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David W. Slayton,
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10 *Attorneys for* Plaintiff MUSSA SALEH
11 individually and on behalf of all other Aggrieved Employees

12 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
13 **COUNTY OF LOS ANGELES**

14 MUSSA SALEH, individually and on behalf
15 of all other Aggrieved Employees,

16 Plaintiff,

17 vs.

18 DOWNEY HYUNDAI, INC., a California
19 Corporation, COMMERCE HYUNDAI,
20 INC., a California Corporation, and DOES 1
21 through 50, inclusive,

22 Defendants.

Case No. **25NWCV00418**

**COMPLAINT FOR ENFORCEMENT
UNDER THE PRIVATE ATTORNEYS
GENERAL ACT, CALIFORNIA LABOR
CODE § 2698, ET SEQ.**

Violation of California Labor Code § 2698, et
seq. (California Labor Code Private Attorneys
General Act of 2004)

23 Plaintiff MUSSA SALEH (hereinafter referred to as "REPRESENTATIVE
24 PLAINTIFF") alleges as follows:

25 **PARTIES**

26 1. REPRESENTATIVE PLAINTIFF is an individual who resides in California and
27 was employed by Downey Hyundai, Inc. and Commerce Hyundai, Inc., from on or about March
28 1, 2024 and worked for EMPLOYERS until on or about October 2, 2024.

2. REPRESENTATIVE PLAINTIFF is informed and believes, and based on such
information and belief, alleges that at all times mentioned herein, Downey Hyundai, Inc. and
Commerce Hyundai, Inc are California Corporations, licensed to do business and actually doing

business in the State of California. Thus, DEFENDANTS are subject to the applicable California laws as alleged throughout this Complaint.

3. REPRESENTATIVE PLAINTIFF is informed and believes, and based on such information and belief, alleges that DEFENDANT Downey Hyundai, Inc. and Commerce Hyundai Inc. operate as car dealerships. Thus, DEFENDANTS are subject to the applicable California laws as alleged throughout this Complaint.

4. REPRESENTATIVE PLAINTIFF is unaware of the true names and capacities, whether corporate, individual, or otherwise, of DEFENDANTS named as DOES 1 through 50, inclusive. Pursuant to California Code of Civil Procedure section 474, REPRESENTATIVE PLAINTIFF will seek leave of court to amend this complaint to state said DEFENDANTS' true names and capacities when the same have been ascertained. REPRESENTATIVE PLAINTIFF is informed and believes, and based thereon alleges, that said fictitiously-named DEFENDANTS are responsible in some manner for the injuries and damages to REPRESENTATIVE PLAINTIFF and the other AGGRIEVED EMPLOYEES as further alleged herein.

5. The AGGRIEVED EMPLOYEES worked for all of the DEFENDANTS or for any of the DEFENDANTS as non-exempt, hourly-paid employees and/or were misclassified while working for DEFENDANTS. Nothing in this Complaint should be interpreted as limiting the AGGRIEVED EMPLOYEES to non-exempt, hourly-paid employees, or misclassified employees who worked for all DEFENDANTS only.

6. The definition of "employer" for purposes of the California Labor Code includes irregular working arrangements, and was specifically drafted in order to prevent evasion and subterfuge of California's labor laws. To that end, REPRESENTATIVE PLAINTIFF is informed and believes, and based thereon alleges, that DEFENDANTS, including any as of now unknown entities, must be classified as joint-employers for purposes of liability for civil penalties under the Private Attorneys General Act ("PAGA"). As such, DEFENDANTS are each liable for civil penalties for violation of the California Labor Code as to REPRESENTATIVE PLAINTIFF and the other AGGRIEVED EMPLOYEES.

7. The term “DEFENDANTS” used throughout this Complaint includes all named DEFENDANTS whether corporate, individual, or otherwise, and all unnamed DEFENDANTS whether corporate, individual, or otherwise, that are now unknown but are referred to throughout this Complaint as DOES 1 through 50, inclusive.

8. This is only a Private Attorney General Action Complaint, pursuant to California Labor Code section 2699 et seq., on behalf of REPRESENTATIVE PLAINTIFF and all other persons similarly situated who worked for DEFENDANTS in their California locations as non-exempt, hourly employees and/or misclassified employees (herein collectively identified as “AGGRIEVED EMPLOYEES”) for:

- i. Misclassification as exempt employees in violation of Labor Code section 515;
- ii. failure to provide employment records in violation of Labor Code sections 226, 432, and 1198.5;
- iii. failure to pay overtime and double time in violation of Labor Code sections 510 and the applicable Wage Orders;
- iv. failure to provide rest and meal periods in violation of Labor Code sections 226.7, 512(a), and the applicable Wage Orders;
- v. failure to pay minimum wage in violation of Labor Code sections 1182.2, 1194, 1197, 1197.1, and the applicable Wage Orders;
- vi. failure to keep accurate payroll records and provide itemized wage statements in violation of Labor Code sections 226(a), 1174(d), 1198, and the applicable Wage Orders;
- vii. failure to pay reporting time wages in violation of applicable Wage Orders;
- viii. failure to pay split shift wages in violation of applicable Wage Orders;
- ix. failure to pay all wages earned on time in violation of Labor Code section 204, 210;
- x. failure to pay all wages earned upon discharge or resignation in violation of Labor Code sections 201, 202, and 203;
- xi. failure to reimburse necessary, business-related expenses in violation of Labor

Code sections 2800 and 2802;

- xii. failure to provide notice of paid sick time and accrual in violation of Labor Code section 246;
- xiii. Failure to comply with requirements for commission contracts in violation of California Labor Code Sections 2751 and 204.1;
- xiv. Violation of California Code of Regulations – Applicable Wage Order (Commissioned-Based Employee’s Overtime Pay;
- xv. employers, and individuals acting on behalf of employers, violating or causing to be violated a section of the Labor Code or any Wage Order in violation of Labor Code section 558(a).

