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Assigned for All Purposes
Judge William Claster
CX-101

Attorneys for MATTHEW BAUMANN, on behalf of
all others similarly situated, and on behalf of the general public

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

MATTHEW BAUMANN on behalf of
all others similarly situated, and on
behalf of the general public,

Plaintiffs,
v.

ATP INVESTMENT COMPANY, LLC
DBA AUDI FLETCHER JONES; and
DOES 1-100,
Defendants.

Case No. **30-2024-01427099-CU-OE-CXC**

**PLAINTIFF MATTHEW BAUMANN'S PRIVATE
ATTORNEYS GENERAL ACT OF 2004 ("PAGA")
COMPLAINT FILED PURSUANT TO
CALIFORNIA LABOR CODE § 2698, ET. SEQ.**

- 1. Violation of the PAGA for Failure to Pay All
Straight Time Wages;**
- 2. Violation of the PAGA for Failure to Pay All
Overtime Wages;**
- 3. Violation of PAGA for Failure to Provide Meal
Periods;**
- 4. Violation of PAGA for Failure to Provide Rest
Periods;**
- 5. Violation of the PAGA for Knowing and
Intentional Failure to Comply with Itemized
Employee Wage Statement Provisions; and**
- 6. Violation of the PAGA for Failure to Pay All
Wages Due at the Time of Termination of
Employment.**

DEMAND FOR JURY TRIAL

1 Plaintiff MATTHEW BAUMANN (hereinafter referred to as “Plaintiff”) on behalf all other
2 non-exempt automotive technicians, mechanics, or similar job designations who worked for Defendant
3 in California (hereinafter referred to as the “Aggrieved Employees”), files this Complaint against
4 Defendant ATP INVESTMENT COMPANY, LLC DBA AUDI FLETCHER JONES (hereinafter
5 referred to as “AUDI”) and/or DOES 1-100.

6 **I. INTRODUCTION**

7 1. This is a representative action seeking recovery of penalties under the California Labor Code
8 Private Attorneys General Act of 2004 (“PAGA”), California Labor Code Sections 2698 et
9 seq., against AUDI and/or DOES 1-100. The PAGA permits an “aggrieved employee” to bring
10 a lawsuit on behalf of other current and former employees to address an employer’s violations
11 of the *California Labor Code*. Through this complaint, Plaintiff does not seek individual
12 PAGA penalties on behalf of himself but only seeks representative PAGA penalties on behalf
13 of other aggrieved employees.

14 2. AUDI is a car dealership.

15 3. AUDI is a California corporation and operates out of locations in California.

16 4. AUDI employs non-exempt automotive technicians, mechanics, or similar job designations to
17 work at its locations.

18 5. AUDI has maintained uniform policies that violate the wage and hour rights of non-exempt
19 automotive technicians, mechanics, or similar job designations in the manner complained of
20 herein.

21 6. This action is brought on behalf of Aggrieved Employees of AUDI and/or DOES who: worked
22 a shift of at least five (5) hours without receiving a meal period; worked four (4) hours, or a
23 major fraction thereof, without receiving a ten (10) minute net rest break; were not provided
24 accurate itemized wage statements; were not paid compensation for all time worked at the
25 straight or overtime rate; and were not paid waiting time penalties. Plaintiff seeks penalties on
26 behalf all other Aggrieved Employees of Defendant and/or DOES as provided herein. Plaintiff
27 does not seek individual PAGA penalties on behalf of herself. This Complaint also seeks
28 attorneys’ fees and costs under the PAGA, *California Labor Code* section 2699(g)(1).

1 7. At all times mentioned herein, Aggrieved Employees were not classified as “Exempt” or
2 primarily employed in an executive, professional, or administrative capacity. Thus, under
3 California law, Aggrieved Employees should be: paid compensation for all time worked at the
4 regular or overtime rate; provided meal periods; authorized and permitted to take rest periods;
5 paid one hour of premium pay for all unprovided meal periods; paid one hour of premium pay
6 for all rest periods that were not authorized and/or permitted; paid penalties for not being
7 provided itemized wage statements; and paid penalties for not being paid timely at the time of
8 termination.

9 8. At all times mentioned herein, AUDI and/or DOES control the working conditions of the
10 Aggrieved Employees including, but not limited to, having the authority to hire and fire the
11 Aggrieved Employees, setting the wages of the Aggrieved Employees, and instructing the
12 Aggrieved Employees when and/or where to work. In addition, AUDI and/or DOES develop,
13 wrote, dictated, approved and/or authorized wage and hour policies and/or practices that the
14 Aggrieved Employees labored under. These policies and/or practices included, but were not
15 limited to, policies and/or practices regarding straight-time, overtime, meal periods, rest
16 periods, wage statements, timing of payment, and paying compensation at the time of
17 termination. Further, AUDI and/or DOES have the ability to prevent the Aggrieved Employees
18 from working.

19 **II. JURISDICTION AND VENUE**

20 9. Plaintiff is an individual residing in California. At all times relevant to this action, Plaintiff was
21 employed by AUDI and/or DOES in California. Plaintiff, and each of the Aggrieved
22 Employees, were employees of AUDI and/or DOES, and/or its operating divisions and
23 subsidiaries, within the State of California. Plaintiff and each of the Aggrieved Employees
24 were subject to the unlawful policies beginning one (1) year prior to the date Plaintiff sent
25 Notice to the State of California Labor and Workforce Development Agency (LWDA).

26 10. Venue as to each Defendant and/or DOE is proper in this judicial district. Each Defendant
27 and/or DOE operate facilities, employ employees, conduct business, and commit *California*
28 *Labor Code* violations within Orange County and California. Each Defendant and/or DOE is

within the jurisdiction of this Court for service of process purposes. The unlawful acts alleged herein have a direct effect on the Aggrieved Employees situated within the State of California and within Orange County. AUDI and/or DOES employ numerous aggrieved employees in California and/or Orange County.

11. Plaintiff brings this action on behalf of the Aggrieved Employees of AUDI and/or DOES pursuant to the PAGA. Plaintiff, as personal representatives of the general public, will and does seek to recover any and all representative PAGA penalties on behalf of the Aggrieved Employees for each and every violation shown to exist or to have occurred during the one (1) year period before Plaintiff filed Notice with the LWDA of his intent to bring this action, in an amount according to proof, as to those penalties that are otherwise only available to public agency enforcement actions. Funds recovered will be distributed in accordance with the PAGA.

12. There is no federal question at issue as the issues herein are based solely upon California statutes and law, including the *California Labor Code*, IWC Wage Orders, Code of Civil Procedure, and Civil Code.

13. The California Superior Court also has jurisdiction in this matter because the penalties sought exceed the minimum jurisdictional limits of the Superior Court and will be established at trial, according to proof. Defendant and/or DOES either own, maintain offices, transact business, have an agent or agents, have their principal place of business in, and/or otherwise are found within the County of Orange, California.

III. THE PARTIES

A. Plaintiffs

14. Throughout the Statutory Period, Plaintiff MATTHEW BAUMANN is and was a resident of California. During the Statutory Period, Plaintiff MATTHEW BAUMANN was employed in a non-exempt capacity by Defendant AUDI and/or DOES in California and performed work in Orange County. Plaintiff MATTHEW BAUMANN's employment with Defendant AUDI and/or DOES ended on or about August 16, 2024.

