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**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF RIVERSIDE**

ROGELIO CHAVEZ, individually and on behalf
of all others similarly situated,

Plaintiff,

vs.

DCH TEMECULA MOTORS LLC, a Limited
Liability Company; and DOES 1 through 50,
inclusive,

Defendants.

Case No. CVRI2401835

**FIRST AMENDED CLASS AND
REPRESENTATIVE ACTION COMPLAINT**

- (1) VIOLATION OF LABOR CODE § 226
(2) VIOLATION OF LABOR CODE § 2698**

DEMAND OVER \$25,000

1 Plaintiff Rogelio Chavez (“Plaintiff”) hereby submits this First Amended Class and
2 Representative Action Complaint against DCH Temecula Motors LLC (“Defendant” or “Company”),
3 and Does 1-50 (hereinafter collectively referred to as “Defendants”), individually and on behalf of a
4 class of all other similarly situated current and former employees of Defendant for penalties and/or
5 damages for failure to provide accurate and complete wage statements as follows:

6 **INTRODUCTION**

7 1. This class and representative action is within the Court’s jurisdiction under California
8 Labor Code sections 226 and 2698 *et. seq.*, and the applicable Wage Orders of the Industrial and
9 Welfare Commission (the “IWC”).

10 2. This Complaint challenges systemic illegal employment practices resulting in
11 violations of the California Labor Code against Defendant’s employees.

12 3. Plaintiff is informed and believes and based thereon alleges that Defendants jointly and
13 severally have acted intentionally and with deliberate indifference and conscious disregard to the
14 rights of all employees by failing to provide accurate and complete wage statements to these
15 employees.

16 **JURISDICTION AND VENUE**

17 4. The Court has jurisdiction over the violations of California Labor Code sections 226
18 and 2698 *et. seq.*

19 5. Venue is proper in Riverside County because Plaintiff worked for Defendant in
20 Temecula, California.

21 **PARTIES**

22 6. In or around July 5, 2022, Plaintiff was hired by Defendant as an auto technician.
23 Throughout Plaintiff’s employment, he has been an hourly, non-exempt employee.

24 7. Plaintiff is informed and believes and based thereon alleges that Defendant was and is a
25 California limited liability company that maintains operations in Riverside County.

26 8. Plaintiff is informed and believes and based thereon alleges that at all times herein
27 mentioned Defendant and DOES 1 through 50 are and were business entities, individuals, and
28 partnerships, licensed to do business and actually doing business in the State of California.

1 9. As such, and based upon all the facts and circumstances incident to Defendants'
2 business in California, Defendants are subject to Labor Code sections 226 and 2698 *et. seq* and the
3 applicable Wage Orders.

4 10. Plaintiff does not know the true names or capacities, whether individual, partner or
5 corporate, of the defendants sued herein as DOES 1 through 50, inclusive, and for that reason, said
6 defendants are sued under such fictitious names, and Plaintiff prays for leave to amend this complaint
7 when the true names and capacities are known. Plaintiff is informed and believes and based thereon
8 alleges that each of said fictitious defendants was responsible in some way for the matters alleged
9 herein and proximately caused Plaintiff and class members to be subject to the illegal employment
10 practices, wrongs and injuries complained of herein.

11 11. At all times herein mentioned, each of said Defendants participated in the doing of the
12 acts hereinafter alleged to have been done by the named Defendants; and furthermore, the Defendants,
13 and each of them, were the agents, servants, and employees of each of the other Defendants, as well as
14 the agents of all Defendants, and at all times herein mentioned, were acting within the course and
15 scope of said agency and employment.

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

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

25 14. At all times herein mentioned, the acts and omissions of various Defendants, and each
26 of them, concurred and contributed to the various acts and omissions of each and all of the other
27 Defendants in proximately causing the injuries and damages as herein alleged. At all times herein
28 mentioned, Defendants, and each of them, ratified each and every act or omission complained of

herein. At all times herein mentioned, the Defendants, and each of them, aided and abetted the acts and omissions of each and all of the other Defendants in proximately causing the damages as herein alleged.

