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FOR THE COUNTY OF LOS ANGELES

Defendants.

1. PRIVATE ATTORNEYS GENERAL ACT (“PAGA”)

COMES NOW Plaintiff, ISIAAH GARCIA (hereinafter “Plaintiff”), and alleges as follows:

PARTIES, JURISDICTION, VENUE

1. Jurisdiction and Venue are proper in this Court and this action is properly filed in the County of Los Angeles in this judicial district because Defendants SAI MONROVIA B, INC. and DOES 1 to 25, inclusive, do business in the County of Los Angeles and because Defendants’ obligations and liabilities arise therein, and because the work that was performed by Plaintiff in the County of Los Angeles is the subject of this action. Moreover, Plaintiff’s damages sought herein exceed \$35,000.

2. Plaintiff is a female resident of the County of Los Angeles, State of California.

3. Plaintiff is informed and believes that at all times herein mentioned, Defendant SAI MONROVIA B, INC. is and was a California corporation, doing business in Los Angeles County, California as BMW OF MONROVIA, and which employed Plaintiff. Defendants SAI MONROVIA B, INC. and DOES 1 to 25 are hereinafter collectively referred to as “Defendant(s)” or “BMW OF MONROVIA”.

4. Plaintiff is ignorant of the true names and capacities, whether individual, corporate, or associate of those defendants fictitiously sued as DOES 1 to 25, inclusive, and so Plaintiff sues them by these fictitious names. Plaintiff is informed and believes that each of the DOE defendants, numbers 1 to 25, reside in the State of California and are in some manner responsible for the conduct alleged herein. Upon discovering the true names and capacities of these fictitiously named defendants, Plaintiff will amend this complaint to show the true names and capacities of these fictitiously named defendants.

5. Unless otherwise alleged in this complaint, Plaintiff is informed, and on the basis of

1 that information and belief, alleges that at all times herein mentioned, each of the remaining
2 codefendants, in doing the things hereinafter alleged, were acting within the course, scope, and
3 under the authority of their agency, employment, or representative capacity, with the consent
4 of his/her codefendants.

5 **GENERAL ALLEGATIONS**

6 6. Plaintiff started working for BMW OF MONROVIA on or around 2021 as a service
7 technician. During his employment tenure, Plaintiff was classified as an hourly, non-exempt
8 employee. Plaintiff's latest rate of pay was \$25 per hour. Plaintiff's employment ended in April
9 2024.

10 7. BMW OF MONROVIA has committed the below labor code violations against
11 Plaintiff and other hourly, non-exempt employees, including technicians. In the case of Huff v.
12 Securitas Sec. Servs. USA, Inc., 23 Cal. App. 5th 745 (2018), Plaintiff, Huff, was employed as
13 a security guard for the Defendant Employer, Securitas Security Services USA, Inc., an onsite
14 security provider. After about a year of employment, Huff resigned. Huff then filed suit against
15 Securitas under PAGA. In his claim, Huff specifically alleged violations to the Labor Code
16 requiring immediate payment of wages upon termination of employment and weekly payment
17 of wages to temporary employees. The trial court determined Huff was not a temporary
18 employee, and therefore, lacked standing to bring the claim. Thus, Securitas was granted a
19 motion for summary judgement. Later, the trial court granted Huff a new trial. Securitas then
20 appealed the grant of a new trial. On appeal, the issue was whether Huff could bring a PAGA
21 claim and sue for Labor Code violations that did not directly affect him. Securitas
22 unsuccessfully argued that the PAGA statute only allows the PAGA representative to sue for
23 violations that the representative has personally suffered. The PAGA statute states that an
24 "aggrieved employee" is able to file suit on behalf of themselves and others. The statute also
25 states that an "aggrieved employee" is "any person who was employed by the alleged violator
26 and against whom one or more of the alleged violations was committed." Because at least one
27 of the violations that Huff had alleged had affected him personally, the Court of Appeal denied
28 Securitas' motion.

8. In sum, since PAGA allows Plaintiffs to bring suit on behalf of both themselves and
other employees, it allows for suits broader than the specific violations the named employee

1 experienced. Therefore, even if the employee did not personally experience the Labor Code
2 violations, the employer may still be liable to under PAGA. Consequently, it is Plaintiff's
3 position that Plaintiff can equivocally bring the following labor code violations on behalf of all
4 other employees, including all hourly non-exempt employees, whether it be technicians or
5 other job titles that were paid on an hourly basis.