15. The Aggrieved Employees were and are employed in the State of California by AUDI and/or

DOES. The Aggrieved Employees are or were employed in as non-exempt automotive technicians, mechanics, or similar job designations.

16. Plaintiff MATTHEW BAUMANN is an aggrieved employee with standing to bring this action as he was employed by Defendant and suffered one or more of the violations alleged herein.

17. A notice correspondence showing compliance with *California Labor Code* Section 2699.3 was sent to the LWDA and AUDI on June 25, 2024. This notice demonstrates that Plaintiff is an aggrieved employee and has standing to bring a representative action on behalf of the LWDA and as a private attorney general. The violations alleged in this notice also form the basis for the allegations herein. No notice of cure by Defendant AUDI and/or DOES was provided and no notice of investigation was received from the LWDA in the statutorily proscribed sixty-five (65) day period since the mailing of the notice of the action. Accordingly, Plaintiff files this action as a “Representative Action.”

B. Defendants

18. AUDI is a car dealership.

19. AUDI is a California corporation and operates out of locations in California.

20. AUDI employs non-exempt automotive technicians, mechanics, or similar job designations to work at its locations.

21. AUDI has a strong foothold in California, including the County of Orange.

22. AUDI is a California corporation and operates out of locations in California.

23. Plaintiff is ignorant of the true names, capacities, relationships, and extent of participation in the conduct alleged, of the Defendants sued as DOES 1 through 100, inclusive, but on information and belief alleges that said Defendants are now, and/or at all times mentioned in this Complaint were doing business in the State of California and/or throughout the United States. Plaintiff is informed and believes that each of the Defendants designated as a DOE is legally responsible in some manner for the unlawful acts alleged. Plaintiff will amend this Complaint to allege the true names and capacities of the DOE Defendants when ascertained.

24. Plaintiff is informed and believes each Defendant acted, in whole or in part, in all respects pertinent to this action as the agent of the other Defendants, carried out a joint scheme, business

plan or policy in all respects pertinent hereto, and the acts of each Defendant are legally attributable to the other Defendants as each Defendant has ratified, approved, and/or authorized the acts of each of the remaining Defendants.

25. Plaintiff is informed and believes, and thereon alleges, that DOES 1 through 100 are partners, agents, owners, and/or shareholders of Defendants and/or DOES and were acting on behalf of Defendants and/or DOES at all times.

IV. GENERAL ALLEGATIONS

26. During all, or a portion, of the one (1) year period before Plaintiff filed notice of his claims with the LWDA, the Aggrieved Employees were employed by AUDI and/or DOES in the State of California. The Aggrieved Employees are composed of all current and former non-exempt automotive technicians, mechanics, or similar job designations within the State of California.

27. At all times mentioned herein, AUDI and/or DOES fail to pay the Aggrieved Employees all straight time and overtime wages owed. AUDI has a continuous and consistent policy of requiring employees to work before clocking in, after clocking out, and during meal periods. The Aggrieved Employees are not paid for this time. For example, have to walk through AUDI's work site to their workstation which contains their computers. Once at their computers, Aggrieved Employees have to turn them on before they can clock in. Aggrieved Employees are not paid for this time. Failing to pay for all hours worked while under AUDI control and/or while suffered or permitted to work has resulted in Aggrieved Employees being deprived of straight time wages and overtime wages throughout the Statutory Period.

28. At all times mentioned herein, Aggrieved Employees are also not paid for non-productive hours. Aggrieved Employees are only paid for "flag hours," which are productive hours. When Aggrieved Employees do not earn flag hours during a shift, AUDI's pay structure is such that Aggrieved Employees have wages taken from flag hours earned in previous shifts to cover the hours worked during a shift in which no flag hours are earned. In doing so, AUDI's pay structure has the effect of only paying Aggrieved Employees for flag hours and not for non-productive time. AUDI's pay structure requires Aggrieved Employees to use wages earned during their flag hours to pay themselves for hours worked in which no flag hours were earned,

i.e., non-productive time. As such, AUDI's pay structure has the effect of requiring Aggrieved Employees to pay themselves using prior earned wages for non-productive hours.

29. Alternatively, Aggrieved Employees are not paid wages at the agreed upon or statutory minimum wage for all hours worked. AUDI pays Aggrieved Employees based on their productive time (flag hours). AUDI fails to separately compensate Aggrieved Employees for nonproductive time and/or rest periods, which violates *California Labor Code* sections 1194, 1197, 221, and 223. As such, Aggrieved Employees are not paid for all hours worked.

30. AUDI's unlawful piece rate compensation plan violates California's "no borrowing rule." AUDI's piece-rate plan fails to separately compensate for nonproductive time. Under the California minimum wage law, employees must also be compensated for each hour worked at either the legal minimum wage or the contractual hourly rate, and compliance cannot be determined by averaging hourly compensation. Here, AUDI "borrows" from Aggrieved Employees' piece-rate earnings to supplement their hourly pay in order to satisfy their minimum wage obligations. Averaging of all wages paid under a piece rate plan, within a particular pay period, in order to determine whether the employer complied with its minimum wage obligations is not permitted under these circumstances, for to do so would result in the employer paying the employees less than the contract rate for those activities which the piece rate plan requires payment of a specified amount equal to or greater than the minimum wage, in violation of California Labor Code sections 221 - 223.

31. At all times mentioned herein, AUDI and/or DOES fail to provide the Aggrieved Employees with meal periods that comply with California law and fail to authorize and permit rest periods that comply with California law.

32. At all times mentioned herein, AUDI and/or DOES knew and/or should have known that the Aggrieved Employees were entitled to be provided legally compliant meal periods in a timely manner or payment of one hour of pay as additional compensation at the Aggrieved Employees' regular rate of pay when they did not receive a timely, uninterrupted meal period.

33. At all times mentioned herein, the Aggrieved Employees were not free of all work duties and/or employer control during meal periods. AUDI and/or DOES require Aggrieved Employees to

- work through their meal periods thereby denying Aggrieved Employees of the right to be completely free from employer control under California law.
34. By failing to provide a duty-free meal period of not less than thirty (30) minutes for every shift of at least five (5) hours worked per day by the Aggrieved Employees, and by failing to provide compensation for these unprovided meal periods, AUDI and/or DOES willfully violate the provisions of Labor Code section 226.7, IWC Wage Order No. 4-2001, and California Code of Regulations, Section 11040(11). In addition, AUDI and/or DOES fail to provide the Aggrieved Employees with another duty-free meal period of not less than thirty (30) minutes for every shift of more than ten (10) hours per day.
35. At all times mentioned herein, AUDI and/or DOES knew and/or should have known that the Aggrieved Employees were entitled to be authorized and/or permitted to take legally compliant rest periods in a timely manner or payment of one hour of pay as additional compensation at the Aggrieved Employees' regular rate of pay when they were not authorized and/or permitted to take a legally compliant rest period.
36. At all times mentioned herein, employees are not free of all work duties and/or employer control during rest periods. AUDI and/or DOES breach the legal duty to provide rest periods to employees by imposing a continuous and consistent policy requiring Aggrieved Employees to keep working during their rest periods, thereby denying Aggrieved Employees of the right to be completely free from employer control under California law.
37. By failing to provide paid net ten (10) minute rest periods for every four (4) hours or major fraction thereof, worked per day by the Aggrieved Employees and by failing to provide compensation for these periods, AUDI and/or DOES willfully violate the provisions of Labor Code section 226.7, IWC Wage Order No. 4-2001, and California Code of Regulations, Section 11040(12).
38. At all times mentioned herein, AUDI and/or DOES knowingly and intentionally provide wage statements to employees that fail to specifically itemize everything required under *California Labor Code* section 226(a).
39. At all times mentioned herein, AUDI and/or DOES knew and/or should have known that the

