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6 Attorneys for Plaintiffs DANIEL MCNAMEE, DON BRANSCUM, SUZANNE ERDMAN,
7 STEVEN HAMILTON, LORI JENNINGS, WILLIAM LAMPHERE, JAMES LIM, DAVID
8 TIMOTHY MATTOS, and MEHRDAD SOTOODEH on behalf of themselves and similarly situated
employees

10 **SUPERIOR COURT OF CALIFORNIA**

11 **FOR THE COUNTY OF MARIN**

12 DANIEL MCNAMEE, DON)
13 BRANSCUM, SUZANNE ERDMAN,)
14 STEVEN HAMILTON, LORI JENNINGS,)
15 WILLIAM LAMPHERE, JAMES LIM,)
16 DAVID TIMOTHY MATTOS, and)
17 MEHRDAD SOTOODEH, individually)
and on behalf of all others similarly)
situated,)

18 Plaintiffs,)

19 vs.)

20 indiGO SAN FRANCISCO, LLC; Does 1)
21 through 20, inclusive,)

22 Defendants.)
23)
24)
25)
26)
27)
28)

Case No.

**1. Civil Penalties Pursuant to Private
Attorney General Act, Labor Code §
2698 et seq.**

JURY TRIAL DEMANDED

1 Plaintiffs DANIEL MCNAMEE, DON BRANSCUM, SUZANNE ERDMAN, STEVEN
2 HAMILTON, LORI JENNINGS, WILLIAM LAMPHERE, JAMES LIM, DAVID TIMOTHY
3 MATTOS, and MEHRDAD SOTOODEH ("Plaintiffs"), on behalf of themselves and all other
4 similarly situated employees hereby file this Complaint against indiGO SAN FRANCISCO, LLC
5 and Does 1 through 20 (collectively referred to as "Defendants"). Plaintiffs allege the following:

6 **INTRODUCTION**

7 1. This is a representative action brought by Plaintiffs seeking damages for failure to
8 provide rest periods, failure to pay overtime and minimum wages, inaccurate wage statements,
9 failure to reimburse for business expenses, and derivative civil penalties. Plaintiffs seeks these
10 damages and penalties, plus interest and attorney's fees, on behalf of themselves and similarly
11 situated employees.

12 2. During all relevant times, Plaintiffs and similarly situated employees worked for
13 Defendants as exempt and non-exempt employees. Defendants failed to provide Plaintiffs and
14 similarly situated employees meal and rest periods, failed to pay minimum wages and premium
15 overtime wages, and failed to reimburse for business expenses, in violation of the California Labor
16 Codes.

17 **JURISDICTION AND VENUE**

18 3. Marin County Superior Court has jurisdiction in this matter pursuant to California
19 Labor Code §§ 2698 *et seq.*,

20 4. Venue is proper pursuant to Civil Procedure Code §§ 395(a) and 395.5, in that some
21 of the wrongful acts and violations of law asserted herein occurred within Marin County.

22 **PARTIES**

23 5. Plaintiffs are each over the age of eighteen (18) and are or were residents of the State
24 of California during the relevant time period, and are former employees of Defendant.

25 6. Plaintiffs are informed and believe , and thereupon allege, that indiGO San Francisco,
26 LLC is now and/or at all times mentioned in this Complaint a Delaware Corporation and the owner
27 and operator of an industry, business and/or facility licensed to do business and actually doing
28 business in the State of California.

7. Plaintiffs are informed and believe, and based thereon allege, that Defendants, jointly and severally, have acted with deliberate indifference and conscious disregard to the rights of all employees. Plaintiffs is further informed and believe, and based thereon allege, that Defendants were at all relevant times advised by skilled California employment law attorneys and knew the requirements of the California Labor Code with respect to employee wage statements, payment of wages, reimbursement of business expenses, and provision of rest periods.

8. Defendants proximately caused Plaintiffs and similarly situated employees to be subjected to the unlawful practices, wrongs, complaints, injuries, and/or damages alleged in this Complaint.

9. Plaintiffs is further informed and believe, and thereon allege, that each of the Defendants herein was, at all times relevant to this action, the agent, employee, or joint employer or joint venturer of the remaining defendants and was acting within the course and scope of that relationship. Plaintiffs is further informed and believe , and thereon allege, that each of the Defendants herein gave consent to, ratified and authorized the acts alleged herein to each of the remaining defendants. The true names and capacities of the defendants named herein Does 1 through 20, inclusive, whether individual, corporate, associate, or otherwise are unknown to Plaintiffs , who therefore sues such defendants by fictitious names pursuant to California Code of Civil Procedure section 474. Plaintiffs will amend this complaint to show such true names and capacities of Does 1 through 20, inclusive, when they have been determined.

10. On March 17, 2021, Plaintiffs filed their Labor Code § 2699.3 Private Attorney General Act (“PAGA”) notice with the California Labor & Workforce Development Agency (“LWDA”). Plaintiffs will amend this Complaint if the LWDA does not respond within 65 days of filing of the PAGA notice.

