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AAA ARBITRATION

14 LAURA SCHWAB,  
15 Claimant,  
16 vs.

AAA Case No. 01-21-0017-2003

**CLAIMANT LAURA SCHWAB'S  
STATEMENT OF CLAIMS**

17 RIVIAN AUTOMOTIVE, LLC,  
18 Respondent.

19 \_\_\_\_\_ /

1 **I. INTRODUCTION**

2 Although Rivian's Chief Executive Officer boasts that the company's "culture is our most  
3 valuable product,"<sup>1</sup> a toxic "bro culture" at the company's highest levels derailed a high-  
4 performing female senior executive and allowed male executives to dodge responsibility for  
5 major problems within the company. After Rivian's highly-regarded head of sales and  
6 marketing, Laura Schwab, spoke up about the boys' club culture and gender discrimination she  
7 was experiencing from a C-level executive, Rivian abruptly fired her.

8 Rivian subjected Ms. Schwab to a textbook pattern of gender bias that, unfortunately,  
9 women who attain senior executive levels too often continue to experience. This pattern almost  
10 always involves male executives dismissing a woman's professional advice; trivializing her  
11 legitimate business concerns; excluding a woman from important strategy meetings and decisions  
12 in which her male peers are included; failing to share information that is needed for a female  
13 subordinate to run her part of the business; and generally fostering a "bro" culture that denigrates  
14 and marginalizes women executives.

15 Ms. Schwab experienced precisely this treatment from senior executives at Rivian, most  
16 notably Jiten Behl, Chief Commercial/Growth Officer. Mr. Behl routinely excluded her from  
17 meetings attended by Ms. Schwab's male peers, made decisions about Ms. Schwab's team  
18 without *her* input but *with* input from men on different teams, and dismissed the legitimate  
19 concerns she had regarding Rivian's misleading public statements and flawed business practices.  
20 Mr. Behl told Ms. Schwab not to communicate her concerns to the CEO Robert "RJ" Scaringe,  
21 who himself relied on a small group of men to make decisions.

22 Rivian's exclusionary, "bro" culture was an open secret, but Ms. Schwab's decision to  
23 report the discriminatory, hostile environment to Human Resources resulted in her termination  
24 just two days later. During the meeting where she was terminated, Mr. Behl acknowledged that  
25 she was not being terminated for cause or performance reasons; indeed, he recognized that  
26 Ms. Schwab was "well-respected" and a "high performer". The stated reason for her termination  
27

28 <sup>1</sup> Form S-1, filed with the Securities and Exchange Commission on October 1, 2021  
(Letter to Prospective Investors and Rivian Owners from Robert J. Scaringe, Founder and Chief  
Executive Officer).

1 was Rivian’s move into an “operational” phase, and a corresponding reorganization. This  
2 rationale is false for many reasons. First, Ms. Schwab had the most automotive operations  
3 experience of anyone reporting to Mr. Behl, and she had a track record of executing and  
4 delivering on operations. Second, she was the *only* person let go as part of the “reorganization.”  
5 Third, this was precisely the role that Ms. Schwab was recruited to fill. Fourth, it is not credible  
6 that Rivian would simply lay off of a “well-respected” “high performer” in a leadership role as  
7 part of a routine reorganization, particularly when the company is on the eve of an IPO and is  
8 rapidly growing.

9 Ms. Schwab enjoyed a stellar career before enduring discrimination and retaliation at  
10 Rivian, including executive roles at Jaguar Land Rover and five years as President of Aston  
11 Martin Lagonda (The Americas)—the first female president in Aston-Martin’s 105 year history.  
12 Her termination has damaged her previously unblemished track record and reputation in the  
13 automotive industry, and the emotional impact is severe. Rivian’s unlawful conduct also cost  
14 Ms. Schwab millions of dollars in unvested equity on the eve of the company’s IPO.

## 15 **II. STATEMENT OF FACTS**

### 16 **A. Laura Schwab Brings Critical Automotive Operations Experience to Rivian.**

17 In June 2020, Rivian’s Senior Director of Talent Acquisition, Fiona Knightly, contacted  
18 Ms. Schwab to gauge her interest in joining Rivian. Ms. Schwab was already familiar with  
19 Ms. Knightly, who in 2019 had recruited Ms. Schwab to join her former employer, Tesla.<sup>2</sup>  
20 Ms. Schwab spoke with Ms. Knightly and then Cindy Nicola, VP of Talent Acquisition.

21 Over the course of several months, Ms. Schwab learned that the company was scaling  
22 quickly but had yet to set up a sales and marketing team. Rivian planned to set up this team as it  
23 shifted its focus from designing and prototyping vehicles to operations, i.e., manufacturing and  
24 selling vehicles, and it wanted Ms. Schwab to lead the team in a newly-created role.