- 1 Aggrieved Employees were entitled to receive complete and accurate pay statements in
2 accordance with California law.
- 3 40. At all times mentioned herein, AUDI and/or DOES knowingly and intentionally did not
4 include the correct total hours worked by the employee on wage statements. AUDI and/or
5 DOES include overtime hours in both the accounting for both the regular hours worked and
6 the overtime hours worked. This makes the accounting of the regular hours worked inaccurate.
7 In addition, when listing the total hours worked by an employee, the overtime hours are
8 counted twice making the total hours worked accounting on employees' wage statements
9 incorrect.
- 10 41. At all times mentioned herein, AUDI and/or DOES knew and/or should have known that they
11 were not providing complete and accurate pay statements in accordance with California law to
12 the Aggrieved Employees.
- 13 42. At all times mentioned herein, AUDI and/or DOES fail to pay all wages owed to terminated
14 or resigned Aggrieved Employees and failed to timely pay wages during employment.
- 15 43. At all times mentioned herein, AUDI and/or DOES knew and/or should have known that they
16 had a duty to compensate the Aggrieved Employees in accordance with California law, and
17 that AUDI and DOES have the ability to pay such compensation, but willfully and intentionally
18 failed to do so, and AUDI and DOES falsely represent to the Aggrieved Employees that they
19 were properly compensating the Aggrieved Employees.
- 20 44. At all times mentioned herein, AUDI and/or DOES knowingly and intentionally fail to pay all
21 wages owed to Aggrieved Employees in a timely manner at the time Aggrieved Employees
22 terminated their employment – either voluntarily or involuntarily – with AUDI and/or DOES.
- 23 45. At all times mentioned herein, AUDI and/or DOES knew and/or should have known that the
24 Aggrieved Employees were entitled to timely wages at the time of termination. AUDI and/or
25 DOES did not timely pay all wages owed, straight-time wages owed, overtime wages owed,
26 meal period premiums, and rest period premiums owed at the time of termination.
- 27 46. At all times mentioned herein, AUDI and/or DOES fail to pay the Aggrieved Employees a sum
28 certain at the time of termination or within seventy-two (72) hours of their resignation, and

1 have failed to pay those sums for thirty (30) days thereafter.

2 47. Plaintiff brings this action on behalf of all Aggrieved Employees defined as all AUDI's non-
3 exempt automotive technicians, mechanics, or similar job designations employed in California
4 beginning one year prior to the date Plaintiff sent notice to the LWDA.

5 48. Plaintiff reserves the right to amend or modify the definition of Aggrieved Employees with
6 respect to the issues or in any other way.

7 **FIRST CAUSE OF ACTION AGAINST AUDI AND/OR DOES: Violation of the PAGA for**
8 **Failure to Pay Straight Time Wages (*California Labor Code* §2698 et. seq.).**

9 49. Plaintiff re-alleges and hereby incorporates each and every paragraph of this Complaint herein
10 as if fully plead.

11 50. AUDI and/or DOES have had a continuous policy of not paying the Aggrieved Employees for
12 all hours worked.

13 51. It is fundamental that an employer must pay its employees for the time worked. *California*
14 *Labor Code* section 222 prohibits the withholding on part of a wage. *California Labor Code*
15 section 223 prohibits the payment of less than a statutory or contractual wage scale. *California*
16 *Labor Code* sections 1194 – 1197.1 prohibit the payment of less than the minimum wage.
17 *California Labor Code* section 224 only permits deductions from wages when the employer is
18 required or empowered to do so by state or federal law or when the deduction is expressly
19 authorized in writing by the employee for specified purposes that do not in effect reduce the
20 agreed upon wage.

21 52. Section 1197.1 of the *California Labor Code* states “[a]ny employer or other person acting
22 individually as an officer, agent, or employee of another person, who pays or causes to be paid
23 to any employee a wage less than the minimum fixed by an applicable state or local law, or by
24 an order of the commission shall be subject to a civil penalty, restitution of wages, liquidated
25 damages payable to the employee, and any applicable penalties pursuant to Section 203.”

26 53. *California Labor Code* § 221 declares, “It shall be unlawful for any employer to collect or
27 receive from an employee any part of wages theretofore paid by said employer to said
28 employee.” “As interpreted by the Industrial Welfare Commission (IWC) and the California

courts, section 221 has long been held to prohibit deductions from an employee's wages for cash shortages, breakage, loss of equipment, and other business losses that may result from the employee's simple negligence. [Citations]” *Hudgins v. Neiman Marcus Group, Inc.* (1995) 34 Cal.App.4th 1109, 1118. To permit such deductions would, in essence, improperly position employees as “insurers of the employer’s business losses.” *Kerr’s Catering v. Department of Industrial Relations* (1962) 57 Cal.2d 319, 327. Further, an employer is not permitted to make deductions to an employee’s final wages. *Barnhill v. Sanders* (1981) 125 Cal.App.3d 1.

54. AUDI and/or DOES have had a continuous policy of not paying the Aggrieved Employees for all hours worked. For example, AUDI and/or DOES have a continuous and consistent policy of requiring employees to work before clocking in, after clocking out, and during meal periods. The Aggrieved Employees are not paid for this time. For example, Aggrieved Employees have to walk through AUDI’s and/or DOES’ work site to their workstation which contains their computers. Once at their computers, Aggrieved Employees have to turn them on before they can clock in. Failing to pay for all hours worked while under AUDI’s and/or DOES’ control and/or while suffered or permitted to work has resulted in Aggrieved Employees being deprived of straight time wages throughout the Statutory Period.

55. Aggrieved Employees are also not paid for non-productive hours. Aggrieved Employees are only paid for “flag hours,” which are productive hours. When Aggrieved Employees do not earn flag hours during a shift, AUDI’s and/or DOES’ pay structure is such that Aggrieved Employees have wages taken from flag hours earned in previous shifts to cover the hours worked during a shift in which no flag hours are earned. In doing so, AUDI’s and/or DOES’ pay structure has the effect of only paying Aggrieved Employees for flag hours and not for non-productive time. AUDI’s and/or DOES’ pay structure requires Aggrieved Employees to use wages earned during their flag hours to pay themselves for hours worked in which no flag hours were earned, i.e., non-productive time. As such, AUDI’s and/or DOES’ pay structure has the effect of requiring Aggrieved Employees to pay themselves using prior earned wages for non-productive hours.

56. Alternatively, Aggrieved Employees are not paid wages at the agreed upon or statutory

1 minimum wage for all hours worked. AUDI and/or DOES pay Aggrieved Employees based on
2 their productive time (flag hours). AUDI and/or DOES fail to separately compensate
3 Aggrieved Employees for nonproductive time and/or rest periods, which violates *California*
4 *Labor Code* sections 1194, 1197, 221, and 223. As such, Aggrieved Employees are not paid
5 for all hours worked.