6 9. Pursuant to California Industrial Welfare Commission Order No. 4-2001/7-2001, Section
7 9(B), "When tools or equipment are required by the employer or are necessary to the
8 performance of a job, such tools and equipment shall be provided and maintained by the
9 employer, except that an employee whose wages are at least two (2) times the minimum wage
10 provided herein may be required to provide and maintain hand tools and equipment customarily
11 required by the trade or craft." BMW OF MONROVIA unequivocally required its employees,
12 including Plaintiff and the rest of their service technicians, to provide their own tools, including
13 torque wrenches, socket sets, pry bars, specialty tools, compression testers, pressure testers, etc.
14 The latter was company policy. As such, BMW OF MONROVIA violated the aforementioned
15 IWC Wage Order(s) in that BMW OF MONROVIA required its technicians, and other
16 employees to provide and maintain hand tools and equipment customarily required by the trade
17 but did NOT compensate these employees at least two (2) times the minimum wage.

18 10. Further, BMW OF MONROVIA did not provide Plaintiff and other aggrieved employees
19 with compensation for all hours worked and did not pay Plaintiff and others the minimum wages
20 to which they were entitled for work performed "off the clock" pursuant to California Labor
21 Code sections 1194, 1197 and 1197.1. Plaintiff and others also worked "off the clock" due to
22 their meal breaks being consistently interrupted with work obligations and work duties.
23 Additionally, Plaintiff and others also worked "off the clock" and were not paid for all hours
24 worked because BMW OF MONROVIA had a company policy wherein they would
25 disproportionately round down the number of hours worked by Plaintiff and other aggrieved
26 employees, resulting in "time shaving" and further resulting in aggrieved employees not being
27 paid for all hours worked. In addition, there was a bunch of work that needed to be done before
28 the end of any month. Plaintiff would work past the time he clocked out to close the month and
he was not compensated for these hours. Management was unequivocally aware of the latter but
failed to pay Plaintiff and others with any compensation, which is also a minimum wage
violation.

1 11. Additionally, California Labor Code section 226.2, effective January 1, 2016, provides
2 that employees shall be compensated for rest and recovery periods and other non-productive time
3 separate from any piece-rate compensation. Section 226.2 further requires that employees must
4 be compensated for these time periods at a rate no less than the highest federal, state, or local
5 minimum wage that is applicable to the employment. BMW OF MONROVIA did not fully and
6 accurately compensate Plaintiff and all similarly situated aggrieved employees for rest and
7 recovery periods and other non-productive time separate from any piece-rate compensation.
8 Moreover, Plaintiff and others would often work “off the clock” in that they would perform work
9 duties before clocking in or after clocking out and management was unequivocally aware.
10 Moreover, BMW OF MONROVIA failed to provide its employees with proper and accurate
11 reporting time pay.

12 12. BMW OF MONROVIA also violated Labor Code §510 because it failed to pay the
13 technicians and other employees the correct amount of overtime (based on a base pay rate of
14 twice the minimum wage), even though they worked more than 8 hours per day, 12 hours per
15 day, and/or 40 hours per week throughout their employment. Moreover, for the commissioned
16 employees, BMW OF MONROVIA failed to pay overtime during pay periods during which
17 salespersons did not meet the inside salesperson exemption in that they did not earn one-and-a-
18 half times the minimum wage during a particular pay period and more than half of their wages
19 for that particular pay period were not from commission/sales. Moreover, during those particular
20 pay periods wherein the inside salesperson exemption did not apply, BMW OF MONROVIA
21 did not factor in the commission payments and any bonuses in deciphering employees regular
22 rate of pay for purposes of figuring out the overtime rate of pay. Moreover, and as alluded to
23 above, BMW OF MONROVIA failed to pay the correct and accurate amount of overtime due to
24 the “off the clock” work mentioned above, whether it was due to work obligations before/after
25 clocking in and out OR due to the company’s policy in rounding/time shaving. Furthermore,
26 BMW OF MONROVIA failed to include bonuses/incentive payments/sick pay in calculating
27 employees’ regular rate of pay for use in deciphering the correct overtime rate of pay.
28 Additionally, the incentive and bonus payments/sick pay were also not factored into employees’
regular rate for purposes of receiving meal and rest break premiums per the Ferra v. Loews case.

