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Superior Court of California,
County of Imperial

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Assigned for All Purposes Including Trial To:
Hon. Jeffrey B Jones

Attorneys for Plaintiff SUSAN ZAVALA
and other aggrieved employees

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF IMPERIAL**

SUSAN ZAVALA, on behalf of herself and
other aggrieved employees,

Plaintiff,

vs.

DESERT AUTO GROUP III, LLC, a
California limited liability company; and
DOES 1 through 50, inclusive,

Defendants.

Case No.: ECU003784

REPRESENTATIVE ACTION COMPLAINT

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

DEMAND OVER \$35,000.00

1 Plaintiff Susan Zavala (“Plaintiff”) hereby submits this Representative Action Complaint
2 (“Complaint”) against Defendant Desert Auto Group III, LLC and Does 1 through 50 (hereinafter
3 collectively referred to as “Defendants”), on behalf of herself and all other aggrieved employees
4 of Defendants, for penalties for violations of the California Labor Code, as follows:

5 **INTRODUCTION**

6 1. This representative action is within the Court’s jurisdiction under California Labor
7 Code sections 510, 558, 1194, 1197, 1197.1, 2802, and 2698 *et seq.*, and the applicable Wage
8 Orders of the California Industrial Welfare Commission (“IWC”).

9 2. This complaint challenges systemic illegal employment practices resulting in
10 violations of the California Labor Code against Defendants’ employees.

11 3. Plaintiff is not suing in her individual capacity; she is proceeding herein solely
12 under the PAGA, on behalf of the State of California for all aggrieved employees, including herself
13 and other aggrieved employees.

14 4. Plaintiff is informed and believes, and based thereon alleges, that Defendants,
15 jointly and severally, have acted intentionally and with deliberate indifference and conscious
16 disregard for the rights of all employees by failing to pay employees minimum and/or overtime
17 wages for time spent attending mandatory training sessions prior to the start of the workday, and
18 by failing to reimburse employees for required work-related use of personal cell phones.

19 **JURISDICTION AND VENUE**

20 5. The Court has jurisdiction over this action pursuant to California Labor Code
21 sections 510, 558, 1194, 1197, 1197.1, 2802, and 2698 *et seq.*

22 6. Venue is proper because Plaintiff worked at Defendants’ business location in
23 Imperial County and Defendants conduct substantial business in Imperial County.

24 **PARTIES**

25 7. In or around February of 2023, Plaintiff was hired by Defendants as a salesperson,
26 which is a non-exempt position. Plaintiff separated from Defendants in or around November of
27 2023.

28 8. Plaintiff is informed and believes and based thereon alleges that Defendants own

1 and operate auto dealerships in the State of California.

2 9. Plaintiff was and is the victim of the policies, practices, and customs of Defendants
3 complained of in this action in ways that have deprived her of the rights guaranteed by California
4 Labor Code sections 510, 558, 1194, 1197, 1197.1, 2802, and 2698 *et seq.*

5 10. Plaintiff is informed and believes, and based thereon alleges, that Defendant Desert
6 Auto Group III, LLC is a California limited liability company with California Entity
7 Number 201722110211, which maintains operations in the State of California, including its
8 principal office located at 601 Wake Ave, El Centro, CA 92243.

9 11. Plaintiff is informed and believes, and based thereon alleges, that at all times herein
10 mentioned Defendants and Does 1 through 50, are and were companies, business entities,
11 individuals, and/or partnerships, licensed to do business and actually doing business in the State
12 of California. As such, and based upon all the facts and circumstances incident to Defendants'
13 business, Defendants are subject to California Labor Code sections 510, 558, 1194, 1197, 1197.1,
14 2802, and 2698 *et seq.*

15 12. Plaintiff does not know the true names or capacities, whether individual, partner or
16 corporate, of the defendants sued herein as Does 1 through 50, inclusive, and for that reason, said
17 defendants are sued under such fictitious names, and Plaintiff prays for leave to amend this
18 complaint when the true names and capacities are known. Plaintiff is informed and believes and
19 based thereon alleges that each of said fictitious defendants was responsible in some way for the
20 matters alleged herein and proximately caused Plaintiff and Aggrieved Employees to be subject to
21 the illegal employment practices, wrongs and injuries complained of herein.¹

22 13. At all times herein mentioned, each of said Defendants participated in the doing of
23 the acts hereinafter alleged to have been done by the named Defendants; and furthermore, the
24 Defendants, and each of them, were the agents, servants and employees of each of the other
25 Defendants, as well as the agents of all Defendants, and at all times herein mentioned, were acting
26 _____

27 ¹ As used in this complaint, the term "Aggrieved Employees" refers to all current and former sales
28 employees working for Defendants in the State of California at any time from August 12, 2023,
through the present.

1 within the course and scope of said agency and employment.