VENUE AND JURISDICTION

9. Venue as to each Defendant is proper in this judicial district pursuant to California Code of Civil Procedure section 395 and under California Government Code section 12965(b), in that DEFENDANTS conduct business within the County of Los Angeles, and each Defendant is within the jurisdiction of this Court for service of process. REPRESENTATIVE PLAINTIFFS’ injuries were incurred within the County of Los Angeles, the actions giving rise to REPRESENTATIVE PLAINTIFFS’ Complaint arose within the County of Los Angeles, and DEFENDANTS are located in the County of Los Angeles.

10. Under the plain meaning of the relevant venue statutes, DEFENDANTS’ “liability” (§ 395.5), and “some part of the cause” (§ 393), arose in Los Angeles County because Labor Code violations allegedly occurred there. (See *Black Diamond Asphalt, Inc. v. Superior Court* (2003) 109 Cal.App.4th 166, 172, 134 Cal.Rptr.2d 510 [under § 395.5, liability arises where a breach of legal rights occurs]; *Dow AgroSciences LLC v. Superior Court, supra*, 16 Cal.App.5th at pp. 1074-1077, 224 Cal.Rptr.3d 761 [under § 393, subd. (a), in an action against a corporation for breach of statutory duty to warn residents about toxic fumigant, the cause “arose” where the residents were exposed to the fumigants].) See *Crestwood Behavioral Health, Inc. v. Superior Court of Alameda County* (2021) 60 Cal.App.5th 1069 [275 Cal.Rptr.3d 316, 60 Cal.App.5th 1069].

11. REPRESENTATIVE PLAINTIFF is informed and believes, and based thereon alleges, that no federal question is raised and that the Class Action Fairness Act (“CAFA”), 28 U.S.C. Section 1322(d) does not apply, or in the alternative that exceptions for local cases or controversies under the CAFA do apply and prohibit removal of the action to federal Court.

12. REPRESENTATIVE PLAINTIFF is informed and believes, and based thereon alleges, that based on the total number of pay periods REPRESENTATIVE PLAINTIFF worked, REPRESENTATIVE PLAINTIFF’s individual claims do not arise to the necessary amount in controversy so as to implicate traditional jurisdiction under 28 U.S.C. 1322(a) or jurisdiction under the CAFA.

13. Further, as a representative action under the PAGA, the matter is not subject to removal under 28 U.S.C. Sections 1322(a)-(d). PAGA civil penalty actions are not subject to federal jurisdiction.

14. This Court has jurisdiction over REPRESENTATIVE PLAINTIFFS’ claims for civil penalties under the PAGA, California Labor Code sections 2698 et seq.

SCOPE

15. The “AGGRIEVED EMPLOYEES” are DEFENDANTS’ current and former hourly-paid, non-exempt employees, who either were or are employed in the State of California from November 22, 2023 through the date of judgment in this action.

STATEMENT OF FACTS

16. REPRESENTATIVE PLAINTIFF was hired by DEFENDANTS with the job title of Finance and Insurance Manager on or about March 1, 2024. DEFENDANT Downey Hyundai, Inc. is a California Corporation who operates as car dealership. DEFENDANT Commerce Hyundai, Inc. is a California Corporation who operates as car dealership. REPRESENTATIVE PLAINTIFF worked for DEFENDANTS up until on or about October 2, 2024.

17. REPRESENTATIVE PLAINTIFF filed a PAGA Notice on November 22, 2024 by serving a PAGA Notice to all named DEFENDANTS and to the LWDA in compliance with Labor Code section 2699.3. As of January 27, 2025, 65 Days after REPRESENTATIVE

PLAINTIFF's PAGA Notice, REPRESENTATIVE PLAINTIFF has not received correspondence from the LWDA regarding its intent to investigate PLAINTIFF's claims.

MISCLASSIFICATION AS EXEMPT EMPLOYEES

18. California Labor Code section 515(a) requires that in order for an employee to be considered "exempt" from overtime pay requirements as otherwise provided by law, that an employee must;

a. Be primarily engaged (defined as "more than one half" in California Labor Code section 515(e)) in the executive, administrative, or professional duties;

b. Customarily and regularly exercise discretion and independent judgment in performing those duties, and;

c. Earn a monthly salary equivalent to no less than two times the state minimum wage for full-time employment. As of January 1, 2024, the minimum required amount in order to meet this exemption is \$66,560.00 per year (\$5,546.67 per month) for all employers regardless of size.

