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Attorneys for PLAINTIFF GIANNINA
FRANCISCO, individually and on behalf of
all other aggrieved employees

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF LOS ANGELES

GIANNINA FRANCISCO, individually and
on behalf of all other aggrieved employees,

Plaintiff,

vs.

PETCO ANIMAL SUPPLIES STORES, INC.,
a Delaware corporation; PETCO ANIMAL
SUPPLIES, INC., a Delaware corporation;
PETCO WELLNESS, LLC, a limited liability
company; PETCO HOLDINGS, INC., a
Delaware corporation; and DOES 1 through
100, inclusive,

Defendants.

CASE NO.:

**COMPLAINT FOR VIOLATION OF
THE CALIFORNIA LABOR CODE
PRIVATE ATTORNEYS GENERAL
ACT OF 2004**

[California Labor Code § 2698, *et seq.*]

DEMAND FOR JURY TRIAL

1 PLAINTIFF GIANNINA FRANCISCO (“PLAINTIFF”), individually and on behalf of all
2 other aggrieved employees, demanding a jury trial, hereby allege as follows:

3 **INTRODUCTION**

4 1. PLAINTIFF brings this action on behalf of themselves and all other aggrieved
5 employees of Defendant PETCO ANIMAL SUPPLIES STORES, INC., a Delaware corporation;
6 PETCO ANIMAL SUPPLIES, INC., a Delaware corporation; PETCO WELLNESS, LLC, a
7 limited liability company; PETCO HOLDINGS, INC., a Delaware corporation; and DOES 1
8 through 100, inclusive, (collectively, “DEFENDANTS”) to recover penalties arising from unpaid
9 wages earned and due, including but not limited to unpaid and illegally calculated overtime
10 compensation, illegal meal and rest period policies, failure to pay all wages due to discharged or
11 quitting employees, failure to maintain required records, failure to provide accurate itemized
12 wage statements, failure to timely pay wages during employment, failure to indemnify employees
13 for necessary expenditures and/or losses incurred in discharging their duties.

14 **JURISDICTION AND VENUE**

15 2. The Superior Court of the State of California has jurisdiction in this matter because
16 PLAINTIFF are citizens and residents of the State of California and DEFENDANTS are citizens
17 and residents of, and/or regularly conduct business in, California. Further, no federal question is
18 at issue because the claims are based solely on California law.

19 3. Venue is proper in this judicial district and the County of Los Angeles, California
20 because PLAINTIFF and other aggrieved employees performed work for DEFENDANTS in the
21 County of Los Angeles and many of DEFENDANTS’ unlawful actions and omissions, as set
22 forth herein, occurred in the County of Los Angeles.

23 **PARTIES**

24 4. PLAINTIFF GIANNINA FRANCISCO is a citizen and resident of the State of
25 California. At times material to this complaint, PLAINTIFF GIANNINA FRANCISCO was
26 employed by DEFENDANTS in the State of California as a non-exempt employee.

27 5. PLAINTIFF are informed and believe, and thereon allege, that PETCO ANIMAL
28 SUPPLIES STORES, INC. is, and at all times relevant hereto was, authorized to conduct business

1 in the State of California, and does conduct business in the State of California. Specifically, upon
2 information and belief, PETCO ANIMAL SUPPLIES STORES, INC. maintains offices and
3 conducts business in the County of Los Angeles, State of California.

4 6. PLAINTIFF are informed and believe, and thereon allege, that PETCO ANIMAL
5 SUPPLIES, INC. is, and at all times relevant hereto was, authorized to conduct business in the
6 State of California, and does conduct business in the State of California. Specifically, upon
7 information and belief, PETCO ANIMAL SUPPLIES, INC. maintains offices and conducts
8 business in the County of Los Angeles, State of California.

9 7. PLAINTIFF are informed and believe, and thereon allege, that PETCO
10 WELLNESS, LLC is, and at all times relevant hereto was, authorized to conduct business in the
11 State of California, and does conduct business in the State of California. Specifically, upon
12 information and belief, PETCO WELLNESS, LLC maintains offices and conducts business in the
13 County of Los Angeles, State of California.

14 8. PLAINTIFF are informed and believe, and thereon allege, that PETCO
15 HOLDINGS, INC. is, and at all times relevant hereto was, authorized to conduct business in the
16 State of California, and does conduct business in the State of California. Specifically, upon
17 information and belief, PETCO HOLDINGS, INC. maintains offices and conducts business in the
18 County of Los Angeles, State of California.