25 Rivian heavily recruited Ms. Schwab because of her demonstrated leadership and stellar  
26 reputation in the automotive industry. Ms. Schwab’s storied career includes fifteen years in  
27 management and executive roles at Jaguar Land Rover, including as Director of Marketing for

28 <sup>2</sup> After learning more about the culture, Ms. Schwab decided to withdraw from the discussions at Tesla.

1 the UK, and five years as President of Aston Martin Lagonda for the Americas. As noted above,  
2 Ms. Schwab was the first female president in Aston Martin's 105-year history. In that role, she  
3 grew the Americas region from the worst performing in the company to the number one  
4 performer in sales globally. She did this while overseeing the launch of six new vehicles,  
5 recruiting key brand ambassadors, and running the distribution network in Canada, the U.S.,  
6 Mexico, and South America.

7 Ms. Schwab is known throughout the automotive industry because of both her  
8 professional accomplishments and the relationships she has cultivated over her career. She is a  
9 frequent speaker at automotive events and has received numerous honors for her leadership and  
10 work as a woman executive in a male-dominated industry.

11 Throughout Rivian's recruitment process, Ms. Schwab had regular interviews with Jiten  
12 Behl, Chief Commercial/Growth Officer. During these interviews and in discussions with other  
13 Rivian employees, she gleaned that the company had a dearth of operational automotive  
14 experience. Ms. Schwab also had reservations about leaving Aston Martin, one of the most well-  
15 established and reputable automakers in the world, for an automotive company that had debuted a  
16 prototype but had yet to manufacture a single vehicle. To that end, she conducted extensive due  
17 diligence to ensure that she would be a good fit with the company culture, that Rivian would  
18 utilize her expertise, and that she could succeed in the proposed role.

19 After approximately four months of interviews, Ms. Schwab moved into contract  
20 negotiations. The remuneration, bonus, and benefits Rivian offered were well below  
21 Ms. Schwab's expectations and market rates, given the scope of role and significant work that  
22 would be required to prepare Rivian in advance of its IPO, which was already behind schedule.  
23 Ms. Schwab would also be giving up generous benefits provided by Aston Martin, such that her  
24 compensation package would be less generous. Rivian's final offer was \$360,000 base salary,  
25 40 percent bonus, a \$4,000 per month stipend, a \$100,000 sign-on bonus, and \$1.5 million in  
26 equity in the form of RSUs.

27 Ms. Nicola reassured Ms. Schwab that because of Rivian's impending IPO, its equity plan  
28 would more than compensate for the shortfall. With the reassurance that Rivian trucks would

1 soon be rolling off the production line and that the company would go public in the next year,  
2 Ms. Schwab accepted the offer and began working as Vice President of Sales and Marketing on  
3 November 30, 2020.

4 **B. Ms. Schwab Excels at Rivian Despite Being Marginalized.**

5 As head of Sales and Marketing, Ms. Schwab was responsible for the following  
6 initiatives, programs, and products: marketing, business-to-business sales, remarketing (i.e., the  
7 ability to price and sell trade ins, as well as sell Rivian used vehicles), sales planning and  
8 operations, accessory sales, merchandise sales, retail experience, test drives, customer  
9 engagement centers, Rivian insurance, and a dotted line to Rivian financial services.

10 Ms. Schwab reported to Mr. Behl, who had seven other direct reports, six of whom were  
11 men: Larry Parker (Executive Creative Director), Patrick Hunt (then-Senior Director, Consumer  
12 Digital), Noe Mejia (Senior Director, Service Operations), Dagan Mishoulam (VP, Strategy),  
13 Rob Francis (Senior Director, Fleet Digital Products), and Marco Batra (Senior Director, Global  
14 Delivery Operations). The only other woman reporting to Mr. Behl was Anshu Narula, VP of  
15 Digital Technology. Many of the men had worked together in other capacities and thus had  
16 similar backgrounds. For example, Mr. Behl had worked with Mr. Mishoulam at a consulting  
17 firm, while Mr. Mejia and Mr. Batra were together at Tesla.

18 Unfortunately, none of them had anything approaching Ms. Schwab's breadth and depth  
19 of knowledge about automotive launch and operations. This was evidenced in part by Rivian's  
20 wholly deficient preparations for the vehicle's scheduled launch later that fall. Ms. Schwab's  
21 work was cut out for her.