13. BMW OF MONROVIA violated Labor Code §§ 512 and 226.7 as well as the applicable
Industrial Welfare Commission (IWC) Wage Order (no. 4 or 7) because it failed to provide
Plaintiff and other similarly situated aggrieved employees the requisite 30-minute, uninterrupted

1 meal periods for every five (5) hours of work throughout their employment, and Plaintiff did not
2 validly waive said meal periods. BMW OF MONROVIA did not completely relieve Plaintiffs
3 of all duties during said meal periods. BMW OF MONROVIA did not pay to Plaintiff one
4 additional hour of pay at Plaintiff's regular rate of compensation for each workday that one or
5 more statutory meal periods was not provided. There were many, many occasions wherein
6 Plaintiff and others would not be able to receive their meal periods before the 5th hour worked
7 due to work obligations. Late meal breaks were consistent and pervasive and across the board
8 for all hourly, non-exempt employees. Furthermore, hourly, non-exempt employees did not
9 receive a second meal break on those days wherein Plaintiff and others worked more than 10
10 hours. Moreover, and as mentioned above, it was routine for Plaintiff's and others' meal periods
11 to be interrupted due to work obligations in that Mr. Garica and others would have to help a
12 customer or aid a co-worker who had a question or issue. Additionally, the incentive and bonus
13 payments were also not factored into Plaintiff's and others' regular rate for purposes of receiving
14 meal and rest break premiums per the Ferra v. Loews case. If BMW OF MONROVIA had
15 Plaintiff sign a meal period waiver, it would not be valid and enforceable since Plaintiff and
16 others generally worked more than a 6-hour shift. If BMW OF MONROVIA had Plaintiff sign
17 an on-duty meal period agreement wherein Plaintiff agreed to work through the meal periods or
18 stay on the premises during meal periods, it would be invalid and unenforceable because the
19 nature of Plaintiff's job does not and did not prevent him from taking a meal period. BMW OF
20 MONROVIA could have easily hired more staff, including technicians, which would have
21 allowed Plaintiff to take a timely, uninterrupted break and be relieved of all work duties. If BMW
22 OF MONROVIA argues that Plaintiff and others were actually paid for their meal breaks, the
23 latter would not mean there was no violation since Plaintiff and others were essentially denied
24 any meal breaks for them to rest and get something to eat. The solution for BMW OF
25 MONROVIA is not to keep their employees from taking meal periods, but to hire additional staff
26 and "breakers" to make sure that their employees receive statutory breaks. To the extent that
27 BMW OF MONROVIA argues that employees receive meal break premium pay for missed meal
28 periods, that argument is inconsequential for PAGA penalty purposes since the PAGA penalties
are for the violations themselves, irrespective of whether an employee received the premium
payment for a missed, short, or interrupted meal period. In *Kirby v. Immoos Fire Protection,
Inc.*, the Court stated, "section 226.7 does not give employers a lawful choice between
providing *either* meal and rest breaks *or* an additional hour of pay." See *Kirby v. Immoos Fire*

1 *Protection, Inc.*, (2012) 53 Cal.4th 1244, 1256 (emphasis in original). Thus, the extra hour of
2 pay does not excuse the violation; the employer has still committed a violation even if the remedy
3 for the violation has been paid. *See Wert v. U.S. Bancorp*, (S.D. Cal. Mar. 22, 2016, 2016 WL
4 1110302 at *4). As such, the work environment and culture at BMW OF MONROVIA was not
5 conducive to receiving consistent, **timely, uninterrupted** statutory meal breaks under California
6 law. Moreover, any meal or rest break premiums paid were not compensated at the weighted
average regular rate, inclusive of bonuses and/or incentive payments.

7 14. BMW OF MONROVIA violated Labor Code § 226.7 as well as the applicable IWC
8 Wage Order (no. 4 or 7) because it failed to provide Plaintiff and other similarly situated
9 aggrieved employees 10-minute rest periods for every four hours of work, or majority portion
10 thereof, throughout their employment. BMW OF MONROVIA did not completely relieve
11 Plaintiff of all duty during said rest periods. BMW OF MONROVIA did not pay to Plaintiff one
12 additional hour of pay at Plaintiff's regular rate of compensation for each workday that one or
13 more statutory rest periods was not provided. It was not company policy and not part of the
14 company culture for employees such as Plaintiff and others to take rest breaks, especially two
15 daily rest breaks of at least 10 minutes each wherein Plaintiff and others were fully relieved of
16 their work duties. The latter simply did not exist. In fact, Plaintiff and the other employees were
17 consistently told that they only get "one break", which would be the meal period, which as
18 mentioned was often late and/or interrupted. As such, the culture at BMW OF MONROVIA did
19 not lend itself to the employees receiving statutory breaks wherein they were relieved of all work
20 duties. It was the normal practice and custom of BMW OF MONROVIA not to authorize, permit,
and enforce statutory rest periods. As such, the environment and culture at BMW OF
MONROVIA was not conducive to receiving statutory rest breaks under California law.

