or of his
16 or obedience to the directions of the employer."

17 54. Defendants violated Labor Code § 2802 by failing to reimburse Plaintiff and
18 members of the Expense Reimbursement Class all necessary business expenses they incurred in the
19 performance of their job duties.

20 55. As a consequence of Defendants' unlawful practices, Plaintiff and members of the
21 class seek recovery of unreimbursed business expenses, including interest thereon, reasonable
22 attorneys' fees, and costs of suit pursuant to Labor Code § 2802.

23 **EIGHTH CAUSE OF ACTION**

24 **UNFAIR COMPETITION**

25 **(Against All Defendants)**

26 56. Plaintiff re-alleges and incorporates by reference all preceding paragraphs as though
27 fully set forth herein.

28 ///

1 57. Defendants have engaged and continue to engage in unfair and/or unlawful business
2 practices in California in violation of Business and Professions Code § 17200, *et seq.*, by:

- 3 a. failing to pay Plaintiff and members of the Minimum Wage Class all minimum
4 wages due;
- 5 b. failing to pay Plaintiff and members of the Overtime Class all overtime wages due;
- 6 c. failing to provide Plaintiff and members of the Meal Period Class with all meal
7 periods to which they are entitled, and failing to pay them all meal period premium
8 wages due;
- 9 d. failing to authorize and permit Plaintiff and members of the Rest Period Class all rest
10 periods to which they are entitled, and failing to pay them all rest period premium
11 wages due;
- 12 e. failing to issue accurate and itemized wage statements to Plaintiff and members of
13 the Wage Statement Class;
- 14 f. failing to timely pay all final wages to Plaintiff and members of the Waiting Time
15 Penalty Class; and
- 16 g. failing to reimburse all necessary business expenses to Plaintiff and members of the
17 Expense Reimbursement Class.

18 58. Defendants' utilization of these unfair and/or unlawful business practices deprived
19 Plaintiff and continues to deprive members of the Classes of compensation to which they are legally
20 entitled, constitutes unfair and/or unlawful competition, and provides an unfair advantage over
21 Defendants' competitors who have been and/or are currently employing workers and attempting to
22 do so in honest compliance with applicable wage and hour laws.

23 59. Because Plaintiff is a victim of Defendants' unfair and/or unlawful conduct alleged
24 herein, Plaintiff for himself and on behalf of the members of the Classes, seeks full restitution of
25 monies, as necessary and according to proof, to restore any and all monies withheld, acquired
26 and/or converted by Defendants pursuant to Business and Professions Code §§ 17203 and 17208.

27 60. The acts complained of herein occurred within the last four years immediately
28 preceding the filing of the Complaint in this action.

NINTH CAUSE OF ACTION
PRIVATE ATTORNEYS GENERAL ACT
(Against All Defendants)

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

62. Plaintiff, an “aggrieved employee” within the meaning of Labor Code §§ 2698, *et seq.*, acting on behalf of herself and other aggrieved employees (collectively, “Aggrieved Employees”), brings this representative action against Defendants to recover the civil penalties due to Plaintiff and other Aggrieved Employees, and the State of California according to proof pursuant to Labor Code §§ 558 and 2699(a) and (f) including, but not limited to: (1) \$100.00 for each initial violation for each failure to pay each employee and \$200 for each subsequent violation or willful or intentional violation pursuant to Labor Code §§ 210 and/or 225.5 for each failure to pay each employee, plus 25% of the amount unlawfully withheld; (2) \$50.00 for each initial violation and \$100 for each subsequent violation pursuant to Labor Code § 558 per employee per pay period; (3) \$100 for each initial violation and \$250 for each subsequent violation pursuant to Labor Code § 1197.1 per employee per pay period; (4) \$250 for each initial violation and \$1,000 for each subsequent violation pursuant to Labor Code § 226.3 per employee per pay period; (5) pursuant to Labor Code § 256, a civil penalty in an amount not exceeding 30 days per former employee as waiting time under the terms of Labor Code § 203; and/or (6) \$100 for each initial violation and \$200 for each subsequent violation per employee per pay period for those violations of the Labor Code for which no civil penalty is specifically provided, based on the following Labor Code violations:

- a. Failing to pay minimum wages for all hours worked to Aggrieved Employees in violation of Labor Code § 558, 1182.12, 1194, 1194.2, 1197, and 1198;
- b. Failing to pay Aggrieved Employees all earned overtime compensation in violation of Labor Code §§ 204, 510, 558, 1194, and 1198;
- c. Failing to provide all legally required meal periods, and failure to pay meal period premium wages, to Aggrieved Employees at the regular rate of compensation in

violation of Labor Code §§ 226.7, 512, 558, and 1198;

- d. Failing to authorize and permit all legally required rest periods, and failure to pay rest period premium wages, to Aggrieved Employees at the regular rate of compensation in violation of Labor Code §§ 226.7, 516, 558, and 1198;
- e. Failing to furnish Aggrieved Employees with complete, accurate, itemized wage statements in violation of Labor Code § 226;
- f. Failing to timely pay all final wages and compensation earned by Aggrieved Employees at the time of separation in violation of Labor Code §§ 201-202;
- g. Failure to reimburse Aggrieved Employees for all necessary business expenses in violation of Labor Code § 2802;
- h. Failing to pay Aggrieved Employees all paid sick leave wages in violation of Labor Code § 246;
- i. Failing to pay Aggrieved Employees all earned wages at least twice during each calendar month in violation of Labor Code § 204; and
- j. Failing to maintain accurate records on behalf of Aggrieved Employees in violation of Labor Code §§ 1174 and 1198.

63. On or about February 7, 2024, Plaintiff notified Defendants via certified mail, and notified the California Labor and Workforce Development Agency (“LWDA”) via its website, of Defendants’ violations of the Labor Code and Plaintiff’s intent to bring a claim for civil penalties under Labor Code §§ 2698, *et seq.* with respect to the violations of the Labor Code identified in the preceding paragraph. Now that 33 days and 65 days have passed from Plaintiff notifying Defendants and the LWDA of these violations, Defendants have not cured any curable violations, and the LWDA has not provided notice that it intends to investigate the violations, Plaintiff has exhausted administrative requirements for bringing a claim under the Private Attorneys General Act with respect to these violations.

64. Plaintiff has incurred attorneys’ fees and costs, which Plaintiff is entitled to receive under California Labor Code § 2699(g).

///

1 **PRAYER FOR RELIEF**

2 WHEREFORE, Plaintiff prays for judgment for herself and for all others on whose behalf
3 this suit is brought against Defendants, as follows:

- 4 1. For an order certifying the proposed Classes;
- 5 2. For an order appointing Plaintiff as representative of the Classes;
- 6 3. For an order appointing Counsel for Plaintiff as Counsel for the Classes;
- 7 4. Upon the First Cause of Action, for payment of minimum wages, liquidated
8 damages, and penalties according to proof pursuant to Labor Code §§ 1182.12, 1194, 1194.2, and
9 1197;
- 10 5. Upon the Second Cause of Action, for payment of overtime wages and penalties
11 according to proof pursuant to Labor Code §§ 204, 510, 558, 1194, and 1198;
- 12 6. Upon the Third Cause of Action, for meal period premium wages according to proof
13 pursuant to Labor Code §§ 226.7, 512, and 558;
- 14 7. Upon the Fourth Cause of Action, for rest period premium wages according to proof
15 pursuant to Labor Code §§ 226.7, 516, and 558;
- 16 8. Upon the Fifth Cause of Action, for statutory penalties pursuant to Labor Code §
17 226;
- 18 9. Upon the Sixth Cause of Action, for statutory penalties pursuant to Labor Code §
19 203;
- 20 10. Upon the Seventh Cause of Action, for unreimbursed business expenses according to
21 proof pursuant to Labor Code § 2802;
- 22 11. Upon the Eighth Cause of Action, for restitution to Plaintiff and members of the
23 Classes of all money and/or property unlawfully acquired by Defendants by means of any acts or
24 practices declared by this Court to be in violation of Business and Professions Code §§ 17200, *et*
25 *seq.*;
- 26 12. Upon the Ninth Cause of Action, for civil penalties due to Plaintiff, other Aggrieved
27 Employees, and the State of California according to proof pursuant to Labor Code §§ 558 and 2699(a) and (f)
28 including, but not limited to: (1) \$100.00 for each initial violation for each failure to pay each employee and