22 In Ms. Schwab's first few months at Rivian, she had regular conversations with CEO  
23 Robert "RJ" Scaringe, but her check-ins grew less frequent over time. She learned that he only  
24 met with the newest hires and the "OG," a small group of men he hired when he founded the  
25 company. Ms. Schwab's exclusion from these meetings impacted her in different ways. The  
26 meetings were used as a forum to disseminate key information on Rivian's accomplishments and  
27 goals. Because she was not invited to attend, she was not getting this important core information  
28 and was in the dark about initiatives, including expectations for things to be shared with her team.

1 Most Rivian employees received feedback during quarterly performance reviews, a.k.a.  
2 “recharges.” Ms. Schwab’s first recharge took place six months after she joined, in June 2021.  
3 She told Mr. Behl that things were going well, and they agreed that the area to focus on next  
4 quarter was the marketing team. Specifically, she wanted to get more production and content  
5 from the team and improve its relationship with the brand team, led by Mr. Parker. Mr. Behl told  
6 her that her performance was “very good” and that he thought everything was going well. He  
7 praised her specifically for working with and leading employees who others at Rivian had  
8 perceived to be difficult or too challenging to work with.

9 Despite being marginalized by male executives, there is no question that Ms. Schwab  
10 excelled in her role leading Rivian’s Sales and Marketing team. In less than a year, she launched  
11 the company’s test drive tour, led the successful opening of the company’s first “brand  
12 experience hub” in Venice, California, and developed a new merchandise collection, complete  
13 with in-house fulfillment through Rivian Parts Development Centers, slated for launch  
14 November 9.

15 She also grew the marketing team, created new content, and built up the Customer  
16 Relationship Management (CRM) team. The CRM team ultimately increased email subscriptions  
17 by nearly a third year over year. She hired new talent for business-to-business sales, developed  
18 strategy for the same, and led discussions with potential new business partners. And she oversaw  
19 the sale of the company’s first insurance policy and scoped the launch of an in-house insurance  
20 agency.

21 Along with her team, Ms. Schwab renegotiated a remarketing team contract, saving the  
22 company well over one million dollars. She led the development of an algorithm to take vehicles  
23 in on trade and created a residual value strategy to ensure the vehicles retained their maximum  
24 value throughout their lifecycle. She also created business and pricing strategy for accessories  
25 and expanded operations for the customer engagement centers.

26 **C. Ms. Schwab Raises Concerns Regarding Rivian’s Business Practices.**

27 Beginning in spring of 2021, Ms. Schwab started to raise the alarm about concerns she  
28 had relating to Rivian’s ability to deliver on its promises to investors. Shockingly, Mr. Behl

1 dismissed her concerns and explicitly asked Ms. Schwab not to raise these issues in front of  
2 Mr. Scaringe.

- 3 • *First*, it was clear that the vehicles were underpriced, and each sale would result in a  
4 loss the company. Ms. Schwab ultimately contacted Dennis Lucey, Rivian's Finance  
5 Director, and worked with him to develop projections showing how much of a loss the  
6 company would incur if Rivian did not raise prices. Ms. Schwab raised this issue with  
7 several executives, including Mr. Behl, Stuart Dixon (Director of Product  
8 Management), and Andy Zicheck (Principal Product Manager). Mr. Behl brushed her  
9 off. Eventually, Mr. Hunt raised the issue with Mr. Behl, at which point Mr. Behl  
10 agreed that they would need to raise the vehicle prices after the IPO.
- 11 • *Second*, the manufacturing process had yet to be refined to a point that the company  
12 could confidently assure a consumer of the vehicle's quality, integrity, and safety. For  
13 these reasons, Ms. Schwab told Mr. Behl that the first deliveries should go to Rivian  
14 employees. Mr. Behl dismissed her advice and questioned her conclusion, but this  
15 was ultimately the approach the company adopted.
- 16 • *Third*, the publicly announced dates for manufacturing and delivery were not  
17 achievable. Rivian only delivered a small percentage of the trucks it had set as its  
18 goal for September. Mr. Scaringe then announced a goal of delivering a specific  
19 number of vehicles by the end of 2021. In subsequent Sales and Operations planning  
20 meetings in September, Ms. Schwab said that this number was not achievable and that  
21 the company should set a realistic objective, which was a fraction of that number.  
22 This was a major issue since the S-1 filing stated that the company would deliver  
23 1,000 vehicles in 2021.

24 Ms. Schwab also raised concerns surrounding Rivian's use of an expensive third-party  
25 vendor to execute its test drive events. Her input was again ignored, with the result that these  
26 events were over budget, leading to the last-minute cancellation of subsequent events.

