

SOLOUKI | SAVOY, LLP
SHOHAM J. SOLOUKI (SBN 278538)
GRANT JOSEPH SAVOY (SBN 284077)
316 W. 2nd Street, Suite 1200
Los Angeles, California 90012
Telephone: (213) 814-4940
Facsimile: (213) 814-2550

Attorneys for Plaintiff, an aggrieved employee on behalf of other aggrieved employees

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF ORANGE

JOAQUIN N. SALDIVAR TORRES, an
aggrieved employee on behalf of other
aggrieved employees,

Plaintiff,

vs.

GMRI, INC., a Florida Corporation; and
DOES 1 through 100, inclusive,

Defendants.

Case No.: 30-2024-01434800-CU-OE-NJC

Assigned for all purposes: Judge Scott A Steiner

**REPRESENTATIVE COMPLAINT FOR
VIOLATIONS UNDER CALIFORNIA
PRIVATE ATTORNEYS GENERAL ACT
OF 2004**

Plaintiff JOAQUIN N. SALDIVAR TORRES, an aggrieved employee on behalf of all
other aggrieved employees ("PLAINTIFF"), hereby alleges as follows:

1 **JURISDICTION AND VENUE**

2 1. The Superior Court of the State of California has jurisdiction in this matter
3 because PLAINTIFF was and is a resident of the State of California, Defendants GMRI, INC., a
4 Florida Corporation; and DOES 1 through 100, inclusive (collectively, "DEFENDANTS") are
5 qualified to do business in California and regularly conduct business in California. Further, no
6 federal question is at issue because the claims are based solely on California law.

7 2. Venue is proper in this judicial district and the COUNTY OF ORANGE,
8 California because all aggrieved employees performed work for DEFENDANTS in the
9 COUNTY OF ORANGE, DEFENDANTS maintain offices and facilities and transact business in
10 the COUNTY OF ORANGE, and DEFENDANTS' illegal timekeeping, illegal payroll policies
11 and practices, which are the subject of this action, were applied, at least in part, to aggrieved
12 employees, in the COUNTY OF ORANGE. Further, the amount in controversy exceeds the sum
13 of \$25,000.00, exclusive of interest and costs.

14 **PLAINTIFFS**

15 3. PLAINTIFF JOAQUIN N. SALDIVAR TORRES is a resident of the State of
16 California who was employed by DEFENDANTS as non-exempt employees at times relevant to
17 this Complaint.

18 4. PLAINTIFF is an aggrieved employee pursuant to California Labor Code Section
19 2699(c).

20 5. PLAINTIFF, on behalf of all other aggrieved employees who are current or
21 former non-exempt employees of DEFENDANTS who were employed by DEFENDANTS at
22 any time during the relevant period, and continuing while this action is pending, bring this
23 PAGA action to recover, among other things, penalties from unpaid wages earned and due,
24 including but not limited to unpaid minimum wages and unpaid wages, unpaid and illegally
25 calculated overtime compensation, illegal meal and rest period policies, illegal rent
26 reimbursement, failure to timely pay wages, failure to pay all wages due to discharged or quitting
27 employees, failure to maintain required records, failure to provide accurate itemized wage
28 statements, failure to indemnify employees for necessary expenditures and/or losses incurred in

1 discharging their duties, and interest, attorneys' fees, costs, and expenses.

2 6. PLAINTIFF brings this action on behalf of the following aggrieved employees
3 ("PAGA MEMBERS"): All current and former non-exempt employees of DEFENDANTS who
4 worked at any locations in the State of California at any time within the period beginning four
5 (1) years prior to the filing of the claim with the California Labor and Workforce Development
6 Agency ("LWDA") until the time this action settles or proceeds to final judgment (the "PAGA
7 PERIOD"). PAGA MEMBERS do not include PLAINTIFF. PLAINTIFF does not seek
8 recovery through this action, only to represent the other PAGA MEMBERS.

9 7. PLAINTIFF reserves the right to name additional PAGA representatives, change
10 the definition of PAGA members, and/or change the PAGA period.

