

1 EVAN S. GAINES, ESQ. SBN 287668
2 **GAINES LAW CORPORATION**
3 4550 E. Thousand Oaks Blvd., Suite 100
4 Westlake Village, CA 93162
5 Telephone: (805) 892-8200
6 Facsimile: (805) 800-8928
7 Email: evan@gaines.law

8 Attorneys for Plaintiff Mohammad Gharremain,
9 on behalf of himself and all "aggrieved employees"
10 pursuant to Labor Code § 2698 *et seq.*

11 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
12 **FOR THE COUNTY OF VENTURA**

13 MOHAMMAD GHARREMAIN, on behalf of
14 himself and all "aggrieved employees"
15 pursuant to Labor Code § 2698 *et seq.*

16 Plaintiff,

17 v.

18 GREICO MOTORS WEST LLC, a California
19 limited liability company, and DOES 1 through
20 10, inclusive,

21 Defendants.

CASE NO: 2024CV00023304

**REPRESENTATIVE ACTION COMPLAINT
FOR PENALTIES PURSUANT TO LABOR
CODE § 2699(f) FOR VIOLATIONS OF
LABOR CODE §§ 201, 202, 226(a), 226.7, 227.3,
510, 512, AND 1194 AND PURSUANT TO
LABOR CODE § 2699(a) FOR VIOLATIONS
OF LABOR CODE §§ 226.3 AND 558**

Ry FHL

VENTURA
SUPERIOR COURT
FILED

APR 09 2024

BRENDA L. McCORMICK
Executive Officer and Clerk
BY: HEIDI LANGLEY Deputy

1 Plaintiff MOHAMMAD GHARREMAIN (“Plaintiff”), on behalf of himself and others as an
2 “aggrieved employee” under the Labor Code Private Attorneys General Act of 2004, complains of
3 GREICO MOTORS WEST LLC, a California limited liability company, and any subsidiaries or
4 affiliated companies (hereinafter referred to as “Defendants”) as follows:

5 **I.**

6 **INTRODUCTION AND FACTUAL BACKGROUND**

7 1. This is a Representative Action, pursuant to Labor Code § 2698 *et seq.*, on behalf of
8 Plaintiff and other non-exempt California employees, including, but not limited to, those paid on a
9 commission basis, who currently work or formerly worked for Defendants (“Aggrieved Employees”).

10 2. For at least one (1) year prior to the filing of this action and at least one (1) year prior
11 to the date Plaintiff began the process of exhausting the administrative requirements, pursuant to
12 Labor Code § 2698 *et seq.*, and continuing to the present (the “liability period”), Defendants have had
13 consistent policies of:

14 a. Failing to pay all minimum wages and overtime wages earned, in violation of
15 Labor Code §§ 510, 558, and 1194. Plaintiff and some other Aggrieved Employees were
16 classified as overtime-exempt, inside sales employees. Under California law, an inside sales
17 employee is exempt from overtime pay only if more than half of the employee’s pay is from
18 commissions, so long as the hourly earnings are more than 1.5 times the minimum wage. Cal.
19 Code Regs., tit. 8, § 11070, subd. 3(D). Plaintiff and similar Aggrieved Employees often did
20 not satisfy the requirements of this exception, and were therefore denied all minimum and
21 overtime wages due. As a result, Plaintiff and similar Aggrieved Employees were not properly
22 compensated for all minimum wages and overtime wages for work performed in excess of
23 eight (8) hours in a workday and work performed in excess of forty (40) hours in a workweek
24 at a rate of no less than one and one-half times the regular rate of pay. Defendants also
25 separately failed to pay all overtime wages due for applicable shifts. This violates Labor Code
26 §§ 510, 558, 1194;

27 ///

28 ///

1 b. Failing to pay Plaintiff and other Aggrieved Employees for time when they
2 were working, but could not earn a commission or piece-rate wage, including, but not limited
3 to, time spent on administrative tasks, wait times between sales, or rest periods, even though
4 were under the control of Defendants and entitled to be paid at least the minimum wage for
5 all hours worked or under the control of Defendant, in violation of Labor Code §§ 510, 558,
6 and 1194. When employees are paid on a commission or piece-rate basis, they must be paid
7 separately for non-commission/non-piece-rate associated activities. *See Gonzalez v.*
8 *Downtown LA Motors* (2013) 215 Cal.App.4th 36, 47 (“[T]he obligation to pay minimum
9 wages attaches to each and every separate hour worked during the payroll period, and that
10 payment must be made for all such hours on the established payday . . .”). Here, Plaintiff and
11 other Aggrieved Employees were not paid separately for such tasks and, thus, were denied the
12 payment of all minimum wages due for extended periods of their workdays. This violates
13 Labor Code §§ 510, 558, and 1194;