6 57. AUDI's and/or DOES' unlawful piece rate compensation plan violates California's "no
7 borrowing rule." AUDI's and/or DOES' piece-rate plan fails to separately compensate for
8 nonproductive time. Under the California minimum wage law, employees must also be
9 compensated for each hour worked at either the legal minimum wage or the contractual hourly
10 rate, and compliance cannot be determined by averaging hourly compensation. Here, AUDI
11 and/or DOES "borrow" from Aggrieved Employees' piece-rate earnings to supplement their
12 hourly pay in order to satisfy their minimum wage obligations. Averaging of all wages paid
13 under a piece rate plan, within a particular pay period, in order to determine whether the
14 employer complied with its minimum wage obligations is not permitted under these
15 circumstances, for to do so would result in the employer paying the employees less than the
16 contract rate for those activities which the piece rate plan requires payment of a specified
17 amount equal to or greater than the minimum wage, in violation of California Labor Code
18 sections 221 - 223.

19 58. In addition, the Aggrieved Employees were not relieved of all work duties and employer
20 control during meal periods.

21 59. Failing to pay for all hours worked while under AUDI's and/or DOES' control and/or while
22 suffered or permitted to work has resulted in Aggrieved Employees being deprived of straight
23 time and/or overtime wages throughout the Statutory Period.

24 60. Defendant and/or DOES have a continuous and consistent policy of failing to pay full wages
25 to the Aggrieved Employees by deducting a portion of the wages earned by the Aggrieved
26 Employees when they worked through their meal periods, are not relieved of all work duties
27 during their meal periods and/or when AUDI and/or DOES recorded a meal period for the
28 Aggrieved Employees when no meal period was taken.

- 1 61. Defendant and/or DOES have a continuous and consistent policy of clocking-out the
2 Aggrieved Employees for a thirty (30) minute meal period and/or otherwise recording a meal
3 period, even though the Aggrieved Employees work through their meal periods and/or were
4 subject to AUDI's control during meal periods. Thus, AUDI and/or DOES do not pay the
5 Aggrieved Employee for all time worked each and every day they work without a meal period
6 and have time deducted.
- 7 62. Failing to pay for all hours worked while under AUDI's and/or DOES' control and/or while
8 suffered or permitted to work has resulted in the Aggrieved Employees being deprived of
9 straight time wages.
- 10 63. The Aggrieved Employees have suffered, and continue to suffer, substantial unpaid wages, and
11 lost interest on such wages, and expenses.
- 12 64. The Aggrieved Employees were employed by AUDI and/or DOES at all relevant times. AUDI
13 and/or DOES were required to compensate the Aggrieved Employees for all hours worked and
14 were prohibited from making deductions that had the effect of reducing the agreed upon wage.
- 15 65. AUDI and/or DOES commit the acts alleged herein knowingly and willfully, with the wrongful
16 and deliberate intention of injuring the Aggrieved Employees.
- 17 66. These claims are on behalf of the Aggrieved Employees defined as all non-exempt automotive
18 technicians, mechanics, or similar job designations employed by Defendant and/or DOES in
19 California. These claims are not on behalf of Plaintiff individually.
- 20 67. Plaintiff, as former non-exempt employee of AUDI and/or DOES who AUDI and/or DOES
21 failed to pay all wages. Therefore, Plaintiff is an aggrieved employee with standing to bring an
22 action under the PAGA. Plaintiff satisfied all prerequisites to serve as representatives of the
23 general public to enforce California's labor laws, and the penalty provisions identified in
24 *California Labor Code* section 2699.5.
- 25 68. Plaintiff, as a representative of the people of the State of California, will seek any and all
26 penalties otherwise capable of being collected by the Labor Commission and/or the
27 Department of Labor Standards Enforcement ("DLSE") on behalf of the Aggrieved
28 Employees. This includes each of the following, as set forth in *California Labor Code* section

2699.5, which provides that section 2699.3(a) applies to any alleged violation of the following provisions: sections 510, 1194, 1197, and 1199.

69. Pursuant to *California Labor Code* section 2699(f), Plaintiff, as an aggrieved employee, on behalf of the other Aggrieved Employees, seeks recovery of applicable civil penalties: one hundred dollars (\$100.00) for each Aggrieved Employee per pay period for the initial violation per *California Labor Code* section 2699(f)(2) and two hundred dollars (\$200.00) for each Aggrieved Employee per pay period for each subsequent violation, per *California Labor Code* section 2699(f)(2). Plaintiff does not seek individual PAGA penalties on behalf of herself but only seeks representative PAGA penalties on behalf of the Aggrieved Employees.

70. In the alternative, Plaintiff, as an aggrieved employee, on behalf of other Aggrieved Employees, seeks penalties pursuant to *California Labor Code* section 558 for violations pursuant to this chapter or any provisions regulating hours and days of the week of the Industrial Welfare Commission under *California Labor Code* sections 558(a)(1) and 558(a)(2). Plaintiff does not seek individual penalties on behalf of herself but only seeks representative penalties on behalf of the Aggrieved Employees.

SECOND CAUSE OF ACTION AGAINST AUDI AND/OR DOES: Violation of the PAGA for Failure to Pay All Overtime Wages Owed

71. Plaintiff re-alleges and hereby incorporates each and every paragraph of this Complaint herein as if fully plead.

72. *California Labor Code* section 510 states that eight (8) hours of labor constitutes a day's work. Any work in excess of eight (8) hours in one workday and any work in excess of forty (40) hours in any one workweek and the first eight (8) hours worked on the seventh day of work in any one workweek shall be compensated at the rate of no less than one and one-half (1.5) times the regular rate of pay for an employee.

73. *California Labor Code* section 510 dictates that any work in excess of twelve (12) hours in one day shall be compensated at the rate of no less than twice the regular rate of pay for an employee. In addition, any work in excess of eight (8) hours on any seventh day of a workweek shall be compensated at the rate of no less than twice the regular rate of pay of an employee.

1 74. AUDI and/or DOES fail to pay overtime when employees worked over eight (8) hours per day
2 and when employees worked over forty (40) hours per week.

3 75. AUDI and/or DOES have had a continuous policy of not paying the Aggrieved Employees for
4 all hours worked. AUDI and/or DOES fail to pay for all time during which the Aggrieved
5 Employees work throughout their shift. Specifically, AUDI and/or DOES have a continuous
6 and consistent policy of requiring employees to work before clocking in, after clocking out,
7 and during meal periods. The Aggrieved Employees are not paid for this time. For example,
8 Aggrieved Employees have to walk through AUDI's and/or DOES' work site to their
9 workstation which contains their computers. Once at their computers, employees have to turn
10 them on before they can clock in. When employees work over eight (8) hours in a day, these
11 hours are owed at an overtime rate. Failing to pay for all hours worked while under AUDI's
12 and/or DOES' control and/or while Aggrieved Employees were suffered or permitted to work
13 has resulted in Aggrieved Employees being deprived of overtime wages throughout the
14 Statutory Period.

15 76. Aggrieved Employees are also not paid for non-productive hours. Aggrieved Employees are
16 only paid for "flag hours," which are productive hours. When Aggrieved Employees do not
17 earn flag hours during a shift, AUDI's and/or DOES' pay structure is such that Aggrieved
18 Employees have wages taken from flag hours earned in previous shifts to cover the hours
19 worked during a shift in which no flag hours are earned. In doing so, AUDI's and/or DOES'
20 pay structure has the effect of only paying Aggrieved Employees for flag hours and not for
21 non-productive time. AUDI's and/or DOES' pay structure requires Aggrieved Employees to
22 use wages earned during their flag hours to pay themselves for hours worked in which no flag
23 hours were earned, i.e., non-productive time. As such, AUDI's and/or DOES' pay structure
24 has the effect of requiring Aggrieved Employees to pay themselves using prior earned wages
25 for non-productive hours. When employees work over eight (8) hours in a day, these hours are
26 owed at an overtime rate.