19. REPRESENTATIVE PLAINTIFF, and other AGGRIEVED EMPLOYEES, while working for DEFENDANTS, were neither required nor allowed to engage in executive, administrative, or professional duties.

20. As such, REPRESENTATIVE PLAINTIFF and other AGGRIEVED EMPLOYEES, did not and could not regularly exercise discretion or independent judgment in performing such duties.

21. Finally, REPRESENTATIVE PLAINTIFF's and other AGGRIEVED EMPLOYEES "salary" was less than \$5,546.67 per month. As a result, their "salary" equates to less than the minimum amount required by statute

22. Pursuant to the foregoing, REPRESENTATIVE PLAINTIFF and other AGGRIEVED EMPLOYEES are entitled to civil penalties, attorney's fees, costs, and interest thereon, pursuant to California Labor Code 515(a), California Labor Code 2699(a), (f)-(g), and any and all other applicable law.

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FAILURE TO PROVIDE EMPLOYMENT RECORDS

23. California Labor Code Section 226 provides, “An employer who receives a written or oral request to inspect or copy records pursuant to subdivision (b) pertaining to a current or former employee [records of hours worked and wages paid]...shall comply with the request as soon as practicable, but no later than 21 calendar days from the date of the request.”

24. California Labor Code Section 432 provides, “If an employee signs any instrument relating to the obtaining or holding of employment, he shall be given a copy of the instrument upon request.”

25. California Labor Code Section 1198.5 provides that every employee shall be permitted to inspect and obtain a copy of their personnel records upon request.

26. In accordance with the process set out in Labor Code Section 226, REPRESENTATIVE PLAINTIFF requested, in writing by letter via certified first-class mail to DEFENDANTS and regular first-class mail to DEFENDANTS, that DEFENDANTS provide REPRESENTATIVE PLAINTIFF with wage and payroll history, all documents signed by REPRESENTATIVE PLAINTIFF pursuant to Labor Code Section 432, and a copy of REPRESENTATIVE PLAINTIFF’s personnel records pursuant to Labor Code Section 1198.5.

27. The time periods provided to DEFENDANTS by Labor Code Sections 226, 432, 1198.5 and any other relevant statutes have elapsed since DEFENDANTS received REPRESENTATIVE PLAINTIFF’s correspondence requesting documents pursuant to Labor Code Sections 226, 432, and 1198.5, and a copy of REPRESENTATIVE PLAINTIFF’s personnel records pursuant to Labor Code Section 1198.5. However, DEFENDANTS failed to provide REPRESENTATIVE PLAINTIFF with all of the employment documents to which he/she is entitled, including, but not limited to, copies of all internal performance reviews with bonus recommendations.

28. REPRESENTATIVE PLAINTIFF is informed and believes, and based thereon alleges, that DEFENDANTS failed to provide records in compliance with Labor Code Sections 226, 432, and 1198.5 to other AGGRIEVED EMPLOYEES in response to their requests.

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1 **OVERTIME / DOUBLE TIME**

2 29. California Labor Code sections 510 and the applicable Wage Orders require
3 employers to pay employees working more than eight (8) hours in a day or more than 40 hours
4 in a week at the rate of at least time-and-one-half (1.5) times their regular rate of pay
5 (“overtime”) for time such worked, and two (2) times their regular rate of pay (“double time”) for such hours worked in excess of 12 hours in a day. “Regular rate” includes all remuneration,
6 including non-discretionary bonuses and incentives.
7

8 30. During the relevant time period, REPRESENTATIVE PLAINTIFF and other
9 AGGRIEVED EMPLOYEES regularly worked in excess of eight (8), and in excess of 12, hours
10 in a workday and/or 40 hours in a workweek.

11 31. DEFENDANTS routinely required REPRESENTATIVE PLAINTIFF and the
12 other AGGRIEVED EMPLOYEES to perform work tasks before and/or after their scheduled
13 shifts, and/or during off-the-clock meal breaks, and/or during rest breaks. As a consequence,
14 DEFENDANTS willfully failed to pay REPRESENTATIVE PLAINTIFF and the other
15 AGGRIEVED EMPLOYEES all of the wages to which they were entitled.

16 **MEAL / REST BREAKS**

17 32. California Labor Code sections 226.7, 512(a), and the applicable Wage Orders
18 require employers to pay employees one (1) additional hour of pay at the employees’ regular
19 rate for each work day that a legally compliant meal and/or rest break was not provided.
20 Employers cannot require, cause, or permit an employee to work more than five (5) hours per
21 day without providing an uninterrupted meal break. If an employee works over ten (10) hours
22 in a workday, employers are required to either provide a second, uninterrupted 30-minute meal
23 break or pay employees an additional one (1) hour of pay at the employees’ regular rate. If the
24 employer fails to properly record a valid meal period, it is presumed that no meal period was
25 provided. Furthermore, no employer shall require an employee to work during any rest period.
26 Rest periods requirements are based on the total hours worked; employees are legally entitled
27 to ten (10) minutes per four (4) hours, or major fraction thereof, that employee worked.