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**D. Rivian Subjects Ms. Schwab to Gender Discrimination and Retaliation.**

Ms. Schwab's work was often impeded by the gender discrimination that she experienced from Mr. Behl and other male colleagues at Rivian. For example, Mr. Behl had initially asked her to help lead Project Apollo, the name given to the work and activities leading up to the IPO. But when Mr. Parker challenged this decision, she was cut out of the decision-making process. Likewise, in summer of 2021, Ms. Schwab asked to lead the pricing discussions, as would be expected of someone in her role and with her extensive experience with vehicle pricing. Instead, Mr. Behl asked Mr. Hunt, who worked on consumer digital, to lead the discussion on both pricing and other integral projects.

Between September and October 2021, Mr. Behl cancelled every recurring weekly meeting scheduled with Ms. Schwab. The only communication she received from him in earnest was his request for a sample of the new merchandise for himself, his wife, and Mr. Scaringe. In contrast, Mr. Behl continued to meet regularly with his male direct reports.

On October 4, Ms. Schwab met with Claire McDonough, Rivian's CFO. Ms. Schwab asked Ms. McDonough if she could join the sales projections meetings with Mr. Scaringe and Mr. Behl, to make sure the company was setting reasonable target goals and accurately tracking production. Surprisingly, Ms. McDonough responded that she was also excluded from those meetings, which was bizarre since sales volume drives revenue: a key focus of the CFO. The only people in the room discussing volume and pricing were three guys: Mr. Scaringe, Mr. Behl, and Jake Kohn, the Vehicle Line Director.

This pattern of excluding female executives from the most important strategy and business operations meetings is one of the most revealing and also impactful types of gender discrimination experienced by senior executive women. This exclusion from key meetings is impactful not only to the woman executive's success, but to the business as well.

In addition, the persistent and visible exclusion of Ms. Schwab from key meetings undermined her standing with key senior leaders and other senior functional peers in the company. It diminished her influence and the perception that she was someone who should be consulted on key business decisions or whose opinion mattered. The exclusion also drove a



1 wedge between her and peers on Mr. Behl's team and reinforced the "bro" culture in which  
2 Ms. Schwab was very much an "other." The message was clear: Ms. Schwab was not someone  
3 who mattered or toward whom it was in anyone's interest to be inclusive.

4 Towards the end of September 2021, Mr. Behl messaged Ms. Schwab on Slack and asked  
5 her not to hire any more marketing heads. She complied but asked what precipitated this  
6 decision. He said that she should just talk to Mr. Parker and ensure that he had enough support.  
7 She immediately reached out to Mr. Parker, who explained that he and Mr. Behl had met and  
8 unilaterally decided that *her* team was overstaffed but *his* needed more people. Ms. Schwab was  
9 surprised at their conclusion since the marketing team was operating within a preapproved budget  
10 that all members of Mr. Behl's team had agreed to. Shortly thereafter, Ms. Schwab learned that  
11 Mr. Behl had directed the talent acquisition team to pause recruitment for the Director of  
12 Hospitality Programming role, without discussing the decision with Ms. Schwab. This was even  
13 more perplexing, as the company had just opened its first retail space in Venice, and it was  
14 struggling to manage events and production.

15 On Saturday, October 9, Mr. Batra sent an email to Mr. Behl and Ms. Schwab regarding  
16 the upcoming test drives planned in New York. At a July meeting, the Commercial leadership  
17 team had decided that Mr. Batra's team would manage delivery and drives of the vehicles  
18 brought to customer's homes and Ms. Schwab's team would own the strategy and manage the  
19 actual test drive program. Mr. Batra's email asked how they would handle test drives after the  
20 New York mobile drive event. Ms. Schwab responded that she believed her team should  
21 continue to manage strategy and execution of the test drives going forward. Mr. Behl replied,  
22 dismissively, "Laura, just hand test drive to Marco!" She said that she would work on a  
23 transition with Mr. Batra in New York, where they would be seeing one another in person.

24 The constant marginalization of Ms. Schwab's voice and exclusion from important  
25 decisions made clear that Rivian had "bro" culture that excluded women and caused her male  
26 colleagues to hide mistakes and cover for one another rather than admit a wrong and course  
27 correct. This dynamic was even more apparent among Mr. Behl's direct reports. Even two of  
28

1 Ms. Schwab's male colleagues, Mr. Zicheck and Mr. Batra, acknowledged this problem and the  
2 issues it was creating within the organization.

3 Mr. Batra recognized that Mr. Behl's discriminatory behavior was inappropriate and  
4 forwarded Mr. Behl's response to Farinaz Raissi in Human Resources, noting that Mr. Behl's  
5 email could have been World War III.