CLASS ACTION ALLEGATIONS

15. **Definition:** The named individual Plaintiff seeks class certification, pursuant to California Code of Civil Procedure section 382, of the following class: all current and former California non-exempt employees who received the payment of “Break Time Premium” and/or “Hourly Production” wages, at any time from April 5, 2023, through the present (the “Class” or “Class Members”).

16. **Numerosity and Ascertainability:** The members of the Class are so numerous that joinder of all members would be impractical, if not impossible. The identity of the members of the Class is readily ascertainable by review of Defendant’s records, including payroll records. Plaintiff is informed and believes and based thereon alleges that Defendant failed to provide accurate and complete wage statements in violation of Labor Code section 226.

17. **Adequacy of Representation:** The named Plaintiff is fully prepared to take all necessary steps to represent fairly and adequately the interests of the class defined above. Plaintiff’s attorneys are ready, willing, and able to fully and adequately represent the class and individual Plaintiff. Plaintiff’s attorneys have prosecuted and settled wage-and-hour class actions in the past and currently have a number of wage-and-hour class actions pending in California courts.

18. **Common Question of Law and Fact:** There are predominant common questions of law and fact and a community of interest amongst Plaintiff and the claims of the Class concerning Defendant failing to provide accurate and complete wage statements in violation of Labor Code section 226.

19. **Typicality:** The claims of Plaintiff are typical of the claims of all members of the Class in that Plaintiff has suffered the harm alleged in this Complaint in a similar and typical manner as the Class Members. As with other non-exempt employees, Plaintiff received itemized wage statements concurrent with the payment of wages. When Plaintiff received the payment of “Break Time Premium” wages, the corresponding wage statement omitted the applicable hourly rate of pay.

1 Furthermore, the wage statement omitted the hourly rate and corresponding hours worked and/or
2 pieces for “Hourly Production” wages. As such, Plaintiff is a member of the Class and has suffered the
3 alleged violations of California Labor Code section 226 and the applicable Wage Orders.

4 20. The California Labor Code and upon which Plaintiff bases these claims is broadly
5 remedial in nature. These laws and labor standards serve an important public interest in establishing
6 minimum working conditions and standards in California. These laws and labor standards protect the
7 average working employee from exploitation by employers who may seek to take advantage of
8 superior economic and bargaining power in setting onerous terms and conditions of employment.

9 21. The nature of this action and the format of laws available to Plaintiff and members of
10 the Class identified herein make the class action format a particularly efficient and appropriate
11 procedure to redress the wrongs alleged herein. If each employee were required to file an individual
12 lawsuit, the corporate Defendants would necessarily gain an unconscionable advantage since it would
13 be able to exploit and overwhelm the limited resources of each individual plaintiff with their vastly
14 superior financial and legal resources. Requiring each Class member to pursue an individual remedy
15 would also discourage the assertion of lawful claims by employees who would be disinclined to file an
16 action against their former and/or current employer for real and justifiable fear of retaliation and
17 permanent damage to their careers at subsequent employment.

18 22. The prosecution of separate actions by the individual class members, even if possible,
19 would create a substantial risk of (a) inconsistent or varying adjudications with respect to individual
20 Class members against the Defendant and which would establish potentially incompatible standards of
21 conduct for the Defendant, and/or (b) adjudications with respect to individual Class members which
22 would, as a practical matter, be dispositive of the interest of the other Class members not parties to the
23 adjudications or which would substantially impair or impede the ability of the Class members to
24 protect their interests. Further, the claims of the individual members of the Class are not sufficiently
25 large to warrant vigorous individual prosecution considering all of the concomitant costs and
26 expenses.

27 23. Such a pattern, practice, and uniform administration of corporate policy regarding
28 illegal employee compensation described herein is unlawful and creates an entitlement to recovery by

1 the Plaintiff and the Class identified herein of a common fund, including interest thereon, applicable
2 penalties, reasonable attorneys' fees, and costs of suit according to the mandate of California Labor
3 Code section 226 and Code of Civil Procedure section 1021.5.

4 24. Proof of a common business practice or factual pattern, which the named Plaintiff
5 experienced and are representative of, will establish the right of each of the members of the Class to
6 recovery on the causes of action alleged herein.