28 33. DEFENDANTS failed to provide REPRESENTATIVE PLAINTIFF and other

1 AGGRIEVED EMPLOYEES with the required rest and meal break periods.
2 REPRESENTATIVE PLAINTIFF and other AGGRIEVED EMPLOYEES were routinely
3 required to work through these periods instead, because of understaffing, inadequate coverage,
4 unreasonably high workload and expectations, and/or other actions, inactions, or decisions made
5 by and within the sole control and discretion of DEFENDANTS.

6 34. REPRESENTATIVE PLAINTIFF and other AGGRIEVED EMPLOYEES
7 worked shifts in excess of five (5) hours without a meal break, and worked shifts of ten (10)
8 hours or more without a second meal break, due to understaffing, inadequate coverage,
9 unreasonably high workload and expectations, and/or other actions, inactions, or decisions made
10 by and within the sole control and discretion of DEFENDANTS.

11 35. REPRESENTATIVE PLAINTIFF is informed and believes, and based thereon
12 alleges, that any purported appearance of meal and rest break compliance is because
13 DEFENDANTS systematically and routinely clocked out for and/or otherwise altered the
14 timekeeping records of REPRESENTATIVE PLAINTIFF and other AGGRIEVED
15 EMPLOYEES in an attempt to hide the aforementioned infractions. DEFENDANTS,
16 knowingly and contrary to law and public policy, employed a tactic of clocking-out employees
17 for rest and/or meal periods that were never taken and/or were legally non-compliant, and/or
18 otherwise falsified or altered timekeeping records.

19 36. DEFENDANTS knew, or should have known, that their behavior caused
20 REPRESENTATIVE PLAINTIFF and other AGGRIEVED EMPLOYEES to work through the
21 above-described meal and/or rest periods. As a company-wide policy, DEFENDANTS still
22 chose not to pay meal and rest period premiums required by law.

23 MINIMUM WAGE

24 37. California Labor Code sections 1182.12, 1194, 1197, and 1197.1 require
25 employers to pay the minimum wage as set by the IWC. California Labor Code section 1182.12,
26 as amended by Senate Bill 3, Chapter 4, Section 3, defines the minimum wage as;

27 (1) For any employer who employs 26 or more employees:

28 (A) From January 1, 2017, to December 31, 2017, \$10.50 per hour.

- (B) From January 1, 2018, to December 31, 2018, \$11 per hour.
(C) From January 1, 2019, to December 31, 2019, \$12 per hour.
(D) From January 1, 2020, to December 31, 2020, \$13 per hour.
(E) From January 1, 2021, to December 31, 2021, \$14 per hour.
(F) From January 1, 2022, and until adjusted by subdivision (c) \$15 per hour.

(2) For any employer who employs 25 or fewer employees:

- (A) From January 1, 2018, to December 31, 2018, \$10.50 per hour.
(B) From January 1, 2019, to December 31, 2019, \$11 per hour.
(C) From January 1, 2020, to December 31, 2020, \$12 per hour.
(D) From January 1, 2021, to December 31, 2021, \$13 per hour.
(E) From January 1, 2022, to December 31, 2022, \$14 per hour.
(F) From January 1, 2023, and until adjusted by subdivision (c) \$15 per hour.

38. The minimum wage standard applies to each hour employees worked for which they were not paid. Therefore, employer's failure to pay for any particular hour worked by an employee is unlawful even if averaging an employee's total pay over all hours worked, paid or not, results in an average hourly wage above minimum wage.

39. As alleged throughout this Complaint, due to the company-wide failures of DEFENDANTS, REPRESENTATIVE PLAINTIFF and other AGGRIEVED EMPLOYEES were forced to work off-the-clock before and/or after their scheduled work shifts, and/or during rest breaks, and/or during meal breaks. DEFENDANTS failed to pay REPRESENTATIVE PLAINTIFF and other AGGRIEVED EMPLOYEES minimum wage for this time and/or falsified timekeeping records to hide this fact.

ACCURATE/ITEMIZED WAGE STATEMENTS

40. California Labor Code 226(a) requires employers to create and provide to employees true and accurate employment records. California Labor Code section 226(e) provides that if an employer fails to furnish an employee with same, the employee is entitled to recover the greater of all actual damages, or \$50.00 for an initial infraction, and \$100 per employee for each subsequent violation in any pay period. California Labor Code 226.3 imposes

civil penalties on any employer in violation of section 226(a) at \$250 per employee violation in an initial citation, and \$1,000 per employee for each subsequent violation.

41. California Labor Code 1174(d) requires employers to keep payroll records showing hours worked, and wages paid to and/or number of piece-rate units earned, for all employees. California Labor Code section 1174.5 subjects employers to a \$500 penalty for failing to maintain same.

42. California Labor Code section 1198 provides that maximum hours and standard conditions of labor are fixed by the Labor Commissioner in the applicable Wage Orders. Pursuant to the applicable Wage Order, employers must keep accurate records of when employees begin and end each work period and each meal period.

43. DEFENDANTS knowingly provided employees with records that do not meet the statutory requirements of truth and accuracy, because DEFENDANTS failed to truthfully and accurately document, among other things, employees off-the-clock work. As a result, DEFENDANTS failed to accurately list the correct amount of gross and/or net wages earned by REPRESENTATIVE PLAINTIFF and the other AGGRIEVED EMPLOYEES.