6 On Sunday, October 10, Ms. Schwab texted Mr. Behl and asked if they could schedule a  
7 long overdue check-in. He did not respond. She messaged him again on Slack the next day,  
8 stating that she wanted to discuss organization, test drives, and communication. Later, she called  
9 him. They eventually spoke late that evening, after she landed in New York. She said that she  
10 was hearing feedback from Mr. Parker, Mr. Hunt, and people on the recruiting team about her  
11 headcount and organization, but was not hearing directly from Mr. Behl, her supervisor. She said  
12 that it would be helpful if she could hear from him directly.

13 Mr. Behl first grilled Ms. Schwab about the size of and structure of her ten-person  
14 marketing team. He was aggressive, condescending, and hostile. Ms. Schwab politely offered to  
15 walk him through the work her team had completed and planned, but he had no interest in the  
16 substance of her answers. She told him that she was very pleased with the work Lindsay Pearl  
17 was doing as Head of Marketing. He insisted that for each employee in marketing, Mr. Parker's  
18 brand team had to hire at least three more people to deliver on that work. Of course, this was  
19 nonsensical, and Ms. Schwab could have pushed back on Mr. Parker's claim if she had been part  
20 of the meeting where the two men discussed *her* team. Notably, Mr. Behl could not explain why  
21 he also excluded her from the discussion around whether to hire a head of hospitality  
22 programming.

23 They also discussed the test drive program, which Mr. Behl insisted on giving to  
24 Mr. Batra. Ms. Schwab said that Mr. Scaringe had called the test drive program "critical," and  
25 that it would be risky to assign it to a team that had not thought through a rollout strategy.  
26 Mr. Behl again ignored her comment and began complaining about the earlier test drive events  
27 going over budget. Ms. Schwab immediately cut in and reminded him that she had opposed the  
28 third-party contractor they had used and that he had ignored her recommendations for a different,

1 option. She noted that these issues were rooted in his decision to exclude her from important  
2 meetings, ignore her suggestions, and cancel their check-ins.

3 Mr. Behl responded that he would respond to Slack messages sent in the evening, which  
4 was both inaccurate and insulting—he did not respond to messages she sent in the evening, and  
5 he had never asked other direct reports to only contact him after work. It was also not a workable  
6 strategy for any professional relationship. The call ended with Ms. Schwab stating that it was  
7 imperative for the two of them to communicate, that she would set up a meeting with the  
8 marketing team to go through their projects, and that she would work on a transition of mobile  
9 test drives to Marco Batra.

10 **E. Ms. Schwab Reports the “Bro Culture” to Human Resources.**

11 The next day, Ms. Schwab called Ms. Raissi in HR and told her about the call with  
12 Mr. Behl. She told Ms. Raissi that she was concerned about Mr. Behl’s behavior, specifically  
13 that he was cancelling their check-ins and that he and Mr. Parker were making important  
14 decisions about her team without her in the room. She also raised the test drive program, which  
15 Mr. Behl had decided to remove from Ms. Schwab’s organization and give to Mr. Batra.

16 Notably, Ms. Schwab complained to Ms. Raissi that there was a larger, more toxic issue  
17 at play—the “bro” culture that made Rivian more like a “boys’ club” rather than a serious  
18 business. Ms. Schwab explained this was evidenced by the default assignment of important  
19 projects to men, Mr. Behl’s unwillingness to meet with her (or, as she had just learned,  
20 Ms. Raissi), her exclusion from meetings, the favoritism shown towards men, and Mr. Behl  
21 relying on other men to make decisions about Ms. Schwab’s team. She noted that the only way  
22 to be heard at Rivian was to be in the “boys’ club” or consistently be the loudest person in the  
23 room.

24 Ms. Raissi suggested that Ms. Schwab write down her thoughts and share them with  
25 Mr. Behl. Ms. Schwab later sent Ms. Raissi an email thanking her for her time, though  
26 Ms. Raissi made no promise to investigate Ms. Schwab’s report of discrimination.

27 Later that day, Mr. Batra picked Ms. Schwab up from her hotel in New York and the two  
28 drove to the nearby Rivian Service Center. She told him about the conversations with both

1 Mr. Behl and Ms. Raissi. She also mentioned the “bro” culture that was making it impossible for  
2 her to do her job. He agreed with her characterization of Rivian’s culture and said that this was  
3 also impacting a member of his team, Jessie Yoste, and that he had raised the problem with  
4 others at Rivian.<sup>3</sup> Ms. Schwab also told Ms. Pearl about the conversation with Mr. Behl.

5 **F. Rivian Abruptly Terminates Ms. Schwab.**

6 On Wednesday, October 13, Ms. Schwab sent an email to Mr. Behl outlining next steps  
7 and do-outs based on their discussions. On Thursday, he asked her to meet him at the Irvine  
8 office on Friday morning to discuss organizational structure. She texted Ms. Raissi and asked if  
9 she had talked to Mr. Behl about their conversation, since she had talked to her in confidence.  
10 Ms. Raissi did not answer her question.