27 77. Alternatively, Aggrieved Employees are not paid wages at the agreed upon or statutory
28 minimum wage for all hours worked. AUDI and/or DOES pay Aggrieved Employees based on

1 their productive time (flag hours). AUDI and/or DOES fail to separately compensate
2 Aggrieved Employees for nonproductive time and/or rest periods, which violates California
3 Labor Code sections 1194, 1197, 221, and 223. As such, Aggrieved Employees are not paid
4 for all hours worked. When employees work over eight (8) hours in a day, these hours are
5 owed at an overtime rate.

6 78. Further, AUDI and/or DOES have had a continuous policy of not paying Aggrieved Employees
7 for all hours worked in that AUDI and/or DOES continuously and consistently clocked
8 Aggrieved Employees out for a thirty (30) minute meal period and/or otherwise recorded a
9 meal period, even though Aggrieved Employees work through their meal periods, were unable
10 to take meal periods, and/or were not free of all work duties and employer controls during meal
11 periods. Thus, AUDI and/or DOES shaves/steals earned wages from Aggrieved Employees
12 every day they work without a meal period and have time deducted. When employees work
13 over eight (8) hours in a day, these hours are owed at an overtime rate.

14 79. Likewise, Aggrieved Employees are informed and believe and thereon allege that AUDI
15 breached the legal duty to pay full wages to Aggrieved Employees by deducting a portion of
16 the wages earned by Aggrieved Employees when they worked through their meal periods
17 and/or when AUDI and/or DOES recorded a meal period for Aggrieved Employees when no
18 meal period was taken. Specifically, Aggrieved Employees worked through their meal periods
19 to satisfy their demanding work duties imposed by AUDI and/or DOES, thereby denying them
20 the right to be completely free from employer control under California law. When Aggrieved
21 Employees work over eight (8) hours in a day, these hours are owed at an overtime rate.

22 80. Additionally, AUDI and/or DOES failed to pay Aggrieved Employees at the appropriate
23 regular rate of pay for all overtime hours worked. AUDI and/or DOES fail to incorporate
24 bonuses employees were paid when calculating employees' regular rate of pay for purposes of
25 paying overtime.

26 81. The Aggrieved Employees have suffered, and continue to suffer, substantial unpaid wages, and
27 lost interest on such wages, and expenses.

28 82. These claims are on behalf of the Aggrieved Employees defined as all non-exempt automotive

1 technicians, mechanics, or similar job designations employed by Defendant and/or DOES in
2 California. These claims are not on behalf of Plaintiff individually.

3 83. Plaintiff, as a representative of the people of the State of California, will seek any and all
4 penalties otherwise capable of being collected by the Labor Commission and/or the
5 Department of Labor Standards Enforcement (DLSE) for violations of *California Labor Code*
6 section 510 on behalf of the Aggrieved Employees.

7 84. Plaintiff, as a representative of the people of the State of California, will seek all penalties
8 otherwise capable of being collected by the Labor Commission and/or the DLSE on behalf of
9 the Aggrieved Employees. This includes each of the following, as set forth in *California Labor*
10 *Code* section 2699.5, which provides that section 2699.3(a) applies to any alleged violation of
11 the following provisions: sections 222, 223, and 510.

12 85. Pursuant to *California Labor Code* section 2699(f), Plaintiff, as an aggrieved employee, on
13 behalf of the other Aggrieved Employees, seeks recovery of applicable civil penalties: one
14 hundred dollars (\$100.00) for each Aggrieved Employee per pay period for the initial violation
15 per *California Labor Code* section 2699(f)(2) and two hundred dollars (\$200.00) for each
16 Aggrieved Employee per pay period for each subsequent violation, per *California Labor Code*
17 section 2699(f)(2). Plaintiff does not seek individual PAGA penalties on behalf of herself but
18 only seeks representative PAGA penalties on behalf of the Aggrieved Employees.

19 86. In the alternative, Plaintiff, as an aggrieved employee, on behalf of other Aggrieved
20 Employees, seeks penalties pursuant to *California Labor Code* section 558 for violations
21 pursuant to this chapter or any provisions regulating hours and days of the week of the
22 Industrial Welfare Commission under *California Labor Code* sections 558(a)(1) and 558(a)(2).
23 Plaintiff does not seek individual penalties on behalf of herself but only seeks representative
24 penalties on behalf of the Aggrieved Employees.

25 **THIRD CAUSE OF ACTION AGAINST AUDI AND/OR DOES: Violation of the PAGA for**
26 **Failure to Provide Meal Periods (*California Labor Code* §2698 et. seq.).**

27 87. Plaintiff re-alleges and hereby incorporates each and every paragraph of this Complaint herein
28 as if fully plead.

- 1 88. Under *California Labor Code* section 512, and IWC Wage Order 5-2001, no employer shall
2 employ any person for a work period of more than five (5) hours without providing a meal
3 period of not less than thirty (30) minutes. During this meal period of not less than thirty (30)
4 minutes, the employee is to be completely free of the employer's control and must not perform
5 any work for the employer. If the employee does perform work for the employer during the
6 thirty (30) minute meal period, the employee has not been provided a meal period in
7 accordance with the law. Also, the employee is to be compensated for any work performed
8 during the thirty (30) minute meal period.
- 9 89. In addition, an employer may not employ an employee for a work period of more than ten (10)
10 hours per day without providing the employee with another meal period of not less than thirty
11 (30) minutes.
- 12 90. Under *California Labor Code* section 226.7, if the employer does not provide an employee a
13 meal period in accordance with the above requirements, the employer shall pay the employee
14 one (1) hour of pay at the employee's regular rate of compensation for each workday that the
15 meal period is not provided.
- 16 91. AUDI and/or DOES have a consistent policy and/or practice of not providing meal periods to
17 the Aggrieved Employees and/or providing compensation in lieu thereof.
- 18 92. AUDI and/or DOES breached the legal duty to provide meal periods to employees by imposing
19 a continuous and consistent policy of failing to provide sufficient staffing so that Aggrieved
20 Employees could freely take their meal periods. When Aggrieved Employees are able to take
21 a meal period, Aggrieved Employees are not relieved of all duties and/or employer control
22 during their meal periods. Aggrieved Employees are always subjected to being called back to
23 work during meal periods.
- 24 93. AUDI and/or DOES have a consistent policy and/or practice of requiring the Aggrieved
25 Employees to work at least five (5) hours without a meal period and failing to pay such
26 employees one (1) hour of pay at the employees' regular rate of compensation for each
27 workday that the meal period is not provided, or other compensation in lieu thereof, as required
28 by California's state wage and hour laws.