44. The statements in question are deficient in many other ways, including, but not limited to: failure to list total hours worked, failing to list applicable hourly rates and the numbers of hours worked at each rate, failure to list piece-rate units earned and the applicable piece-rate, failure to list deductions, failure to track sick leave, failure to list the employee and SSN/EID properly, failure to list the full legal name and address of the employer, failure to list inclusive dates for which employees are paid, failure to provide employees with the ability to easily access wage statements and get hard copies at no expense to the employee, and/or failure to state all hours worked as a result of off-the-clock work.

45. DEFENDANTS willfully failed to maintain accurate payroll records for REPRESENTATIVE PLAINTIFF and other AGGRIEVED EMPLOYEES as a result of DEFENDANTS failure to accurately record employees rest breaks, and/or meal breaks, and/or off-the-clock work. DEFENDANTS failure makes it impossible for REPRESENTATIVE PLAINTIFF and other AGGRIEVED EMPLOYEES to accurately determine the extent of their

underpayment, thereby causing further injuries to each of them.

REPORTING TIME

46. Applicable Wage Orders provide that for each workday when an employee is required to and does in fact report to work, but is either not put to work or is furnished less than half of said employee's usual scheduled day's work, that employee should be paid for no less than half, and in no event less than two (2) hours, of the employees' regular rate of pay.

47. REPRESENTATIVE PLAINTIFF and other AGGRIEVED EMPLOYEES were frequently told by DEFENDANTS to report to work and were either not put to work or were furnished less than half of said employee's usual scheduled day's work. DEFENDANTS routinely failed to pay the required reporting time wages to REPRESENTATIVE PLAINTIFF and other AGGRIEVED EMPLOYEES for each of these instances.

SPLIT SHIFTS

48. Applicable Wage Orders that when an employee works a "split shift", one (1) hour's pay at the State or local minimum wage (whichever is greater) must be paid in addition to the minimum wage for that workday. A "split shift" is defined as a work schedule which is interrupted by non-paid, non-working periods established by the employer, other than bona fide rest or meal periods.

49. DEFENDANTS routinely scheduled REPRESENTATIVE PLAINTIFF and other AGGRIEVED EMPLOYEES for multiple different shifts throughout the same workday, separated by periods other than bona fide rest or meal breaks. DEFENDANTS failed to pay REPRESENTATIVE PLAINTIFF and other AGGRIEVED EMPLOYEES one (1) hour's pay at the applicable minimum wage, which resulted in REPRESENTATIVE PLAINTIFF and other AGGRIEVED EMPLOYEES being paid less than the applicable minimum wage for that day. As a further consequence, DEFENDANTS also failed to separately list "split shift" payments on REPRESENTATIVE PLAINTIFF and other AGGRIEVED EMPLOYEES wage statements.

ALL WAGES PAID ON TIME

50. California Labor Code section 204 requires that all wages earned, other than those due upon termination, be paid on time as defined by the statute.

51. As a result of the numerous company-wide failures of DEFENDANTS as described throughout this Complaint, DEFENDANTS failed to pay REPRESENTATIVE PLAINTIFF and other AGGRIEVED EMPLOYEES all wages due to them, including, but not limited to minimum wages, overtime wages, double time wages, split shift pay and/or reporting time pay, within the statutorily required time period.

ALL WAGES PAID ON DISCHARGE / TERMINATION

52. California Labor Code sections 201, 202, and 203 provide that employees who are terminated are due all wages earned immediately. Employees who resign their employment without giving 72-hours' notice are due all wages earned within 72 hours of their resignation. Employees who resign their employment giving 72-hours' notice are entitled to all wages earned at the time their resignation becomes effective.

53. DEFENDANTS terminated their employment relationship with REPRESENTATIVE PLAINTIFF on October 2, 2024. Accordingly, EMPLOYEE was due all wages earned immediately.

54. REPRESENTATIVE PLAINTIFF has yet to receive EMPLOYEE's final paycheck despite DEFENDANTS knowing that such wages were due to REPRESENTATIVE PLAINTIFF. Due to the company-wide failures of DEFENDANTS as described throughout this Complaint, DEFENDANTS similarly failed to pay other AGGRIEVED EMPLOYEES timely wages upon their discharge or resignation.

FAILURE TO REIMBURSE

55. California Labor Code Sections 2800 and 2802 require that an employer indemnify employees for all necessary expenditures or losses incurred by the employee in direct consequence of the discharge of their duties.

56. REPRESENTATIVE PLAINTIFF and other AGGRIEVED EMPLOYEES were directed and expected to incur personal expenses on behalf of DEFENDANTS while performing their job duties. Such personal expenses include, but are not limited to, use of personal cell phone, travel expenses, and parking expenses. REPRESENTATIVE PLAINTIFF and the other AGGRIEVED EMPLOYEES would not have been able to successfully accomplish their job

1 duties absent incurring these personal expenses. DEFENDANTS failed to indemnify
2 REPRESENTATIVE PLAINTIFF and other AGGRIEVED EMPLOYEES for all necessary
3 expenditures or losses accordingly.