11 On Friday, October 15, Ms. Schwab drove to the Irvine office to meet with Mr. Behl.  
12 When she arrived, Mr. Behl and Ms. Raissi were both present. Mr. Behl told her that Rivian was  
13 moving into a new “operational” phase, and that they had decided to eliminate her position as  
14 part of a reorganization. Ms. Schwab immediately said that explanation was not credible and  
15 reminded them that her team was doing operations, that she was one of the few automotive  
16 operations experts in leadership at the company, and that Rivian had recruited her to do  
17 operations. When Ms. Schwab asked if the termination had anything to do with her recent report  
18 of gender discrimination, Ms. Raissi acknowledged that she knew Ms. Schwab had talked to  
19 other employees about her concerns and recent conversations. Mr. Behl and Ms. Raissi  
20 acknowledged that Ms. Schwab was a “high performer” who was “very well respected” across  
21 the organization.

22 Rivian’s stated reasons for terminating Ms. Schwab are patently pretextual for at least  
23 four reasons.

24 *First*, Ms. Schwab was the only person laid off at the time as part of this “reorganization,”  
25 and it makes no sense that the company would eliminate the head of sales and marketing just as  
26 its vehicles are beginning production and at the most critical juncture for the company to be  
27 marketing and selling its products on the eve of its IPO.

28 \_\_\_\_\_  
<sup>3</sup> Ms. Schwab believes that Mr. Batra had reported the discrimination to HR.

1        *Second*, “high performers” are seldom let go in a reorganization, especially when a  
2 company is actively recruiting and hiring hundreds of people each month. Even if there was a  
3 reorganization, any reasonable executive would, absent discrimination or retaliatory motive, find  
4 a new position for Ms. Schwab within Rivian, retain her talent, and put her skills to good use.

5        *Third*, Ms. Schwab and her team *were* focused on operations, so Rivian’s pivot into an  
6 “operational phase” would benefit immensely from her knowledge, leadership, and proven track  
7 record. Indeed, this was precisely the role that Ms. Schwab was recruited to fill and that Rivian  
8 tailored for her. For example, Ms. Schwab’s team was responsible for opening the brand  
9 experience hub in Venice, which was an unmitigated success. In contrast, other Rivian teams  
10 tasked with operations had run over budget and under-delivered. If successful operations were  
11 the goal, Rivian should have retained the leader who had delivered.

12        *Fourth*, Ms. Schwab was filling a vital and valuable role at the company, and there was a  
13 need for her leadership. Indeed, in the days following her termination, Ms. Schwab received  
14 dozens of messages from Rivian employees expressing their shock at her sudden departure and  
15 stating that she was the best leader and executive at the company.

16        Ms. Schwab was fired shortly before her first year cliff and on the eve of the IPO,  
17 stripping her of the value she helped to create for the company and maximizing the damage to her  
18 unblemished professional reputation in the automotive industry.

### 19    **III.    LEGAL CLAIMS**

#### 20        **A.       Rivian is Liable for Gender Discrimination.**

21        California’s Fair Employment and Housing Act (the “FEHA”) prohibits discrimination on  
22 the basis of gender in the terms and conditions of employment. Cal. Gov. Code § 12940(a).  
23 California has adopted the three-stage burden-shifting test established by the United States  
24 Supreme Court for trying claims of discrimination. *Guz v. Bechtel National, Inc.* (2000) 24  
25 Cal.4th 317, 354. A *prima facie* case of discrimination is established where a plaintiff proves  
26 “that (1) [s]he was a member of a protected class, (2) [s]he was qualified for the position [s]he  
27 sought or was performing competently in the position [s]he held, (3) [s]he suffered an adverse  
28 employment action, such as termination, demotion, or denial of an available job, and (4) some

1 other circumstance suggests discriminatory motive.” *Id.* at 355. The burden of establishing a  
2 *prima facie* case is not onerous. *Ibid.*; *Texas Dept. of Cmty. Affairs v. Burdine* (1981) 450 U.S.  
3 248, 253.

4 Once the plaintiff establishes a *prima facie* case, “[t]he employer may rebut the  
5 presumption by producing evidence that its action was taken for a legitimate, nondiscriminatory  
6 reason. . . . The plaintiff must then show that the employer’s proffered nondiscriminatory reason  
7 was actually a pretext for discrimination, and the plaintiff may offer any other evidence of  
8 discriminatory motive.” *Harris v. City of Santa Monica* (2013) 56 Cal.4th 203, 214-215.