19 9. The true names and capacities of DOES 1 through 100, inclusive, are unknown to
20 PLAINTIFF at this time, and PLAINTIFF therefore sue such defendants under fictitious names.
21 PLAINTIFF are informed and believe, and thereon allege, that each defendant designated as a
22 DOE is in some manner highly responsible for the occurrences alleged herein, and that
23 PLAINTIFF and other aggrieved employees' injuries and damages, as alleged herein, were
24 proximately caused by the conduct of such DOE defendants. PLAINTIFF will seek leave of the
25 court to amend this complaint to allege the true names and capacities of such DOE defendants
26 when ascertained.

27 10. At all relevant times herein, DEFENDANTS were the joint employers of
28 PLAINTIFF and other aggrieved employees. PLAINTIFF are informed and believe, and thereon

1 allege, that at all times material to this complaint DEFENDANTS were the alter egos, divisions,
2 affiliates, integrated enterprises, joint employers, subsidiaries, parents, principals, related entities,
3 co-conspirators, authorized agents, partners, joint venturers, and/or guarantors, actual or
4 ostensible, of each other. Each defendant was completely dominated by his, her, or its co-
5 defendant, and each was the alter ego of the other.

6 11. At all relevant times herein, PLAINTIFF and other aggrieved employees were
7 employed by DEFENDANTS under employment agreements that were partly written, partly oral,
8 and partly implied. In perpetrating the acts and omissions alleged herein, DEFENDANTS, and
9 each of them, acted pursuant to, and in furtherance of, their policies and practices of not paying
10 PLAINTIFF and other aggrieved employees all wages earned and due, through methods and
11 schemes which include, but are not limited to, failing to pay overtime premiums; failing to
12 provide rest and meal periods; failing to properly maintain records; failing to provide accurate
13 itemized statements for each pay period; failing to timely pay wages during employment; failing
14 to properly compensate PLAINTIFF and other aggrieved employees for necessary expenditures;
15 and requiring, permitting or suffering the employees to work off the clock, in violation of the
16 California Labor Code ("Labor Code") and the applicable Industrial Welfare Commission
17 ("IWC") Wage Order.

18 12. PLAINTIFF are informed and believe, and thereon allege, that each and every one
19 of the acts and omissions alleged herein were performed by, and/or attributable to, all
20 DEFENDANTS, each acting as agents and/or employees, and/or under the direction and control
21 of, each of the other DEFENDANTS, and that said acts and failures to act were within the course
22 and scope of said agency, employment and/or direction and control.

23 13. Pursuant to California Labor Code § 558.1, DEFENDANTS and any person acting
24 on behalf of any of the DEFENDANTS, are liable for violating, or causing to violate, any
25 provision regulating minimum wages or hours and days of work in any order of the Industrial
26 Welfare Commission, or Labor Code §§ 203, 226, 226.7, 1193.6, 1194, or 2802.

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1 a meal period was not provided.

2 **Failure to Provide Required Rest Periods**

3 **[Cal. Labor Code §§ 226.7; IWC Wage Order No. 7-2001, § 12]**

4 18. At all times relevant herein, as part of DEFENDANTS' illegal policies and
5 practices to deprive their current and former non-exempt employees all wages earned and due,
6 DEFENDANTS failed to provide rest periods to PLAINTIFF and other aggrieved employees as
7 required under Labor Code § 226.7, and IWC Wage Order No. 7-2001, § 12.

8 19. DEFENDANTS further violated Labor Code § 226.7 and IWC Wage Order No. 7-
9 2001, § 12 by failing to pay PLAINTIFF and other aggrieved employees who were not provided
10 with a rest period, in accordance with the applicable IWC Wage Order, one additional hour of
11 compensation at each employee's regular rate of pay for each workday that a rest period was not
12 provided.

13 **Failure to Pay Overtime Wages**

14 **[Cal. Labor Code §§ 510, 1194, 1198; IWC Wage Order No. 7-2001, § 3]**

15 20. Pursuant to Labor Code §§ 510 and 1194 and IWC Wage Order No. 7-2001, § 3,
16 DEFENDANTS are required to compensate PLAINTIFF and other aggrieved employees for all
17 overtime, which is calculated at one and one-half (1 ½) times the regular rate of pay for all hours
18 worked in excess of eight (8) hours per day and/or forty (40) hours per week, and for the first
19 eight (8) hours on the seventh consecutive workday, with double time for all hours worked in
20 excess of twelve (12) hours in any workday and for all hours worked in excess of eight (8) hours
21 on the seventh consecutive day of work in any workweek.