2 14. Plaintiff is informed and believes, and based thereon alleges, that at all times
3 material hereto, each of the Defendants named herein was the agent, employee, alter ego and/or
4 joint venturer of, or working in concert with each of the other co-Defendants and was acting within
5 the course and scope of such agency, employment, joint venture, or concerted activity. To the
6 extent said acts, conduct, and omissions were perpetrated by certain Defendants, each of the
7 remaining Defendants confirmed and ratified said acts, conduct, and omissions of the acting
8 Defendants.

9 15. At all times herein mentioned, Defendants, and each of them, were members of,
10 and engaged in, a joint venture, partnership and common enterprise, and acting within the course
11 and scope of, and in pursuance of, said joint venture, partnership and common enterprise.

12 16. At all times herein mentioned, the acts and omissions of various Defendants, and
13 each of them, concurred and contributed to the various acts and omissions of each and all of the
14 other Defendants in proximately causing the injuries and damages as herein alleged. At all times
15 herein mentioned, Defendants, and each of them, ratified each and every act or omission
16 complained of herein. At all times herein mentioned, Defendants, and each of them, aided and
17 abetted the acts and omissions of each and all of the other Defendants in proximately causing the
18 damages as herein alleged.

19 **FIRST CAUSE OF ACTION**

20 **FOR PENALTIES UNDER LABOR CODE § 2698 *ET SEQ.***

21 **(BY PLAINTIFF, ON BEHALF OF THE STATE AND ALL AGGRIEVED**
22 **EMPLOYEES, AGAINST ALL DEFENDANTS)**

23 17. Plaintiff re-alleges and incorporates by reference the preceding paragraphs as
24 though fully set forth herein.

25 18. Plaintiff brings this cause of action as a proxy for the State of California, and in this
26 capacity, seeks penalties on behalf of all Aggrieved Employees from August 12, 2023, through the
27 present, for Defendants' policies and practices of: (a) failing to pay employees minimum and/or
28 overtime wages for time spent attending mandatory training sessions prior to the start of the

workday, in violation of Labor Code sections 510, 558, 1194, 1197 and 1197.1; and (b) failing to reimburse employees for required work-related use of personal cell phones, in violation of Labor Code section 2802.

19. Labor Code sections 1194 and 1197 require employers to pay employees minimum wages for all hours worked less than eight hours in a day and/or less than 40 hours in a workweek. Pursuant to Labor Code Section 1197.1, any employer who pays an employee a wage less than the minimum wage is subject to a civil penalty. Where employees work in excess of eight hours in a workday or 40 hours in a workweek, Labor Code sections 510 and 1194 require employers to pay overtime wages at one and one-half times the employee's regular rate. Plaintiff and Aggrieved Employees were non-exempt employees of Defendants. However, Defendants failed to pay these employees minimum and/or overtime wages for time spent attending mandatory training sessions prior to the start of the workday. Aggrieved Employees were not permitted to clock in for these training sessions and were not compensated for them. Accordingly, Defendants failed to comply with Labor Code sections 510, 1194, 1197 and 1197.1.

20. Labor Code section 2802 requires employers to reimburse employees for all necessary business expenses incurred in the performance of their job duties. Defendant required Plaintiff and Aggrieved Employees to use their personal cell phones to contact customers but failed to reimburse them for the associated expenses. As a result, Defendant violated Labor Code section 2802 by failing to provide proper reimbursement for work-related use of personal cell phones.

21. On or about August 12, 2024, Plaintiff submitted a PAGA notice online to the California Labor & Workforce Development Agency ("LWDA"), identifying Defendants' violations of Labor Code sections 510, 558, 1194, 1197, 1197.1, and 2802 pursuant to Labor Code section 2698, et seq., the Private Attorney General Act ("PAGA"). More than sixty-five days (65) has elapsed since Plaintiff sent written notice.

22. To date, the LWDA has not responded to Plaintiff's written notice. As such, pursuant to Labor Code section 2699(a), Plaintiff seeks recovery of any and all applicable civil penalties for Defendants' violation of the aforementioned Labor Code sections for the time period described above, on behalf of herself and other Aggrieved Employees.

1 **PRAYER FOR RELIEF**

2 WHEREFORE, Plaintiff prays for judgment for herself and all others on whose behalf this
3 suit is brought against Defendants, jointly and severally, as follows:

4 1. Upon the First Cause of Action, for civil penalties according to proof pursuant to
5 Labor Code section 2698 et seq., and for costs and attorneys' fees;

6 2. For attorneys' fees and costs as provided by California Labor Code section 2699
7 and Code of Civil Procedure section 1021.5; and

8 3. For such other and further relief the Court may deem just and proper.
9

10 DATED: October 18, 2024

THE KICK LAW FIRM, APC

11 By: 
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13 Nicholas Rosenthal
14 Greg Taylor
15 Attorneys for Plaintiff and the Aggrieved
16 Employees
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