4 **NOTICE OF PAID SICK TIME AND ACCRUAL**

5 57. California Labor Code section 246 provides that an employee who works for the
6 same employer for more than 30 days is entitled to paid sick days. Paid sick leave is to accrue
7 at a rate not less than one (1) hour per every 30 hours worked, such accrual beginning at the
8 commencement of employment. Employers must provide employees with written notice setting
9 the amount of sick leave available (or paid time off in lieu thereof) for use on either itemized
10 wage statements (as described in Labor Code section 226) or in a separate writing accompanying
11 such wage statements.

12 58. REPRESENTATIVE PLAINTIFF was hired by DEFENDANTS on or about
13 March 1, 2024 and worked for DEFENDANTS until on or about October 2, 2024.
14 REPRESENTATIVE PLAINTIFF and other AGGRIEVED EMPLOYEES worked for
15 DEFENDANT for more than 30 days, triggering the protections of Labor Code section 246 as
16 described above. Nevertheless, DEFENDANTS failed to furnish upon REPRESENTATIVE
17 PLAINTIFF and other AGGRIEVED EMPLOYEES, either on itemized wage statements or in
18 a separate writing accompanying such wage statements, the amount of sick leave available to
19 REPRESENTATIVE PLAINTIFF and other AGGRIEVED EMPLOYEES.

20 59. As such, DEFENDANTS unlawfully retained and continue to retain paid sick
21 leave that should have been paid to REPRESENTATIVE PLAINTIFF and other AGGRIEVED
22 EMPLOYEES but for DEFENDANTS failure to properly institute and/or adhere to a legally
23 compliant paid sick leave program. REPRESENTATIVE EMPLOYEE is informed and
24 believes, and based thereon alleges, that these practices were experienced and continue to be
25 experienced by the other AGGRIEVED EMPLOYEES.

26 **VIOLATION OF CALIFORNIA LABOR CODE 2751, 204.1 (CONTRACTS**
27 **INVOLVING COMMISSION & COMMISSION DEFINED)**

28 60. California Labor Code section 2751(a) provides that whenever an

1 employer enters a contract of employment with an employee for services to be rendered within
2 this state and the contemplated method of payment of the employee involves commissions, the
3 contract shall be in writing and shall set forth the method by which the commissions shall be
4 computed and paid.

5 61. Further, California Labor Code section 2751(b) provides that the employer
6 shall give a signed copy of the contract to every employee who is a party thereto and shall obtain
7 a signed receipt for the contract from each employee. In the case of a contract that expires and
8 where the parties nevertheless continue to work under the terms of expired contract, the contract
9 terms are presumed to remain in full force and effect until the contract is superseded or
10 employment is terminated by either party.

11 62. Lastly, California Labor Code section 2751(c) provides that
12 “commissions” has the meaning set forth in California Labor Code section 204.1, which
13 provides in relevant part that commission wages are compensation paid to a person for services
14 rendered in the sale their employer’s property or services and based proportionately upon the
15 amount or value thereof.

16 63. REPRESENTATIVE PLAINTIFF and other AGGRIEVED EMPLOYEES
17 performed their job duties within California’s borders since the establishment of the
18 employment relationship, thus triggering Labor Code section 2751(a).

19 64. Pursuant to Labor Code section 2751(a), DEFENDANTS were required to create
20 a written contract setting forth the method by which commissions would be computed and paid.
21 DEFENDANTS failed to create a written contract which meets these requirements for
22 REPRESENTATIVE PLAINTIFF’S and other AGGRIEVED EMPLOYEE’S signature at any
23 point during their employment.

24 65. Furthermore, because DEFENDANTS failed to create a written contract
25 describing the methods by which commissions are computed and paid, DEFENDANTS failed
26 to provide a copy of the above contract to REPRESENTATIVE PLAINTIFF and other
27 AGGRIEVED EMPLOYEES and obtain signed receipt of the same, as required under Labor
28 Code 2751(b).

66. Due to the company-wide failures of DEFENDANTS as described throughout this similarly failed to meet the same contractual requirements to other AGGRIEVED EMPLOYEES as set forth in Labor Code sections 2751(a) and (b).

67. Pursuant to the foregoing, DEFENDANTS are in violation of California Labor Code Section 2751. REPRESENTATIVE PLAINTIFF and other AGGRIEVED EMPLOYEES are entitled to civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 210 and/or 2699(a), (f)-(g), and any and all other applicable law.

VIOLATION OF CALIFORNIA CODE OF REGULATIONS – APPLICABLE WAGE ORDER (COMMISSIONED-BASED EMPLOYEE'S OVERTIME PAY)

68. California Code of Regulations applicable Industry Wage Order provides that a commission-based employee is exempt and not entitled to overtime pay if 1) more than half of his or her pay is in commissions; and (2) his or her hourly earnings are more than 1.5 times the minimum wage. See Cal. Code Regs., tit. 8, § 11040, subd. 3(D).

69. DEFENDANTS routinely failed to pay overtime pay to REPRESENTATIVE PLAINTIFF and other AGGRIEVED EMPLOYEES who were commissioned-based employees when 1) more than half of their pay was in commissions but 2) their hourly earnings were less than 1.5 time the minimum wage. This resulted in DEFENDANTS failure to pay REPRESENTATIVE PLAINTIFF and other AGGRIEVED EMPLOYEES overtime pay in those instances.