9 Rivian’s actions demonstrate a *prima facie* case of discrimination on the basis of gender.  
10 *First*, as a woman, Ms. Schwab is a member of a protected class. *Second*, Ms. Schwab was  
11 competently performing in the position she held as evidenced by her many accomplishments, her  
12 positive performance review in June 2021, and Mr. Behl and Ms. Raissi’s feedback during her  
13 termination meeting. *Third*, Rivian subjected Ms. Schwab to an adverse employment action  
14 when she was excluded from key meetings, had projects removed from her purview, and was  
15 otherwise impeded in performing her job. *Fourth*, there is ample evidence of discriminatory  
16 motive. Ms. Schwab – as one of only two female direct reports of Mr. Behl – was treated less  
17 favorably than her male peers. Mr. Behl listened attentively to and met regularly with the men  
18 who reported to him. In contrast, he dismissed Ms. Schwab’s input and cancelled standing  
19 meetings with her. Even when Ms. Schwab made an important point about an issue, e.g., when  
20 she said that the company would need to increase the vehicle price, Mr. Behl only listened to the  
21 warning once it came out of a man’s mouth. Mr. Behl was also concerned about his male direct  
22 reports having sufficient staff, but he criticized Ms. Schwab for building a team that was still  
23 well-within an agreed-upon budget. The systematic undermining of top female managers is an  
24 all-too-common form of gender discrimination.

## 25 **B. Rivian Engaged in Unlawful Retaliation.**

26 There is strong evidence that Rivian engaged in unlawful retaliation in violation of the  
27 FEHA and California Labor Code § 1102.5. In order to establish a *prima facie* case of  
28 retaliation, Ms. Schwab must demonstrate that: (1) she engaged in protected activity; (2) her

1 employer subjected her to one or more adverse employment actions; and (3) there was a causal  
2 link between the protected activity and adverse employment action. *Van Asdale v. International*  
3 *Game Tech.*, 577 F.3d 989, 996-997 (9th Cir. 2009); *McVeigh v. Recology San Francisco* (2013)  
4 213 Cal.App.4th 443, 468; *Mokler v. County of Orange* (2007) 157 Cal.App.4th 121, 138.

5 With respect to the final element, the legislature adopted an extremely lenient “causal  
6 link” standard for whistleblower claims. Under the statute, a claimant need only show that  
7 retaliation for engaging in protected activity “was *a contributing factor*” in the adverse action  
8 against the employee, whether or not other factors may have played a role. Cal. Lab. Code  
9 § 1102.6 (emphasis added). Additionally, the employee need not prove that the information she  
10 disclosed was in fact a violation of a rule or regulation; she need only show that her belief of a  
11 violation was reasonable.

12 Here, Ms. Schwab unquestionably engaged in protected activity numerous times when  
13 criticizing and disclosing the company’s misleading and inaccurate messaging around its delivery  
14 schedule, pricing, vehicle readiness, and production rates. She specifically stated the importance  
15 of having accurate information in the S-1 filing, so as not to mislead the SEC and investors.  
16 Ms. Schwab voiced her concerns about the company making false commitments to customers and  
17 investors in multiple meetings with the company’s senior leadership. After Ms. Schwab raised  
18 these issues, she was dismissed or ignored. Only if and when a man raised the same issue did the  
19 company even acknowledge – though not necessarily remedy – the problem.

20 There is also a strong inference that Ms. Schwab was terminated as a result of her  
21 complaint about the gender discrimination she had experienced. Indeed, she was informed of her  
22 termination a mere two working days after voicing concerns to Human Resources about the  
23 company’s discriminatory “bro” culture and her direct supervisor’s especially egregious  
24 behavior.

25 The temporal proximity between Ms. Schwab’s complaints and her termination raises an  
26 irrefutable inference of retaliatory animus. She was terminated just weeks after speaking out  
27 about the company’s public statements and days after criticizing the company’s discriminatory  
28 culture. *See, e.g., Flait v. North Am. Watch Corp.* (1992) 3 Cal.App.4th 467, 478 (causal link

1 found when termination occurred five months after protected activity); *Strother v. Southern Cal.*  
2 *Permanente Med. Group* (9th Cir. 1996) 79 F.3d 859, 869-70 (causal link found where adverse  
3 employment action occurred “within months” of protected activity); *Coszalter v. City of Salem*  
4 (9th Cir. 2003) 320 F.3d 968, 977 (holding that even “three to eight months is easily within the  
5 time range that supports an inference of retaliation.”); *Stegall v. Citadel Broadcasting Co.* (9th  
6 Cir. 2003) 350 F.3d 1061, 1069 (“Temporal proximity between protected activity and an adverse  
7 employment action can by itself constitute sufficient circumstantial evidence of retaliation”)  
8 (internal quotations marks and citation omitted).