GENERAL ALLEGATIONS

11. Plaintiffs incorporate by reference and re-allege all paragraphs set forth above as though fully set forth herein.

12. Plaintiffs worked for Defendant as exempt and non-exempt employees of Defendant in its Marin County auto dealerships, including Marin Porsche, Audi Marin, and

1 Volkswagen Marin. During their employment, Plaintiffs, and other aggrieved employees, were
2 made to suffer numerous violations of the California Labor Code.

3 13. Plaintiffs and similarly situated employees regularly used their cell phones for
4 business purposes. Plaintiffs received and made frequent work-related phone calls, text messages,
5 and emails, on personal cell phones, including with customers of Defendant. Plaintiffs and
6 similarly situated employees were not reimbursed for this use of their personal cell phones and
7 cell phone plans for business purposes. Plaintiffs and similarly situated non-exempt employees
8 also received phone calls during non-work hours and were required to respond. However,
9 Plaintiffs and similarly situated employees were not paid for this time.

10 14. Defendant also did not allow Plaintiffs and similarly situated non-exempt
11 employees to take their statutorily required meal and rest periods. Defendants failed to provide
12 meal and rest periods to Plaintiff and similarly situated employees for every 4 hours worked or
13 major fraction thereof. Defendants were aware, and at all times knew or had reason to know non-
14 exempt employees were being deprived of timely, complete, and uninterrupted meal periods, as
15 evidenced by numerous meal period premiums paid in almost every pay period.

16 15. Plaintiffs and similarly situated non-exempt employees regularly worked more
17 than 8 hours per day or 40 hours per week. However, Defendant failed to pay premium over time
18 pay.

19 16. As a result of these violations, Defendant did not provide Plaintiffs and similarly
20 situated employees legally compliant wage statements noting, among other things, total hours
21 worked, gross wages earned, the applicable hourly rates in effect during the pay period and the
22 corresponding number of hours worked at each hourly rate, and the legal name of the employer.

23 17. Defendant also did not provide Plaintiffs and similarly situated aggrieved
24 employees all wages owed upon their termination or within seventy-two (72) hours of their
25 separation from employment.

26 18. Defendant's management staff were aware this was occurring and did not ensure
27 meal and/ or rest periods were provided to Plaintiffs and similarly situated employees in
28 compliance with California law.

1 19. Defendant's uniform policies and practices to not provide Plaintiffs and similarly
2 situated employees meal and rest periods, not pay all minimum and overtime wages earned, not
3 pay all wages owed at termination or resignation, and not to provide compliant wage statements,
4 are evidenced by Defendant's business records.

5 20. Defendant, as a matter of corporate policy, practice, and procedure, intentionally,
6 knowingly, and systematically failed to reimburse and indemnify Plaintiffs and other Class
7 Members for required business expenses incurred in direct consequence of discharging their
8 duties on behalf of Defendants.

9 **CIVIL PENALTIES PURSUANT TO PAGA § 2698 ET SEQ.**

10 21. Plaintiffs incorporate by reference and re-allege all paragraphs set forth the above
11 as though fully set forth herein.

12 22. Plaintiffs bring this cause of action as a proxy for the State of California and in
13 this capacity, seek penalties on behalf of all Aggrieved Employees for Defendant's violations of
14 the California Labor Code, including but not necessarily limited to, those Labor Code violations
15 identified above.

16 23. On or about March 17, 2021, Plaintiffs sent written notice to the LWDA regarding
17 Defendant's violations of the California Labor Code, pursuant to Labor Code section 2698, *et*
18 *seq.*, PAGA. Plaintiffs reserve the right to amend this Complaint to allege full exhaustion of
19 administrative remedies after the time for

20 24. Plaintiffs are thus entitled to recover civil penalties on behalf of the State of
21 California and all Aggrieved Employees for all violations of the Labor Code from March 17,
22 2020, through trial on this matter.

23 **DAMAGES**

24 WHEREFORE Plaintiffs requests relief as follows:

- 25 1. A jury trial;
- 26 2. For an award of Civil Penalties pursuant to Labor Code section 2698 *et seq.*,
27 payable 75% to the State of California, and 25% to Plaintiffs and other aggrieved
28 employees;

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- 3. For an award to Plaintiffs of costs of suit incurred herein and reasonable attorney's fees; and
- 4. For an award to Plaintiffs of such other and further relief as the Court deems just and proper.

Dated: June 15, 2021

Castle Law: California Employment Counsel, PC

By: 
Timothy B. Del Castillo
Lisa L. Bradner
Attorneys for Plaintiffs DANIEL MCNAMEE, DON
BRANSCUM, SUZANNE ERDMAN, STEVEN
HAMILTON, LORI JENNINGS, WILLIAM
LAMPHERE, JAMES LIM, DAVID TIMOTHY
MATTOS, and MEHRDAD SOTOODEH, individually
and on behalf of all others similarly situated

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JURY TRIAL DEMAND

Plaintiffs hereby demands a trial by jury.

Dated: June 15, 2021

Castle Law: California Employment Counsel, PC

By: 

Timothy B. Del Castillo

Lisa L. Bradner

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