70. Pursuant to the foregoing, REPRESENTATIVE PLAINTIFF and other AGGRIEVED EMPLOYEES are entitled to civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 1197.1 and/or 2699(a), (f)-(g), and any and all other applicable law.

CIVIL PENALTIES AND INDIVIDUAL LIABILITY

71. California Labor Code section 558(a) provides that any employer, including individuals acting on behalf of employers, that violates, or causes to be violated, a section of the Labor Code or any applicable Wage Orders are subject to the following penalties;

72. \$50 for any initial violation for each underpaid employee for each pay period for

1 which the employee was underpaid in addition to an amount sufficient to recover unpaid wages;

2 73. \$100 for each subsequent violation for each underpaid employee for each pay
3 period for which the employee was underpaid in addition to an amount to recover unpaid wages;

4 74. Labor Code section 558.1 permits joint and several liability as to both an
5 individual and employer for violations of Labor Code sections 203, 226, 226.7, 1194, and 2802.
6 Labor Code section 558(c) provides that the penalties in this section are in addition to any other
7 civil penalty.

8 75. DEFENDANTS are employers, and violated REPRESENTATIVE PLAINTIFF
9 and other AGGRIEVED EMPLOYEES' rights by violating, or causing to be violated, various
10 sections of this code as described throughout this Complaint.

11 **FIRST CAUSE OF ACTION**

12 **(VIOLATION OF LABOR CODE § 2698, *ET SEQ.*)**

13 **(By REPRESENTATIVE PLAINTIFF Against DEFENDANTS and Does 1 through 10,**
14 **inclusive)**

15 76. REPRESENTATIVE PLAINTIFF incorporates by reference the allegations
16 contained in each of the preceding paragraphs and each and every part thereof with the same
17 force and effect as though fully set forth herein.

18 77. PAGA expressly establishes that any provisions of the California Labor Code
19 which provides for a civil penalty to be assessed and collected by the LWDA, or any of its
20 departments, divisions, commissions, boards, agencies or employees for a violation of the
21 California Labor Code, may be recovered through a civil action brought by an aggrieved
22 employee on behalf of himself or herself, and other current or former employees.

23 78. Whenever the LWDA, or any of its departments, divisions, commissions, boards,
24 agencies, or employees has discretion to assess a civil penalty, a court in a civil action is
25 authorized to exercise the same discretion, subject to the same limitations and conditions, to
26 assess a civil penalty.

27 79. REPRESENTATIVE PLAINTIFF and the other hourly-paid or non-exempt
28 employees, are "AGGRIEVED EMPLOYEES" within the meaning of California Labor Code

section 2699(c) as they are all current or former employees of DEFENDANT, and one or more of the alleged violations was committed against them.

Misclassification As Exempt Employees

80. DEFENDANTS misclassified REPRESENTATIVE PLAINTIFF and other aggrieved employees in violation of California Labor Code section 515(a).

Failure to Provide Employment Records

81. DEFENDANTS failure to provide REPRESENTATIVE PLAINTIFF and other AGGRIEVED EMPLOYEES with employment records constitutes unlawful and/or unfair activity and is prohibited by California Labor Code 226, 432, and 1198.5.

Failure to Pay Overtime / Double Time

82. DEFENDANTS failure to pay legally required overtime and double time wages to REPRESENTATIVE PLAINTIFF and other AGGRIEVED EMPLOYEES is in violation of the Wage Orders and constitutes unlawful and/or unfair activity prohibited by California Labor Code sections 510 and 1198.

Failure to Provide Meal and Rest Periods

83. DEFENDANTS failure to provide legally required meal and rest periods to REPRESENTATIVE PLAINTIFF and other AGGRIEVED EMPLOYEES constitutes unlawful and/or unfair activity prohibited by California Labor Code sections 226.7, 512(a), and the applicable Wage Orders.

Failure to Pay Minimum Wages

84. DEFENDANTS failure to pay legally required minimum wages to REPRESENTATIVE PLAINTIFF and other AGGRIEVED EMPLOYEES constitutes unlawful and/or unfair activity prohibited by California Labor Code sections 1182.12, 1194, 1197, 1197.1, and the applicable Wage Orders.

Failure to Keep Accurate and Provide Itemized Wage Statements

85. DEFENDANTS failure to keep accurate and provide itemized wage statements to Plaintiff and other AGGRIEVED EMPLOYEES constitutes unlawful and/or unfair activity prohibited by California Labor Code section 226(a), 1174(d), and 1198.

1 **Failure to Pay Reporting Time**

2 86. DEFENDANTS failure to pay REPRESENTATIVE PLAINTIFF and other
3 AGGRIEVED EMPLOYEES who were required to and did in fact report to work, but who were
4 then furnished less than half of such employees usual scheduled day's work, with at least half,
5 and in no event less than two (2) hours, of the employees' regular rate of pay constitutes unlawful
6 and/or unfair activity prohibited by applicable Wage Orders.