22 21. PLAINTIFF and other aggrieved employees are current and former non-exempt
23 employees of DEFENDANTS entitled to the protections of Labor Code §§ 510 and 1194 and
24 IWC Wage Order No. 7-2001. During the PENALTY PERIOD, DEFENDANTS failed to
25 compensate PLAINTIFF and other aggrieved employees for all overtime hours worked as
26 required under the foregoing provisions of the Labor Code and IWC Wage Order by, among other
27 things: failing to pay overtime at one and one-half (1 ½) or double the regular rate of pay as
28 provided by Labor Code §§ 510, 1194, and IWC Wage Order No. 7-2001, § 3; requiring,

1 suffering or permitting PLAINTIFF and other aggrieved employees to work off the clock;
2 requiring, permitting or suffering PLAINTIFF and other aggrieved employees to work through
3 meal breaks; illegally and inaccurately recording time in which PLAINTIFF and other aggrieved
4 employees worked; failing to properly maintain PLAINTIFF' and other aggrieved employees'
5 records; failing to provide accurate itemized wage statements to PLAINTIFF for each pay period;
6 and other methods to be discovered.

7 22. DEFENDANTS have knowingly and willfully refused to perform their obligations
8 to compensate PLAINTIFF and other aggrieved employees for all wages earned and all hours
9 worked in violation of Labor Code §§ 510, 1194 and 1198 and IWC Wage Order No. 7-2001, § 3.

10 **Failure to Pay Minimum Wages**

11 **[Cal Labor Code §§ 1194, 1197; IWC Wage Order No. 7-2001, § 4]**

12 23. Pursuant to California Labor Code §§ 1194 and 1197 and IWC Wage Order No. 7-
13 2001, § 4, payment to an employee of less than the applicable minimum wage for all hours
14 worked in a payroll period is unlawful.

15 24. During the PENALTY PERIOD and in violation of California Labor Code §§
16 1194 and 1197 and IWC Wage Order No. 7-2001, § 4, DEFENDANTS failed to pay PLAINTIFF
17 and other aggrieved employees the applicable minimum wages for all hours worked in a payroll
18 period by, among other things: requiring, suffering or permitting PLAINTIFF and other aggrieved
19 employees to work off the clock; requiring, suffering or permitting PLAINTIFF and other
20 aggrieved employees to work through meal breaks; illegally and inaccurately recording time in
21 which PLAINTIFF and other aggrieved employees worked; failing to properly maintain
22 PLAINTIFF' and other aggrieved employees' records; failing to provide accurate itemized wage
23 statements to PLAINTIFF and other aggrieved employees for each pay period; and other methods
24 to be discovered.

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

26 **[Cal. Labor Code § 204]**

27 25. Pursuant to California Labor Code § 204, for all labor performed between the 1st
28 and 15th days of any calendar month, DEFENDANTS are required to pay their nonexempt

1 employees between the 16th and 26th day of the month during which the labor was performed.
2 California Labor Code § 204 also provides that for all labor performed between the 16th and 26th
3 days of any calendar month, DEFENDANTS are required to pay their nonexempt employees
4 between the 1st and 10th day of the following calendar month. In addition, California Labor Code
5 § 204 provides that all wages earned for labor in excess of the normal work period shall be paid
6 no later than the payday of the next regular payroll period.

7 26. During the PENALTY PERIOD, DEFENDANTS knowingly and willfully failed
8 to timely pay PLAINTIFF and other aggrieved employees all the wages for labor performed by
9 the next regular payroll period as required by California Labor Code § 204.

10 **Failure to Pay All Wages Due to Discharged and Quitting Employees**

11 **[Cal. Labor Code §§ 201, 202, 203]**

12 27. Pursuant to Labor Code § 201, 202 and 203, DEFENDANTS are required to pay
13 all earned and unpaid wages to an employee who is discharged. Labor Code § 201 mandates that
14 if an employer discharges an employee, the employee's wages accrued and unpaid at the time of
15 discharge are due and payable immediately.

16 28. Furthermore, pursuant to Labor Code § 202, DEFENDANTS are required to pay
17 all accrued wages due to an employee no later than 72 hours after the employee quits his or her
18 employment, unless the employee provided 72 hours previous notice of his or her intention to
19 quit, in which case the employee is entitled to his or wages at the time of quitting.