9 But the evidence of retaliation does not end there. As detailed above, Ms. Schwab had a  
10 track record of delivering for Rivian, even when the company made her job enormously difficult.  
11 She was also terminated by the very individual who was the subject of the discrimination  
12 complaints. Finally, Mr. Behl offered no other explanation for the termination other than a  
13 supposed reorganization that would focus on the type of work Ms. Schwab had already proven  
14 she could complete. For all of these reasons, Rivian is liable for unlawful retaliation in violation  
15 of the FEHA and Labor Code § 1102.5.

### 16 C. Rivian is Liable for Wrongful Termination

17 “[A]n employer has no right to terminate employment for a reason that contravenes  
18 fundamental public policy as expressed in a constitutional or statutory provision.” *Colores v.*  
19 *Board of Trustees* (2003) 105 Cal.App.4th 1293, 1306 (quoting *Turner v. Anheuser-Busch, Inc.*  
20 (1994) 7 Cal.4th 1238, 1252). Accordingly, “[a]n actual or constructive discharge in violation of  
21 fundamental public policy gives rise to a tort action in favor of the terminated employee.” *Ibid.*  
22 To prevail on a claim for wrongful termination in violation of public policy, a plaintiff must show  
23 that (1) he or she was employed by the defendant; (2) the plaintiff’s employment was terminated;  
24 (3) a violation of public policy was a motivating reason for the discharge; and (4) the termination  
25 caused the plaintiff damages. *Haney v. Aramark Uniform Servs., Inc.* (2004) 121 Cal.App.4th  
26 623, 641.

27 Under California law, a violation of the FEHA may give rise to a common law claim for  
28 wrongful termination in violation of public policy. *See Stevenson v. Superior Court* (1997)



1 16 Cal.4th 880, 909. Similarly, a violation of Labor Code § 1102.5 is the basis for a wrongful  
2 termination claim. *See Collier v. Superior Court* (1991) 228 Cal.App.3d 1117, 1127. Because it  
3 is liable for discrimination and retaliation, Rivian is also liable to Ms. Schwab for wrongful  
4 termination in violation of public policy.

5 **D. Rivian Has Engaged In Unfair Competition In Violation of California**  
6 **Business & Professions Code Section 17200, et seq.**

7 “[W]here the employer’s policy or practice is forbidden by or found to be violative of the  
8 Labor Code, it may also be held to constitute an unlawful business practice subject to redress  
9 under the California Business and Professions Code § 17200 [“UCL”].” *The Application Group,*  
10 *Inc. v. The Hunter Group* (1998) 61 Cal.App.4th 881, 907. Any unfair or fraudulent business  
11 practice can form the basis of a UCL claim. *Kwikset Corp. v. Superior Court* (2011) 51 Cal.4th  
12 310, 320; *see also Cortez v. Purolator Air Filtration Prods. Co.* (2000) 23 Cal.4th 163, 173.

13 Among other wrongful conduct, Rivian’s wrongful termination of Ms. Schwab in  
14 violation of the Labor Code and fraudulent business practice relating to its messaging around the  
15 delivery timeline of its vehicles and vehicle pricing constitute an unlawful business practice  
16 pursuant to Section 17200. The remedy for a UCL violation is restitution of the wrongfully  
17 withheld compensation and interest. *Korea Supply Co. v. Lockheed Martin Corp.* (2003) 29  
18 Cal.4th 1134, 1149.

19 **PRAYER FOR RELIEF**

20 WHEREFORE, Respondent prays for an award:

- 21 1. Finding that Rivian is liable for gender discrimination and awarding damages,  
22 including economic and noneconomic damages, interest, and punitive damages  
23 according to proof;
  - 24 2. Finding that Rivian is liable for engaging in unlawful retaliation in violation of the  
25 Fair Employment and Housing Act and awarding damages, including interest,  
26 according to proof, as well as penalties and reasonable attorney’s fees and costs;
- 27  
28

3. Finding that Rivian is liable for engaging in unlawful retaliation in violation of the California Labor Code and awarding damages, including interest, according to proof;
4. Finding that Rivian is liable for wrongful termination in violation of public policy and awarding damages, including interest, according to proof;
5. Finding that Rivian is liable for engaging in unfair competition in violation of California Business & Professions Code Section 17200, *et seq.*, and awarding restitution, including wrongfully withheld damages and interest, according to proof; and
6. Awarding such other and further legal and equitable relief as the Arbitrator deems necessary, just, and proper.

DATED: November 4, 2021

Respectfully submitted,

RUDY, EXELROD, ZIEFF & LOWE, LLP

By: \_\_\_\_\_



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