7 **Failure to Pay "Split Shift" Premiums**

8 87. DEFENDANTS failure to pay REPRESENTATIVE PLAINTIFF and other
9 AGGRIEVED EMPLOYEES one (1) hour's pay at the minimum wage in addition to the wages
10 for that workday for any workday in which REPRESENTATIVE PLAINTIFF and other
11 AGGRIEVED EMPLOYEES were scheduled for and required to work a "split shift" constitutes
12 unlawful or unfair activity prohibited by applicable Wage Orders.

13 **Failure to Timely Pay Wages During Employment**

14 88. DEFENDANTS failure to timely pay wages to REPRESENTATIVE PLAINTIFF
15 and other AGGRIEVED EMPLOYEES during their employment constitutes unlawful and/or
16 unfair activity prohibited by California Labor Code section 204.

17 **Failure to Timely Pay Wages Upon Termination**

18 89. DEFENDANTS failure to timely pay wages to REPRESENTATIVE PLAINTIFF
19 and other AGGRIEVED EMPLOYEES upon termination constitutes unlawful and/or unfair
20 activity prohibited by California Labor Code sections 201, 202, and 203.

21 **Failure to Reimburse Necessary Business-Related Expenses and Costs**

22 90. DEFENDANTS failure to reimburse REPRESENTATIVE PLAINTIFF and other
23 AGGRIEVED EMPLOYEES for necessary business-related expenses and costs constitutes
24 unlawful and/or unfair activity prohibited by California Labor Code sections 2800 and 2802.

25 **Failure to Provide Notice of Paid Sick Time and Accrual**

26 91. DEFENDANTS failure to provide REPRESENTATIVE PLAINTIFF and other
27 AGGRIEVED EMPLOYEES that works for DEFENDANTS for more than 30 days with written
28 notice setting the amount of sick leave available (or paid time off in lieu thereof) for use in their

itemized wage statements or in a separate writing accompanying such statements constitutes unlawful and/or unfair activity prohibited by California Labor Code section 246.

Failure to Comply with Requirements of Contracts for Commissioned Employees

92. DEFENDANTS failed to comply with requirements of contracts for REPRESENTATIVE PLAINTIFF and other AGGRIEVED EMPLOYEES who were commissioned based employees in violation of California Labor Code section 2751, 204.1.

Failure to Properly Pay Overtime to Commissioned Employees

93. DEFENDANTS failed to pay REPRESENTATIVE PLAINTIFF and other commission based AGGRIEVED EMPLOYEES overtime in violation of the California Code of Regulations and applicable Wage Orders.

Civil Penalties

94. Pursuant to California Labor Code section 2699, REPRESENTATIVE PLAINTIFF, individually, and on behalf of all AGGRIEVED EMPLOYEES, requests and is entitled to recover penalties from DEFENDANTS and each of them, for violations of the Labor Code as more fully described herein according to proof, interest, attorneys' fees and costs pursuant to California Labor Code section 218.5, including but not limited to:

95. Penalties under California Labor Code section 2699 in the amount of a hundred dollars (\$100) for each aggrieved employee per pay period for the initial violation, and two hundred dollars (\$200) for each aggrieved employee per pay period for each subsequent violation;

96. Penalties under California Code of Regulations Title 8 section 11010, et seq. in the amount of fifty dollars (\$50) for each aggrieved employee per pay period for the initial violation, and one hundred dollars (\$100) for each aggrieved employee per pay period for each subsequent violation;

97. Penalties under California Labor Code section 210 in addition to, and entirely independent and apart from, any other penalties provided in the California Labor Code in the amount of a hundred dollars (\$100) for each aggrieved employee per pay period for the initial violation, and two hundred dollars (\$200) for each aggrieved employee per pay period for each

subsequent violation; and

98. Any and all additional penalties and sums as provided by the California Labor Code and/or other statutes, including, but not limited to, penalties pursuant to California Labor Code 558(a).

99. Pursuant to California Labor Code section 2699, civil penalties recovered shall be distributed as follows: sixty-five percent (65%) to the Labor and Workforce Development Agency for the enforcement of labor laws and education of employers and employees about their rights and responsibilities and thirty-five percent (35%) to the AGGRIEVED EMPLOYEES.

100. Further, REPRESENTATIVE PLAINTIFF is entitled to seek and recover reasonable attorneys' fees and costs pursuant to California Labor Code sections 210, 218.5 and 2699 and any other applicable statute.

101. THEREFORE, REPRESENTATIVE PLAINTIFF and the individuals he seeks to represent request relief as described below:

PRAYER

THEREFORE, REPRESENTATIVE PLAINTIFF prays for judgment against DEFENDANTS, and Does 1 through 50, and each of them, as follows:

1. Statutory attorneys' fees and costs under PAGA and California Code of Civil Procedure Section 1021.5;
2. Statutory penalties under PAGA;
3. Costs of suit; and
4. Such further relief as the Court deems just and proper.

Dated: February 3, 2025

HAIG B. KAZANDJIAN LAWYERS, APC.

By: 

Haig B. Kazandjian, Esq.,
Cathy Gonzalez, Esq.
*Attorneys for Plaintiff MUSSA SALEH,
individually and on behalf of other
Aggrieved Employees*