21 15. Furthermore, during the relevant time period, and due to the aforementioned violations,
22 BMW OF MONROVIA failed to pay Plaintiff and other similarly situated aggrieved employees
23 all wages due to them within any time period specified by California Labor Code section 204.
24 BMW OF MONROVIA was also in violation of California Labor Code section 226(a) by failing
25 to include pertinent information on the wage statements, including but not limited to, the correct
26 hourly rate, all hours worked, overtime hours worked, correct overtime pay, correct amount of
27 pay for non-productive time, gross wages earned, premium pay for missed meal and rest breaks,
28 all deductions, net wages earned, the correct name and address of the employer, employee
identifying information, rest and recovery compensation and the rest and recovery periods that

1 were supposed to be compensated, the correct start and end of the pay periods, and
2 reimbursement for business expenses, among others. This is so partly because BMW OF
3 MONROVIA did not compensate a certain number of its employees, including Plaintiff and
4 other technicians, at least two (2) times the minimum wage despite requiring its technician
5 employees to provide and maintain hand tools and equipment. As such, BMW OF MONROVIA
6 did not provide Plaintiff and other similarly situated aggrieved employees with complete,
accurate itemized wage statements.

7 16. BMW OF MONROVIA violated Labor Code § 203 because it willfully failed to pay
8 Plaintiff and other similarly situated aggrieved employees earned and due wages upon separation
9 of employment, either immediately upon involuntary termination, or within 72 hours of
10 resignation. After aggrieved employees stopped working at BMW OF MONROVIA and after
11 their employment with BMW OF MONROVIA ended, BMW OF MONROVIA failed and
12 refused to pay all wages earned and due immediately upon separation. These earned but unpaid
13 wages include the unpaid minimum wages/compensation for all hours worked including non-
14 productive time, “off the clock” work, overtime, premium pay for missed meal and rest breaks,
and business expense reimbursement, among others. It is important to note that Plaintiff did not
15 receive his final paycheck after quitting his employment.

16 17. It is Plaintiff’s contention that the rounding/time shaving, and statutory meal and rest
17 period violations would trigger penalties under Labor Code sections 203, 204, and 226 per
Naranjo v. Spectrum Security Services Inc. (2022) 13 Cal. 5th 93.

18 18. During the relevant time period, BMW OF MONROVIA also failed to keep accurate and
19 complete payroll records showing the correct wages paid (for instance, twice the minimum wage
20 and the correct overtime compensation) to Plaintiff and other aggrieved employees, including
21 technicians, pursuant to California Labor Code sections 1174(d).

22 19. Moreover, during the relevant time period, Plaintiff and other aggrieved employees
23 incurred necessary, business-related expenses and costs that were not reimbursed by BMW OF
24 MONROVIA. These costs include, but are not limited to, the purchase and use of their own tools
25 in carrying out their job duties as technicians. Additionally, Plaintiff and other similarly situated
26 aggrieved employees had to use their personal cell phones for work purposes. Plaintiff and others
27 were also not reimbursed for their uniforms. Moreover, Accordingly, BMW OF MONROVIA
28 was in violation of California Labor Code sections 2800 and 2802. Moreover, there was no

1 suitable seating/rest break facilities for the employees pursuant to Wage Order no. 4-2001/7-
2 2001.

3 **FIRST CAUSE OF ACTION**

4 **PRIVATE ATTORNEYS GENERAL ACT**

5 **Representative Claim for PAGA penalties under California Labor Code sections 201,**
6 **202, 203, 204 and/or 204b, 210, 226, 226.3, 226.7, 510, 512, 558, 1174, 1174.5, 1194, 1194.2,**
7 **1197, 1197.1, 1198, 2800, 2802, and IWC Wage Orders 4-2001/7-2001)**

8 **(Against All Named Defendants and all DOE Defendants)**

9 20. Plaintiff re-alleges and incorporates by reference each and every allegation in
10 paragraphs 1 through 19, inclusive, of this Complaint as though fully set forth herein.