15 c. Failing to pay correct premium wages to Plaintiff and other Aggrieved
16 Employees who were denied proper meal periods, in violation of Labor Code §§ 226.7, 512,
17 and 558, and IWC Wage Order 7-2001. Plaintiff and other Aggrieved Employees were
18 routinely denied, and not authorized to take, a timely, uninterrupted, 30-minute meal period
19 for every shift worked that exceeded five hours, or a second timely, uninterrupted, 30-minute
20 meal period for every shift worked that exceeded ten hours, but were not paid premium wages
21 of one hour’s pay at the proper rate of pay for each missed first or second meal period. When
22 they did receive a meal period, it would routinely be late, short, on-duty, or denied entirely.
23 This violates Labor Code §§ 226.7, 510, 512, 558, and 1194 and IWC Wage Order 7-2001;

25 d. Failing to pay correct premium wages to Plaintiff and other Aggrieved
26 Employees who were denied rest periods, in violation of Labor Code § 226.7 and IWC Wage
27 Order No. 7-2001. Plaintiff and other Aggrieved Employees were routinely unable to take a
28 10-minute rest period for every four (4) hours of work or major fraction thereof, but were not

1 paid premium wages of one hour's pay for each missed rest period. In addition, as Plaintiff
2 and certain Aggrieved Employees can only earn commissions, bonuses, and piece rate wages
3 when they perform limited tasks, they should be separately paid for their rest periods when no
4 commission wages, bonus, or piece-rate wages can be earned, as discussed above, but they
5 are not. In addition, Plaintiff and other Aggrieved Employees are frequently too busy to take
6 an off-duty rest period and they were therefore denied. This violates Labor Code §§ 226.7,
7 510, 558, and 1194 and IWC Wage Order No. 7-2001;

8
9 e. Failing to provide Plaintiff and all other Aggrieved Employees with wage
10 statements that fully and accurately itemized the requirements set forth in Labor Code §
11 226(a). Plaintiff and other Aggrieved Employees were not paid all wages due, as stated above.
12 As such, the wage statements provided by Defendants failed to accurately state all gross wages
13 earned, in violation of Labor Code §§ 226(a)(1) and 226.3, total hours worked, in violation of
14 Labor Code §§ 226(a)(2) and 226.3, net wages earned, in violation of Labor Code §§ 226(a)(5)
15 and 226.3, and all applicable hourly rates in effect during the pay period and the corresponding
16 numbers of hours worked at each rate, in violation of Labor Code §§ 226(a)(9) and 226.3.
17 Furthermore, and independent of the above allegations, the wage statements issued to Plaintiff
18 and other Aggrieved Employees failed to set forth the total hours worked, in violation of Labor
19 Code §§ 226(a)(2) and 226.3, and all applicable hourly rates in effect during the pay period
20 and the corresponding number of hours worked, in violation of Labor Code §§ 226(a)(9) and
21 226.3. Specifically, the total hours worked during the pay period and the applicable hourly
22 rates, and the hours worked at each rate, are simply omitted entirely; and

23
24 f. Failing to pay Plaintiff and other Aggrieved Employees all wages due,
25 including all accrued, but unused vacation wages, at the separation of their employment based
26 on the time frames required by Labor Code §§ 201-202 and 227.3. As stated above, Plaintiff
27 and other Aggrieved Employees were not paid all wages due during the course of their
28 employment and, as a result of this failure, they were not timely paid all wages due at the

1 separation of their employment, including vacation wages. This violates Labor Code §§ 201-
2 202 and 227.3 and is alleged on behalf of Plaintiff and certain Aggrieved Employees no longer
3 employed by Defendants.

4 3. Plaintiff, on behalf of himself and all Aggrieved Employees pursuant to Labor Code §
5 2698 *et seq.*, seeks civil penalties for Defendants' violations of the California Labor Code.

6 4. Venue is proper in this judicial district, pursuant to Code of Civil Procedure § 395.
7 The Labor Code violations alleged against Defendants herein arose in Ventura County, California.