11 **DEFENDANTS**

12 8. PLAINTIFF are informed and believe, and thereon allege, that DEFENDANTS,
13 and at all times relevant hereto was, a company authorized to do business in the State of
14 California and doing business in the State of California. Specifically, upon information and
15 belief, DEFENDANTS conduct business in the COUNTY OF ORANGE, State of California.

16 9. The true names and capacities of DOES 1 through 100, inclusive, are unknown to
17 PLAINTIFFS at this time, and PLAINTIFFS therefore sues such DOE Defendants under
18 fictitious names. PLAINTIFFS are informed and believe, and thereon alleges, that each
19 Defendant designated as a DOE is in some manner responsible for the occurrences alleged
20 herein, and that PAGA MEMBERS' injuries and damages, as alleged herein, were proximately
21 caused by the conduct of such DOE Defendants. PLAINTIFF will seek leave of the court to
22 amend this complaint to allege the true names and capacities of such DOE Defendants when
23 ascertained.

24 10. At all relevant times herein, DEFENDANTS were the joint employers of
25 PLAINTIFF and the PAGA MEMBERS. PLAINTIFF is informed and believes, and thereon
26 alleges, that at all times material to this complaint DEFENDANTS, as categorized above, were
27 the alter egos, divisions, affiliates, integrated enterprises, joint employers, subsidiaries, parents,
28 principals, related entities, co-conspirators, authorized agents, partners, joint venturers, and/or

1 guarantors, actual or ostensible, of each other. Each DEFENDANT, as categorized above, was
2 completely dominated by his, her or its co-DEFENDANT, and each was the alter ego of the
3 other. Each DEFENDANT is also a joint employer per California Labor Code Sections 2810,
4 2810.3, 2810.4 and 2810.5.

5 11. At all relevant times herein, PLAINTIFF and PAGA MEMBERS were employed
6 by DEFENDANTS under employment agreements that were partly written, partly oral, and
7 partly implied. In perpetrating the acts and omissions alleged herein, DEFENDANTS, and each
8 of them, acted pursuant to, and in furtherance of, their policies and practices of not paying
9 PLAINTIFF and PAGA MEMBERS all wages earned and due, through methods and schemes
10 which include, but are not limited to, failing to pay overtime premiums; failing to provide rest,
11 recovery, and meal periods; failing to properly maintain records; failing to provide accurate
12 itemized statements for each pay period; failing to properly compensate PLAINTIFF and PAGA
13 MEMBERS for necessary expenditures; and requiring, permitting or suffering PLAINTIFF and
14 PAGA MEMBERS to work off the clock, in violation of the California Labor Code and the
15 applicable IWC Wage Order.

16 12. PLAINTIFF is informed and believe, and thereon alleges, that each and every one
17 of the acts and omissions alleged herein was performed by, and/or attributable to, all
18 DEFENDANTS, each acting as agents and/or employees, and/or under the direction and control
19 of, each of the other DEFENDANTS, and that said acts and failures to act were within the course
20 and scope of said agency, employment and/or direction and control.

21 13. As a direct and proximate result of the unlawful actions of DEFENDANTS,
22 PLAINTIFFS and PAGA MEMBERS have suffered, and continue to suffer, from loss of
23 earnings in amounts as yet unascertained, but subject to proof at trial, and within the jurisdiction
24 of this Court.

25
26 ///

27 ///

28 ///

1 **FIRST CAUSE OF ACTION**

2 **PRIVATE ATTORNEYS GENERAL ACT OF 2004**

3 **[Cal. Lab. Code § 2699, et. seq.]**

4 **(Against all DEFENDANTS)**

5 14. PLAINTIFF incorporates herein by specific reference, as though fully set forth,
6 the allegations in all preceding paragraphs.

7 15. PLAINTIFF and PAGA MEMBERS are "aggrieved employees" under PAGA, as
8 they were employed by DEFENDANTS during the applicable statutory period and suffered one
9 or more of the Labor Code violations set forth herein. Accordingly, PLAINTIFF seeks to recover
10 on behalf of all other current and former aggrieved employees of DEFENDANTS, the civil
11 penalties provided by PAGA, plus reasonable attorney's fees and costs.