11 21. Pursuant to law, Plaintiff provided the required written notice to the LWDA and
12 Defendants of the specific violations of the California Labor Code that Defendants
13 and DOE defendants have violated and continue to violate.

14 22. Pursuant to California Labor code section 2699.3, no response was received from the
15 LWDA within 65 days of the postmark date of the above-alleged letter.

16 23. Plaintiff therefore has exhausted all administrative remedies required of him under
17 California Labor Code sections 2698, 2699, and 2699.3, and, as a result, may prosecute this
18 cause of action and pursue penalties in a representative action for Defendants' violations of the
19 Labor Code.

20 24. Pursuant to California Labor Code section 2699, any provisions of the Labor Code
21 that provides for a civil penalty to be assessed and collected by the LWDA or any of its
22 departments, divisions, commissions, boards, agencies, or employees for violation of the code
23 may, as an alternative, be recovered through a civil action brought by an aggrieved employee
24 on behalf of himself or herself and other current or former employees pursuant to the
25 procedures specified in California Labor Code section 2699.3.

26 25. Plaintiff is an "aggrieved employee" because Plaintiff was employed by the alleged
27 violator and had one or more of the alleged violations committed against him, and therefore is
28 properly suited to represent the interests of other current and former hourly, non-exempt

1 employees who worked for Defendants at any and all locations in the State of California during
2 the PAGA period.

3 26. Based on the acts alleged above, Plaintiff, on behalf of himself and others, seeks
4 penalties under California Labor Code sections 2698 and 2699 because of Defendants'
5 violations of numerous provisions of the California Labor Code as alleged in this Complaint.

6 27. Plaintiff therefore has exhausted all administrative remedies required of him under
7 California Labor Code sections 2698, 2699, and 2699.3, and, as a result, may prosecute this
8 cause of action and pursue penalties in a representative action for Defendants' violations of the
9 Labor Code.

10 28. California Labor Code section 2699 et seq. imposes penalties upon culpable
11 Defendants for violating the Labor Code.

12 29. California Labor Code section 558 establishes a civil penalty as follows: Any
13 employer or other person action on behalf of an employer who violates, or causes to be
14 violated, a section of this chapter or any provision regulating hours and days of work in any
15 order of the Industrial Welfare Commission (including the "Hours and Days of Work" section
16 of the Wage Order) shall be subject to a civil penalty of (1) for any initial violation, fifty
17 dollars (\$50) for each underpaid employee for each pay period for which the employee was
18 underpaid ...; (2) for each subsequent violation, one hundred dollars (\$100) for each underpaid
19 employee for each pay period for which the employee was underpaid ...;

20 30. Plaintiff seeks penalties for Defendants' misconduct as alleged herein as permitted by
21 law, but only those penalties that are required to be shared with the LWDA as Plaintiff is not
22 seeking individual/victim specific relief or underpaid wages under this particular cause of
23 action.

24 31. Specifically, Plaintiff seeks penalties under California Labor Code section 2699, for
25 the following:

26 Violations of California Labor Code sections 201, 202, 203, 204 and/or 204b, 210, 226,
27 226.3, 226.7, 510, 512, 558, 1174, 1174.5, 1194, 1194.2, 1197, 1197.1, 1198, 2800,
28

2802, via 2698 and 2699 any other Labor Codes and Wage Orders (including no. 4/7)
violated based on the facts alleged in this Complaint.

32. Pursuant to Labor Code section 2698 et seq., Plaintiff seeks to recover attorney's fees, costs, and civil penalties on behalf of other current and former aggrieved employees as alleged herein in an amount to be shown according to proof at trial and within the jurisdictional limits of this Court.

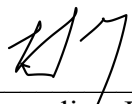
PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for Judgment against Defendants and each of them, as follows:

1. For the imposition of civil penalties;
2. For maximum civil penalties available under Labor Code Section 2699 against Defendants in a manner and amount authorized by that statute, as described more particularly in the Complaint and representative PAGA claims;
3. For all costs and disbursements incurred in this suit;
4. Reasonable attorney's fees where available by law, including but not limited to, pursuant to Labor Code section 2698 et seq., Code of Civil Procedure section 1021.5, and/or other applicable laws; and
5. For such other and further relief as this Court may deem proper.

DATED: July 17, 2024

MESSRELIAN LAW INC.

By 
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