1 \$200 for each subsequent violation or willful or intentional violation pursuant to Labor Code §§ 210 and/or
2 225.5 for each failure to pay each employee, plus 25% of the amount unlawfully withheld; (2) \$50.00 for
3 each initial violation and \$100 for each subsequent violation pursuant to Labor Code § 558 per employee per
4 pay period; (3) \$100.00 for each initial violation and \$250.00 for each subsequent violation pursuant to
5 Labor Code § 1197.1 per employee per pay period; (4) \$250.00 for each initial violation and \$1,000.00 for
6 each subsequent violation pursuant to Labor Code § 226.3 per employee per pay period; (5) pursuant to
7 Labor Code § 256, a civil penalty in an amount not exceeding 30 days per former employee as waiting time
8 under the terms of Labor Code § 203; and/or (6) \$100.00 for each initial violation and \$200 for each
9 subsequent violation per employee per pay period for those violations of the Labor Code for which no civil
10 penalty is specifically provided;

11 13. Prejudgment interest on all due and unpaid wages pursuant to Labor Code § 218.6
12 and Civil Code §§ 3287 and 3289;

13 14. On all causes of action, for attorneys' fees and costs as provided by Labor Code §§
14 218.5, 226, 1194, 2699(g), and Code of Civil Procedure § 1021.5; and

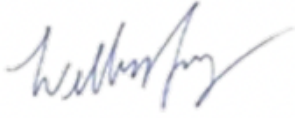
15 15. For such other and further relief, the Court may deem just and proper.

16 **DEMAND FOR JURY TRIAL**

17 Plaintiff hereby demands a trial by jury on all claims.

18
19 DATED: April 25, 2024

JUSTICE FOR WORKERS, P.C.

20
21 By: 

22 William C. Sung

23 Tiffany L. Luu

24 Attorneys for Plaintiff CYNTHIA NAGY
25
26
27
28

PROOF OF SERVICE
CYNTHIA NAGY v. DALIA AUTO PLAZA, INC., ET AL.
STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the county of Los Angeles, State of California. I am over the age of 18 and not a party to the within action. My business address is 3600 Wilshire Blvd., Suite 1815, Los Angeles, CA 90010.

On April 25, 2024 I served the foregoing document described as:

FIRST AMENDED CLASS AND REPRESENTATIVE ACTION COMPLAINT

☐ by placing the document(s) listed above in a sealed envelope with postage thereon fully prepaid, in the United States mail in the State of California addressed as set forth below:

☐ by placing a true copy thereof enclosed in a sealed envelope addressed as stated on the attached mailing list.

☒ by electronically serving the document(s) listed above to:

David J. Reese, Esq.
dreese@employerlawyers.com
Daniel J. Padova, Esq.
dpadova@employerlawyers.com
FINE, BOGGS & PERKINS LLP
111 W. Ocean Blvd.
Ste. 2400
Long Beach, CA 90802

Attorneys for Defendants Dalia Auto
Plaza, Inc., Dalia Autos, Inc., and
Alam Khan

☐ by having copies **personally delivered to the designed party(ies)**

As follows: I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with U.S. postal service on the same day with postage thereon fully prepaid at Los Angeles, California in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

☒ (State) I declare under penalty of perjury the laws of the State of California that the foregoing is true and correct.

☐ (Federal) I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made

Executed on April 25, 2024 at Los Angeles, California.



Jessica Le