12 16. PLAINTIFF seeks to recover the PAGA civil penalties for PAGA MEMBERS
13 through a representative action permitted by PAGA and the California Supreme Court in *Arias v.*
14 *Superior Court* (2009) 46 Cal. 4th 969. Therefore, class certification of the PAGA claims is not
15 required.

16 17. PLAINTIFF seeks to recover the PAGA civil penalties for PAGA MEMBERS
17 pursuant to PAGA for violations of the following Labor Code provisions:

18 a. failure to provide prompt payment of wages to Labor Code §§ 200, 201, 202,
19 203;

20 b. failure to provide accurate itemized wage statements to employees in violation
21 of Labor Code §§ 226(a), 1174, and 1174.5;

22 c. failure to provide meal and rest periods in violation of the relevant Wage
23 Order(s) and Labor Code §§ 226.7, 512, and 558;

24 d. failure to pay overtime wages in violation of relevant Wage Order(s) and Labor
25 Code §§ 510, 558, 1194 and 1198;

26 e. failure to pay minimum wages in violation of relevant Wage Order(s) and Labor
27 Code §§ 1182.12, 1194, and 1197;

28 f. failure to provide itemized wage statements to employees in violation of Labor

Code §§ 226(a); and failure to pay all wages twice during each calendar month on days designated in advance by the employer as the regular paydays in violation of Labor Code § 204;

g. Failure to Maintain Records in violation of Labor Code § 226 (c) and 1198.5.

18. With respect to violations of Labor Code § 226(a), Labor Code § 226.3 imposes a civil penalty in addition to any other penalty provided by law of two hundred fifty dollars (\$250) per aggrieved employee for the first violation, and one thousand dollars (\$1,000) per aggrieved employee for each subsequent violation of Labor Code § 226(a).

19. With respect to violations of Labor Code §§ 510, 512, Labor Code § 558 imposes a civil penalty in addition to any other penalty provided by law of fifty dollars (\$50) for initial violations for each underpaid employee for each pay period for which the employee was underpaid in addition to an amount sufficient to recover underpaid wages, and one hundred dollars (\$100) for subsequent violations for each underpaid employee for each pay period for which the employee was underpaid in addition to an amount sufficient to recover underpaid wages. Moreover, Plaintiffs seeks civil penalties in the amount of unpaid wages owed to aggrieved employees pursuant to Labor Code § 558(a)(3).

20. With respect to violations of Labor Code § 1174, Labor Code § 1174.5 imposes a civil penalty of \$500.

21. Labor Code § 2699 et seq. imposes a civil penalty of one hundred dollars (\$100) per pay period, per aggrieved employee for initial violations, and two hundred dollars (\$200) pay period, per aggrieved employee for subsequent violations for all Labor Code provisions for which a civil penalty is not specifically provided, including Labor Code §§ 200, 201, 202, 203, 226, 226.7, 226.8, 350, 351, 1174, 1182.12, 1194, 1197, 1198, 1198.5 and 2802.

22. On August 8, 2024, PLAINTIFF gave written notice by certified mail of DEFENDANTS' violations of various provisions of the California Labor Code as alleged in this complaint to the LWDA and DEFENDANTS.

23. The LWDA did not provide notice of its intention to investigate DEFENDANTS' alleged violations within sixty-five (65) calendar days of the postmark date of the notice sent by

1 Plaintiff. See Cal. Lab. Code § 2699.3(a)(2)(A).

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26 ///

27 ///

28 ///

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

PRAYER FOR RELIEF

WHEREFORE, PLAINTIFF, on behalf of PAGA MEMBERS, respectfully prays for relief against DEFENDANTS and DOES 1 through 100, inclusive, and each of them, as follows:

1. For statutory and civil penalties according to proof, including but not limited to all penalties authorized by the California Labor Codes §§ 2699, et seq.;
2. For reasonable attorneys' fees and costs pursuant to the California Labor Code, and/or any other applicable provisions providing for attorneys' fees and costs;
3. For such further relief that the Court may deem just and proper.

DATED: October 21, 2024

Respectfully submitted,

SOLOUKI | SAVOY, LLP

By: Shoham J. Solouki
SHOHAM J. SOLOUKI
GRANT JOSEPH SAVOY
Attorneys for Plaintiff on behalf of PAGA MEMBERS