- 1 94. AUDI and/or DOES fail to provide thirty (30) minute, uninterrupted meal periods to Aggrieved
2 Employees for every five (5) continuous hours worked.
- 3 95. Throughout the statutory period, AUDI and/or DOES valued productivity over providing meal
4 periods and, because of this, meal breaks were not priorities to AUDI and/or DOES.
- 5 96. AUDI and/or DOES have a consistent policy and/or practice of not providing second meal
6 periods to the Aggrieved Employees and/or providing compensation in lieu thereof.
7 Specifically, the Aggrieved Employees were not provided with second meal periods when they
8 worked ten (10) to twelve (12) hours.
- 9 97. By failing to provide statutory first and/or second meal periods, and by failing to provide
10 compensation for unprovided meal periods, as alleged above, AUDI and/or DOES willfully
11 violate the provisions of the *California Labor Code* section 226.7 and 512.
- 12 98. By failing to provide statutory first and/or second meal periods, and by failing to provide
13 compensation for unprovided meal periods, as alleged above, AUDI and/or DOES willfully
14 violate the provisions of *California Labor Code* sections 226.7 and 512, and IWC Wage Order
15 No. 4-2001.
- 16 99. As a result of the unlawful acts of AUDI and/or DOES, the Aggrieved Employees have been
17 deprived of premium wages and/or other compensation in amounts to be determined at trial,
18 and are entitled to recovery of such amounts, plus interest, attorneys' fees, and costs.
- 19 100. During the relevant time period, the Aggrieved Employees who were scheduled to work for a
20 period of time in excess of six (6) hours were required to work for periods longer than five (5)
21 hours without an uninterrupted meal period of not less than thirty (30) minutes.
- 22 101. During the relevant time period, the Aggrieved Employees who were scheduled to work for a
23 period of time in excess of ten (10) hours and/or (12) hours, and who did not waive their
24 legally-mandated meal periods by mutual consent were required to work in excess of ten (10)
25 hours and/or twelve (12) hours without receiving a second uninterrupted meal period of not
26 less than thirty (30) minutes.
- 27 102. During the relevant time period, AUDI and/or DOES fail to pay the Aggrieved Employees the
28 full meal period premium due pursuant to *California Labor Code* section 226.7.

- 1 103. AUDI's and/or DOES' conduct violates applicable IWC Wage Order 4-2001 and *California*
2 *Labor Code* sections 226.7 and 512(a).
- 3 104. These claims are on behalf of the Aggrieved Employees defined as all non-exempt automotive
4 technicians, mechanics, or similar job designations employed by Defendant and/or DOES in
5 California. These claims are not on behalf of Plaintiff individually.
- 6 105. Plaintiff, as a non-exempt employee who unlawfully was deprived of first and second meal
7 periods, is an Aggrieved Employee with standing to bring an action under the PAGA. Plaintiff
8 has satisfied all prerequisites to serve as a representative of the general public to enforce
9 California's labor laws, and the penalty provisions identified in *California Labor Code* section
10 2699.5 for violations of *California Labor Code* sections 226.7 and 512.
- 11 106. Plaintiff, as a representative of the people of the State of California, will seek all penalties
12 otherwise capable of being collected by the Labor Commission and/or the DLSE on behalf of
13 the Aggrieved Employees. This includes each of the following, as set forth in *California Labor*
14 *Code* section 2699.5, which provides that section 2699.3(a) applies to any alleged violation of
15 the following provisions: sections 226.7, and 512.
- 16 107. Pursuant to *California Labor Code* section 2699(f), Plaintiff, as an Aggrieved Employee, on
17 behalf of the other Aggrieved Employees, seeks recovery of applicable civil penalties: one
18 hundred dollars (\$100.00) for each Aggrieved Employee per pay period for the initial violation
19 per *California Labor Code* section 2699(f)(2) and two hundred dollars (\$200.00) for each
20 Aggrieved Employee per pay period for each subsequent violation, per *California Labor Code*
21 section 2699(f)(2). Plaintiff does not seek individual PAGA penalties on behalf of herself but
22 only seeks representative PAGA penalties on behalf of the Aggrieved Employees.
- 23 108. In the alternative, Plaintiff, as an Aggrieved Employee, on behalf of other Aggrieved
24 Employees, seeks penalties pursuant to *California Labor Code* section 558 for violations
25 pursuant to this chapter or any provisions regulating hours and days of the week of the
26 Industrial Welfare Commission under *California Labor Code* sections 558(a)(1) and 558(a)(2).
27 Plaintiff does not seek individual penalties on behalf of herself but only seeks representative
28 penalties on behalf of the Aggrieved Employees.

FOURTH CAUSE OF ACTION AGAINST AUDI AND/OR DOES: Violation of the PAGA for Failure to Provide Rest Periods (California Labor Code §2698 et. seq.).

109. Plaintiff re-alleges and hereby incorporates each and every paragraph of this Complaint herein as if fully plead.

110. Industrial Welfare Commission Order No. 4-2001 section 12(A) states “[e]very employer shall authorize and permit all employees to take rest periods, which insofar as practicable shall be in the middle of each work week period. The authorized rest period time shall be based on the total hours worked daily at the rate of ten (10) minutes net rest time per four (4) hours or major fraction thereof.”

111. At all times mentioned herein, AUDI and/or DOES fail to authorize and/or permit rest period time based upon the total hours worked daily at the rate of ten (10) minutes net rest time per four (4) hours or major fraction thereof.

112. AUDI and/or DOES breach the legal duty to provide rest periods to employees by imposing a continuous and consistent policy of requiring the Aggrieved Employees to work through their rest periods.

113. AUDI breached the legal duty to provide rest periods to employees by imposing a continuous and consistent policy of failing to provide sufficient staffing so that the Aggrieved Employees could freely take their net ten (10) minute rest periods.

114. When the Aggrieved Employees were able to take rest periods, the Aggrieved Employees are not free of all work duties and/or employer control during rest periods.

115. By failing to provide rest periods for every four (4) hours or major fraction thereof worked per day by the Aggrieved Employees, and by failing to provide compensation for these unprovided rest periods, as alleged above, AUDI and/or DOES willfully violate the provisions of *California Labor Code* section 226.7.

116. These claims are on behalf of the Aggrieved Employees defined as all non-exempt automotive technicians, mechanics, or similar job designations employed by Defendant and/or DOES in California. These claims are not on behalf of Plaintiff individually.

117. Plaintiff, as a non-exempt employee who was unlawfully deprived of paid ten (10) minute rest

periods, is an aggrieved employee with standing to bring an action under the PAGA. Plaintiff has satisfied all prerequisites to serve as a representative of the general public to enforce California's labor laws, and the penalty provisions identified in *California Labor Code* section 2699.5 for violations of *California Labor Code* section 226.7.

118. Plaintiff, as a representative of the people of the State of California, will seek all penalties otherwise capable of being collected by the Labor Commission and/or the DLSE on behalf of the Aggrieved Employees. This includes each of the following, as set forth in *California Labor Code* section 2699.5, which provides that section 2699.3(a) applies to any alleged violation of the following provisions: section 226.7.

119. Pursuant to *California Labor Code* section 2699(f), Plaintiff, as an Aggrieved Employee, on behalf of the other Aggrieved Employees, seeks recovery of applicable civil penalties: one hundred dollars (\$100.00) for each Aggrieved Employee per pay period for the initial violation per *California Labor Code* section 2699(f)(2) and two hundred dollars (\$200.00) for each Aggrieved Employee per pay period for each subsequent violation, per *California Labor Code* section 2699(f)(2). Plaintiff does not seek individual PAGA penalties on behalf of herself but only seeks representative PAGA penalties on behalf of the Aggrieved Employees.

120. In the alternative, Plaintiff, as an aggrieved employee, on behalf of other Aggrieved Employees, seeks penalties pursuant to *California Labor Code* section 558 for violations pursuant to this chapter or any provisions regulating hours and days of the week of the Industrial Welfare Commission under *California Labor Code* sections 558(a)(1) and 558(a)(2). Plaintiff does not seek individual penalties on behalf of herself but only seeks representative penalties on behalf of the Aggrieved Employees.