7 **FIRST CAUSE OF ACTION**

8 **VIOLATION OF LABOR CODE § 226**

9 **(BY PLAINTIFF AND THE CLASS AGAINST ALL DEFENDANTS)**

10 25. Plaintiff re-alleges and incorporates by reference the preceding paragraphs as though
11 fully set forth herein.

12 26. Labor Code section 226(a)(9) requires that employers provide accurate itemized
13 statements showing the applicable hourly rates in effect and the corresponding number of hours
14 worked. For employees compensated on a piece-rate basis, Labor Code section 226(a)(3) further
15 requires that the wage statement include the number of piece-rate units earned and any applicable
16 piece rate. Defendant, as a matter of policy and practice, did not provide accurate wage statements, as
17 mandated by Labor Code section 226(a).

18 27. When Plaintiff and Class Members received the payment of "Break Time Premium"
19 wages, the corresponding wage statement omitted the applicable hourly rate of pay. Similarly, when
20 Plaintiff and Class Members received the payment of "Hourly Production" wages, the corresponding
21 wage statement omitted the hourly rate and corresponding hours worked and/or pieces.

22 28. Such a pattern, practice and uniform administration of corporate policy as described
23 herein is unlawful and creates an entitlement to recovery by the Plaintiff and the Class identified
24 herein, in a civil action, for all damages or penalties pursuant to Labor Code section 226, including
25 interest thereon, attorneys' fees, and costs of suit according to the mandate of California Labor Code
26 section 226.

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1 **SECOND CAUSE OF ACTION**

2 **VIOLATION OF LABOR CODE § 2698, *ET. SEQ.***

3 **(BY PLAINTIFF, ON BEHALF OF THE STATE AND AGGRIEVED EMPLOYEES,**
4 **AGAINST ALL DEFENDANTS)**

5 29. Plaintiff re-alleges and incorporates by reference the preceding paragraphs as though
6 fully set forth herein.

7 30. Plaintiff brings this cause of action, on behalf of and as a proxy for the State of
8 California and in this capacity, seeks penalties on behalf of all Aggrieved Employees from March 22,
9 2023, through the present, for Defendant's violation of Labor Code section 226.

10 31. When Plaintiff and Aggrieved Employees received the payment of "Break Time
11 Premium" wages, the corresponding wage statement omitted the applicable hourly rate of pay.
12 Similarly, when Plaintiff and Aggrieved Employees received the payment of "Hourly Production"
13 wages, the corresponding wage statement omitted the hourly rate and corresponding hours worked
14 and/or pieces.

15 32. On or about March 22, 2024, Plaintiff sent written notice to the California Labor &
16 Workforce Development Agency ("LWDA") of Defendant's violations of Labor Code section 226,
17 pursuant to Labor Code section 2698, *et seq.*, the Private Attorneys General Act ("PAGA"). To date,
18 the LWDA has not responded to Plaintiff's written notice.

19 33. As such, pursuant to Labor Code section 2699(a), Plaintiff seeks recovery of any and
20 all applicable civil penalties for Defendant's violation of Labor Code section 226 for the time period
21 described above, on behalf of himself and other Aggrieved Employees.

22 **PRAYER FOR RELIEF**

23 WHEREFORE, Plaintiff prays for judgment individually and all others on whose behalf this
24 suit is brought against Defendants, jointly and severally, as follows:

- 25 1. For an order certifying the proposed Class;
26 2. For an order appointing Plaintiff as the representative of the Class as described herein;
27 3. For an order appointing counsel for Plaintiff as Class counsel;
28 4. Upon the First Cause of Action, for damages and/or penalties pursuant to statute as set

1 forth in California Labor Code section 226, and for costs and attorneys' fees;

2 5. Upon the Second Cause of Action, for civil penalties pursuant to statute as set forth in
3 California Labor Code sections 226.3 and 2699, and for costs and attorney's fees;

4 6. On all causes of action, for attorneys' fees and costs as provided by California Labor
5 Code sections 226 and 2699, and Code of Civil Procedure section 1021.5; and

6 7. For such other and further relief as the Court may deem just and proper.
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8 DATED: May 24, 2024

DIVERSITY LAW GROUP, P.C.

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10 By: _____

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12 Attorneys for Plaintiff and the Class
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