8 **III.**

9 **PARTIES**

10 **A. Plaintiff**

11 5. Plaintiff MOHAMMAD GHARREMAIN was employed by Defendants from
12 November 2018 through August 2022 and again from October 2023 through December 2023 as a
13 non-exempt employee in Ventura County, California.

14 **B. Defendant**

15 6. Defendant GREICO MOTORS WEST LLC, is a California limited liability company
16 that employed Plaintiff and Aggrieved Employees throughout California, including Ventura County.

17 7. The true names and capacities, whether individual, corporate, associate, or otherwise,
18 of Defendants sued herein as DOES 1 to 10, inclusive, are currently unknown to Plaintiff, who
19 therefore sues Defendants by such fictitious names under Code of Civil Procedure § 474. Plaintiff is
20 informed and believes, and based thereon alleges, that each of the Defendants designated herein as a
21 DOE is legally responsible in some manner for the unlawful acts referred to herein. Plaintiff will
22 seek leave of court to amend this Complaint to reflect the true names and capacities of the Defendants
23 designated hereinafter as DOES when such identities become known.

24 8. Plaintiff is informed and believes, and based thereon alleges, that each Defendant acted
25 in all respects pertinent to this action as the agent of the other Defendant, carried out a joint scheme,
26 business plan or policy in all respects pertinent hereto, and the acts of each Defendants is legally
27 attributable to the other Defendants.
28

9. The Defendants named herein as DOE 1 through DOE 10 are and are persons acting on behalf of, or acting jointly with, Defendants, who violated, or caused to be violated, one or more provisions of the California Labor Code as alleged herein.

IV.

CAUSES OF ACTION

FIRST CAUSE OF ACTION

**PLAINTIFF AND ALL AGGRIEVED EMPLOYEES AGAINST ALL DEFENDANTS
CIVIL PENALTIES PURSUANT TO LABOR CODE § 2699(f) FOR VIOLATIONS OF
LABOR CODE §§ 201, 202, 226(a), 226.7, 227.3, 510, 512, AND 1194 AND PURSUANT TO
LABOR CODE § 2699(a) FOR VIOLATIONS OF LABOR CODE §§ 226.3 AND 558**

10. Plaintiff incorporates paragraphs 1 through 9 of this Complaint as though fully set forth herein.

11. As a result of the acts alleged above, including the Labor Code violations set forth in paragraph 2 above, Plaintiff seeks civil penalties pursuant to Labor Code §§ 2698 *et seq.*

12. For each such violation, Plaintiff and all other Aggrieved Employees are entitled to civil penalties subject to the following formula:

- a. Pursuant to Labor Code § 2699(f), \$100 for each initial violation and \$200 for each subsequent violation of Labor Code §§ 201, 202, 226(a), 226.7, 227.3, 510, 512, and 1194; and
- b. Pursuant to Labor Code § 2699(a), the civil penalties as authorized by Labor Code §§ 226.3 and 558.

13. Civil penalties recovered will be allocated 75% to the Labor and Workforce Development Agency, and 25% to the affected employees.

14. On February 1, 2024, Plaintiff sent a letter, by online submission to the LWDA and by certified mail, return receipt requested, to Defendants setting forth the facts and theories of the violations alleged against Defendants, as prescribed by Labor Code § 2698 *et seq.* Pursuant to Labor Code § 2699.3(a)(2)(A), no notice was received by Plaintiff from the LWDA within sixty-five (65)

1 calendar days of February 1, 2024. Plaintiff may therefore commence this action to seek civil penalties
2 pursuant to Labor Code § 2698 *et seq.*

3 Wherefore, Plaintiff and the Aggrieved Employees he seeks to represent request relief as
4 described below.

5 V.

6 **RELIEF REQUESTED**

7 WHEREFORE, Plaintiff prays for the following relief:

8 1. For civil penalties pursuant to Labor Code § 2698 *et seq.* for Plaintiff and all other
9 Aggrieved Employees;

10 2. An award providing for payment of costs of suit pursuant to Labor Code § 2699(g)(1)
11 and other applicable law;

12 3. An award of attorneys' fees pursuant to Labor Code §§ 2699(g)(1) and other
13 applicable law; and

14 4. Such other and further relief as this Court may deem just and proper.

15 Dated: April 8, 2024

Respectfully submitted,

16 **GAINES LAW CORPORATION**

17
18 By: 

19 _____
20 EVAN S. GAINES
21 Attorneys for Plaintiff
22
23
24
25
26
27
28