FIFTH CAUSE OF ACTION AGAINST AUDI AND/OR DOES: Violation of the PAGA for Knowing and Intentional Failure to Comply with Itemized Employee Wage Statement Provisions (*California Labor Code* §2698 et. seq.).

121. Plaintiff re-alleges and hereby incorporates each and every paragraph of this Complaint herein as if fully plead.

122. *California Labor Code* section 226(a) requires AUDI and/or DOES to itemize in wage

1 statements all deductions from payment of wages and to accurately report total hours worked
2 by the Aggrieved Employees. *California Labor Code* section 226(a) requires AUDI and/or
3 DOES, at the time of each payment of wages, to “furnish each of her or her employees, either
4 as an detachable part of the check, draft, or voucher paying the employee’s wages, or separately
5 when wages are paid by personal check or cash, an accurate itemized statement in writing
6 showing (1) gross wages earned, (2) total hours worked by the employee...(3) the number of
7 piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate
8 basis, (4) all deductions, provided that all deductions made on written orders of the employee
9 may be aggregated and shown as one item, (5) net wages earned, (6) the inclusive dates of the
10 period for which the employee is paid, (7) the name of the employee and only the last four
11 digits of his or her social security number or an employee identification number other than the
12 social security number, (8) the name and address of the legal entity that is the employer...(9)
13 all applicable hourly rates in effect during the pay period and the corresponding number of
14 hours worked at each hourly rate and the corresponding number of hours worked at each hourly
15 rate by the employee....”

16 123. *California Labor Code* section 226(a) also requires that “deductions made from payment of
17 wages shall be recorded in ink or other indelible form, properly dated, showing the month, day
18 and year, and a copy of the statement and the record of the deductions shall be kept on file by
19 the employer for at least three years at the place of employment or at a central location within
20 the State of California.”

21 124. AUDI and/or DOES have knowingly and intentionally failed to comply with *California Labor*
22 *Code* section 226(a) on each and every wage statement provided to the Aggrieved Employees.

23 125. *California Labor Code* section 1174 requires AUDI and/or DOES to maintain and preserve, in
24 a centralized location, records showing the daily hours worked by and the wages paid to its
25 employees. AUDI and/or DOES have knowingly and intentionally failed to comply with
26 *California Labor Code* section 1174. The failure of AUDI and/or DOES, and each of them, to
27 comply with *California Labor Code* section 1174 is unlawful pursuant to *California Labor*
28 *Code* section 1175.

- 1 126. AUDI and/or DOES fail to maintain accurate time records - as required by IWC Wage Order
2 No. 4-2001(7), and *California Code of Regulations*, Title 8, section 11040 - showing, among
3 other things, when the employee begins and ends each work period, the total daily hours
4 worked in itemized wage statements, total wages, bonuses and/or incentives earned, and all
5 deductions made.
- 6 127. AUDI and/or DOES have knowingly and intentionally failed to provide the Aggrieved
7 Employees with accurate itemized wage statements which show: “(1) gross wages earned, (2)
8 total hours worked by the employee... (3) the number of piece-rate units earned and any
9 applicable piece rate if the employee is paid on a piece-rate basis, (4) all deductions, provided
10 that all deductions made on written orders of the employee may be aggregated and shown as
11 one item, (5) net wages earned, (6) the inclusive dates of the period for which the employee is
12 paid, (7) the name of the employee and only the last four digits of his or her social security
13 number or an employee identification number other than a social security number, (8) the name
14 and address of the legal entity that is the employer and, if the employer is a farm labor
15 contractor, as defined in subdivision (b) of Section 1682, the name and address of the legal
16 entity that secured the services of the employer, and (9) all applicable hourly rates in effect
17 during the pay period and the corresponding number of hours worked at each hourly rate by
18 the employee[.]” *California Labor Code* section 226(a).
- 19 128. AUDI and/or DOES knowingly and intentionally did not include the correct total hours worked
20 by the employee on wage statements. Defendant and/or DOES includes overtime hours in both
21 the accounting for both the regular hours worked and the overtime hours worked. This makes
22 the accounting of the regular hours worked inaccurate. In addition, when listing the total hours
23 worked by an employee, the overtime hours are counted twice making the total hours worked
24 accounting on employees’ wage statements incorrect.
- 25 129. AUDI and/or DOES knowingly and intentionally did not include the correct applicable hourly
26 rate for overtime hours.
- 27 130. AUDI and/or DOES knowingly and intentionally did not include the gross wages earned on
28 wage statements. AUDI therefore knowingly and intentionally failed to itemize the gross

- wages earned on the Aggrieved Employees' wage statements.
131. In every pay period during the period of the relevant statute of limitations, AUDI and/or DOES knowingly and intentionally did not itemize the total hours worked on wage statements as *California Labor Code* section 226(a) requires. In every pay period during the period of the relevant statute of limitations, AUDI and/or DOES knowingly and intentionally did not include the total hours worked on wage statements. As outlined above, AUDI has a continuous policy of not paying the Aggrieved Employees for all hours worked by requiring employees to work before clocking in, after clocking out, and during meal periods. The Aggrieved Employees are not paid for this time. AUDI and/or DOES therefore knowingly and intentionally fail to itemize the total hours worked on the Aggrieved Employees' wage statements.
132. In every pay period during the period of the relevant statute of limitations, AUDI and/or DOES knowingly and intentionally did not include the net wages earned on wage statements.
133. In addition, AUDI and/or DOES knowingly and intentionally did not itemize meal and rest period premiums owed to the Aggrieved Employees on wage statements.
134. Section 246(i) of the *California Labor Code* states, "[a]n employer shall provide an employee with written notice that sets forth the amount of sick leave available, or paid time off an employer provides in lieu of sick leave, for use on either the employee's itemized wage statement described in Section 226 or in a separate writing provided on the designated pay date with the employee's payment of wages."
135. AUDI and/or DOES fail to itemize sick leave available, or paid time off an employer provides in lieu of sick leave, for use on the Aggrieved Employees' itemized wage statements or in a separate writing provided on the designated pay date with the employee's payment of wages.
136. In every pay period during the period of the relevant statute of limitations, AUDI and/or DOES knowingly and intentionally did not include the net wages earned on wage statements.
137. As a result of the knowing and intentional failure by AUDI and/or DOES to comply with itemized employee wage statement provisions, the Aggrieved Employees have been able to reconstruct only a reasonable estimate of the hours worked and have, therefore, not received full compensation.

1 138. These claims are on behalf of the Aggrieved Employees defined as all non-exempt automotive
2 technicians, mechanics, or similar job designations employed by Defendant and/or DOES in
3 California. These claims are not on behalf of Plaintiff individually.

4 139. Plaintiff, as a non-exempt employee who Defendants and/or DOES failed to provide accurate
5 and itemized wage statements, is an aggrieved employee with standing to bring an action under
6 the PAGA. Plaintiff satisfied all prerequisites to serve as a representative of the general public
7 to enforce California's labor laws, and the penalty provisions identified in *California Labor*
8 *Code* section 2699.5.

9 140. Plaintiff, as a representative of the people of the State of California, will seek all penalties
10 otherwise capable of being collected by the Labor Commission and/or the DLSE on behalf of
11 the Aggrieved Employees. This includes each of the following, as set forth in *California Labor*
12 *Code* section 2699.5, which provides that section 2699.3(a) applies to any alleged violation of
13 the following provisions: sections 226, 1174, 1199.