20 29. Labor Code § 203 provides that if an employer willfully fails to pay, in accordance
21 with Labor Code §§ 201 and 202, any wages of an employee who is discharged or who quits, the
22 employer is liable for waiting time penalties in the form of continued compensation to the
23 employee at the same rate for up to 30 workdays.

24 30. During the PENALTY PERIOD and in violation of Labor Code §§ 201 and 202,
25 DEFENDANTS willfully failed to timely pay accrued wages and other compensation to
26 PLAINTIFF and other aggrieved employees who were discharged or quit his or her employment.

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1 **Failure to Maintain Required Records**

2 **[Cal. Labor Code §§ 226(a), 1174(d); IWC Wage Order No. 7-2001, § 7]**

3 31. During the PENALTY PERIOD, as part of DEFENDANTS' illegal payroll
4 policies and practices to deprive PLAINTIFF and other aggrieved employees of all wages earned
5 and due, DEFENDANTS knowingly and intentionally failed to maintain records as required
6 under Labor Code §§ 226(a) and 1174(d) and IWC Wage Order No. 7-2001, § 7, including but
7 not limited to the following records: total daily hours worked by each employee; applicable rates
8 of pay; all deductions; meal periods; time records showing when each employee begins and ends
9 each work period; and accurate itemized statements.

10 **Failure to Furnish Accurate Itemized Wage Statements**

11 **[Cal. Labor Code § 226(a); IWC Wage Order No. 7-2001, § 7]**

12 32. During the PENALTY PERIOD, DEFENDANTS routinely failed and continue to
13 fail to provide PLAINTIFF and other aggrieved employees with timely and accurate itemized
14 wage statements in writing showing each employee's gross wages earned, total hours worked, the
15 number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-
16 rate basis, all deductions made, net wages earned, the inclusive dates of the period for which the
17 employee is paid, the name of the employee and only the last four digits of his or her social
18 security number or employee identification number, the name and address of the legal entity or
19 entities employing PLAINTIFF and other aggrieved employees, and all applicable hourly rates in
20 effect during each pay period and the corresponding number of hours worked at each hourly rate,
21 in violation of California Labor Code § 226(a) and IWC Wage Order No. 7-2001 § 7.

22 33. During the PENALTY PERIOD, DEFENDANTS knowingly and intentionally
23 failed to provide PLAINTIFF and other aggrieved employees with timely and accurate itemized
24 wage statements in accordance with Labor Code § 226(a).

25 34. During the PENALTY PERIOD, PLAINTIFF and other aggrieved employees
26 suffered injury as a result of DEFENDANTS' failure to provide timely and accurate itemized
27 wage statements as PLAINTIFF and other aggrieved employees could not promptly and easily
28 determine from the wage statement alone one or more of the following: the gross wages earned,

1 the total hours worked, all deductions made, the net wages earned, the name and address of the
2 legal entity or entities employing PLAINTIFF and other aggrieved employees, and/or all
3 applicable hourly rates in effect during each pay period and the corresponding number of hours
4 worked at each hourly rate.

5 **Failure to Indemnify Employees for Necessary Expenditures Incurred in Discharge of**
6 **Duties**

7 **[Cal. Labor Code § 2802]**

8 35. Labor Code § 2802(a) requires an employer to indemnify an employee for all
9 necessary expenditures or losses incurred by the employee in direct consequence of the discharge
10 of her his or her duties, or of his or her obedience to the directions of the employer.

11 36. During the PENALTY PERIOD, DEFENDANTS failed to indemnify PLAINTIFF
12 and other aggrieved employees for all business expenses and/or losses incurred in direct
13 consequence of the discharge of their duties while working under the direction of
14 DEFENDANTS, including but not limited to expenses for personal cell phone usage and other
15 employment-related expenses, in violation of Labor Code § 2802.

16 **FIRST CAUSE OF ACTION**

17 **VIOLATION OF THE PRIVATE ATTORNEYS GENERAL ACT**

18 **[Cal. Labor Code § 2698, *et seq.*]**

19 **(Against All DEFENDANTS)**

20 37. PLAINTIFF incorporate herein by specific reference, as though fully set forth, the
21 allegations in paragraphs 1 through 36.

22 38. PLAINTIFF are “aggrieved employees” within the meaning of Labor Code §
23 2699(c), and proper representatives to bring a civil action on behalf of themselves and other
24 current and former non-exempt employees of DEFENDANTS pursuant to the procedures
25 specified in Labor Code § 2699.3, because PLAINTIFF were employed by DEFENDANTS and
26 one or more of the alleged Labor Code violations was committed against PLAINTIFF during the
27 PENALTY PERIOD.

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1 39. PLAINTIFF seek to recover civil penalties through a representative action
2 permitted by PAGA and the California Supreme Court in *Arias v. Superior Court* (2009) 46
3 Cal.4th 969. Thus, class certification is not required.

4 40. Pursuant to Labor Code §§ 2698-2699.5, PLAINTIFF seek to recover civil
5 penalties from DEFENDANTS in a representative action for the violations set forth above,
6 including but not limited to violations of Labor Code §§ 201, 202, 203, 204, 226(a), 226.7, 510,
7 512, 1174(d), 1194, 1197, 1198, and 2802.

8 41. Pursuant to Labor Code § 2699(a), PLAINTIFF seek civil penalties for
9 DEFENDANTS' violations of Labor Code provisions for which a civil penalty is specifically
10 provided, including but not limited to the following:

- 11 a. Pursuant to Labor Code § 210, for violations of Labor Code § 204,
12 DEFENDANTS are subject to a civil penalty in the amount of one hundred
13 dollars (\$100) for the initial violation for each failure to pay each employee
14 and two hundred dollars (\$200) per employee for violations in subsequent
15 pay periods.
- 16 b. Pursuant to Labor Code § 226.3, for violations of Labor Code § 226(a),
17 DEFENDANTS are subject to a civil penalty in the amount of two hundred
18 and fifty dollars (\$250) per aggrieved employee for the initial pay period
19 where a violation occurs and one thousand dollars (\$1,000) per aggrieved
20 employee for violations in subsequent pay periods.
- 21 c. Pursuant to Labor Code § 558(a), "[a]ny employer or other person acting
22 on behalf of an employer who violates, or causes to be violated, a section
23 of this chapter or any provision regulating hours and days of work in any
24 order of the Industrial Welfare Commission," including Labor Code §§ 510
25 and 512, shall be subject to a civil penalty, in addition to any other penalty
26 provided by law, of fifty dollars (\$50) for initial violations for each
27 underpaid employee for each pay period for which the employee was
28 underpaid and one hundred dollars (\$100) for each subsequent violation for

1 each underpaid employee for each pay period for which the employee was
2 underpaid. In addition, PLAINTIFF seek civil penalties in the amount
3 sufficient to recover unpaid wages owed to aggrieved employees pursuant
4 to Labor Code § 558(a).

5 d. Pursuant to Labor Code § 1174.5, for violations of Labor Code § 1174(d),
6 DEFENDANTS are subject to a civil penalty of five hundred dollars
7 (\$500).

8 e. Pursuant to Labor Code § 1197.1, an employer who pays or causes to be
9 paid to any employee a wage less than the minimum fixed by an order of
10 the commission, shall be subject to a civil penalty as follows: for any initial
11 violation that is intentionally committed, one hundred dollars (\$100) for
12 each underpaid employee for each pay period for which the employee is
13 underpaid; and for each subsequent violation of the same offense, two
14 hundred fifty dollars (\$250) for each underpaid employee for each pay
15 period for which the employee is underpaid regardless of whether the
16 initial violation was intentionally committed.

17 42. Labor Code § 2699(f) provides that for all Labor Code violations for which a civil
18 penalty is not specifically provided, the following civil penalties are established: one hundred
19 dollars (\$100) for each aggrieved employee per pay period for the initial violation and two
20 hundred dollars (\$200) for each aggrieved employee per pay period for each subsequent violation.
21 PLAINTIFF seek such civil penalties under Labor Code § 2699(f) for DEFENDANTS' violations
22 of Labor Code provisions for which a civil penalty is not specifically provided, including but not
23 limited to Labor Code §§ 201, 202, 203, 226.7, 1194, 1197, 1198, and 2802.

24 43. PLAINTIFF additionally seek reasonable attorney's fees and costs pursuant to
25 Labor Code § 2699(g)(1).

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4. For such further relief that the Court may deem just and proper.

MATERN LAW GROUP, PC

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GIANNINA FRANCISCO, individually and
on behalf of all other aggrieved employees

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DATED: March 5, 2020

MATERN LAW GROUP, PC

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