14 141. Pursuant to Labor Code section 2699(f), Plaintiff, as an Aggrieved Employee, on behalf of the
15 other Aggrieved Employees, seeks recovery of applicable civil penalties: one hundred dollars
16 (\$100.00) for each Aggrieved Employee per pay period for the initial violation per Labor Code
17 section 2699(f)(2) and two hundred dollars (\$200.00) for each Aggrieved Employee per pay
18 period for each subsequent violation, per *California Labor Code* section 2699(f)(2). Plaintiff
19 does not seek individual PAGA penalties on behalf of herself but only seeks representative
20 PAGA penalties on behalf of the Aggrieved Employees.

21 142. In the alternative, Plaintiff, as an Aggrieved Employee, on behalf of other Aggrieved
22 Employees, seeks penalties pursuant to *California Labor Code* section 558 for violations
23 pursuant to this chapter or any provisions regulating hours and days of the week of the
24 Industrial Welfare Commission under *California Labor Code* sections 558(a)(1) and 558(a)(2).
25 Plaintiff does not seek individual penalties on behalf of herself but only seeks representative
26 penalties on behalf of the Aggrieved Employees.

27 ///

28 ///

**SIXTH CAUSE OF ACTION AGAINST DEFENDANTS AND/OR DOES: Violation of the
PAGA for Failure to Pay Wages Due at Termination and During Employment (California Labor
Code §2698 et. seq.).**

143. Plaintiff re-alleges and hereby incorporates each and every paragraph of this Complaint herein as if fully plead.

144. AUDI and/or DOES and/or their officers and/or managing agents willfully failed to pay, in a timely manner, wages owed to the Aggrieved Employees who left AUDI's and/or DOES' employ or who were terminated.

145. Aggrieved Employees who ended their employment with AUDI and/or DOES during the last year were entitled to be promptly paid all lawful compensation, and other premiums, as required by *California Labor Code* sections 201 through 203.

146. At all relevant times, *California Labor Code* sections 201 and 202 provide that if an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately, and if an employee quits his or her employment, his or her wages shall become due and payable no later than seventy-two (72) hours thereafter, unless the employee has given seventy-two (72) hours' notice of his or her intention to quit, in which case the employee is entitled to his or her wages at the time of quitting.

147. During the relevant time period, AUDI and/or DOES intentionally and willfully fail to pay the Aggrieved Employees who are no longer employed by AUDI and/or DOES their wages, that were earned and unpaid, within seventy-two (72) hours of their leaving AUDI's and/or DOES' employ.

148. AUDI's and/or DOES' failure to pay the Aggrieved Employees who are no longer employed by AUDI and/or DOES their wages, that were earned and unpaid, within seventy-two (72) hours of their leaving AUDI's and/or DOES' employ, is in violation of *California Labor Code* sections 201 and 202.

149. *California Labor Code* section 203 provides that when an employer willfully fails to pay wages owed, in accordance with *California Labor Code* sections 201 and 202, the wages of the employee shall continue as a penalty from the due date thereof at the same rate until paid or

- 1 until and action is commenced; but the wages shall not continue for more than thirty (30) days.
- 2 150. Plaintiff, as a non-exempt employee who AUDI and/or DOES failed to pay all wages, failed
3 to provide a minimum statutory first and/or second meal periods, and failed to provide paid net
4 ten (10) minute rest periods, is an Aggrieved Employee with standing to bring an action under
5 the PAGA. Plaintiff satisfied all prerequisites to serve as a representative of the general public
6 to enforce California's labor laws, and the penalty provisions identified in *California Labor*
7 *Code* section 2699.5.
- 8 151. These claims are on behalf of the Aggrieved Employees defined as all non-exempt automotive
9 technicians, mechanics, or similar job designations employed by Defendant and/or DOES in
10 California. These claims are not on behalf of Plaintiff individually.
- 11 152. Plaintiff, as a representative of the people of the State of California, seeks all penalties
12 otherwise capable of being collected by the Labor Commission and/or the DLSE on behalf of
13 the Aggrieved Employees. This includes each of the following, as set forth in *California Labor*
14 *Code* section 2699.5, which provides that section 2699.3(a) applies to any alleged violation of
15 the following provisions: sections 201 through 203.
- 16 153. Pursuant to *California Labor Code* section 2699(f), Plaintiff, as an aggrieved employee, on
17 behalf of the other Aggrieved Employees, seeks recovery of applicable civil penalties: one
18 hundred dollars (\$100.00) for each Aggrieved Employee per pay period for the initial violation
19 per *California Labor Code* section 2699(f)(2) and two hundred dollars (\$200.00) for each
20 Aggrieved Employee per pay period for each subsequent violation, per *California Labor Code*
21 section 2699(f)(2). Plaintiff does not seek individual PAGA penalties on behalf of herself but
22 only seeks representative PAGA penalties on behalf of the Aggrieved Employees.
- 23 154. In the alternative, Plaintiff, as an aggrieved employee, on behalf of other Aggrieved
24 Employees, seeks penalties pursuant to *California Labor Code* section 558 for violations
25 pursuant to this chapter or any provisions regulating hours and days of the week of the
26 Industrial Welfare Commission under *California Labor Code* section 558(a)(1) and 558(a)(2).
27 Plaintiff does not seek individual penalties on behalf of herself but only seeks representative
28 penalties on behalf of the Aggrieved Employees.

1 **PRAYER FOR RELIEF**

2 WHEREFORE, Plaintiff, on behalf of all other Aggrieved Employees, prays for relief and
3 judgment against Defendant AUDI and/or DOES, jointly and severally, as follows:

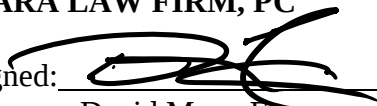
- 4 A. For penalties as provided under *California Labor Code* sections 558(a)(1) and 558(a)(2).
5 B. For penalties as provided, per each violation, by the PAGA, *California Labor Code* section
6 2699, et. seq. for failure to provide compensation at the regular and overtime rate for all time
7 worked;
8 C. For penalties as provided, per each violation, by the PAGA, *California Labor Code* section
9 2699, et. seq. for failure to provide compliant meal periods;
10 D. For all statutory penalties for each pay period during which an employee was underpaid due to
11 failure to provide compliant meal periods;
12 E. For penalties as provided, per each violation, by the PAGA, *California Labor Code* section
13 2699, et. seq. for failure to provide all rest periods;
14 F. For all statutory penalties provided under *California Labor Code* for each pay period during
15 which an employee was underpaid due to failure to provide paid rest periods;
16 G. For penalties as provided, per each violation, by the PAGA, *California Labor Code* section
17 2699, et. seq. for failure to provide accurate, itemized wage statements;
18 H. For penalties as provided, per each violation, by the PAGA, *California Labor Code* section
19 2699, et. seq. for failure to timely pay wages at separation; and
20 I. For reasonable attorneys' fees and costs under the PAGA, *California Labor Code* section
21 2699(g)(1).

22 **DEMAND FOR JURY TRIAL**

23 Plaintiff demands a jury trial as to liability.

24 **MARA LAW FIRM, PC**

25 Date: September 23, 2024

Signed: 

David Mara, Esq.

Jill Vecchi, Esq.

Attorneys for Plaintiff MATTHEW

BAUMANN, on behalf of all others similarly
situated, and on behalf of the general public