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Superior Court of California
County of Stanislaus
Clerk of the Court
By: Joshua Teixeira, Deputy

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SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF STANISLAUS

ANA ARREOLA, as an individual and on
behalf of all others similarly situated,

Plaintiffs,

vs.

RESTORATION HARDWARE, INC., a
Delaware corporation; and DOES 1
through 50, inclusive,

Defendants.

Case No.: CV20-002386

FIRST AMENDED COMPLAINT FOR:

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

DEMAND OVER \$25,000.00

Dennis S. Hyun (State Bar No. 224240)
HYUN LEGAL, APC
515 S. Figueroa Street, Suite 1250
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1 Plaintiff Ana Arreola (“Plaintiff”) hereby submits this First Amended Complaint
2 (“Complaint”) against Defendants Restoration Hardware, Inc. and Does 1 through 50
3 (hereinafter collectively referred to as “Defendants”) as a proxy for the State of California on
4 behalf of all similarly aggrieved employees for penalties pursuant to the Private Attorneys
5 General Act (the “PAGA”) as follows:

6 **JURISDICTION AND VENUE**

7 1. This PAGA action is within the Court’s jurisdiction under California Labor Code
8 §§ 201-204, 226, 510, 558, 1194, 1197, and 1197.1, 2698, *et seq.* and the applicable Wage
9 Orders of the California Industrial Welfare Commission (the “IWC”).

10 2. Venue is proper in Stanislaus County because Plaintiff is a resident of this County
11 and performed work for Defendant at its Distribution Center/Warehouse in Patterson, California,
12 which is located in this County.

13 **PARTIES**

14 3. In or around November of 2019, Plaintiff was hired by Defendant to work as a
15 shipping auditor. On or about April 6, 2020, Plaintiff was laid off. Plaintiff worked for
16 Defendants in Patterson, California.

17 4. Defendant is a retail company which operates retail stores and distribution
18 centers/warehouses throughout the United States, including in the State of California.

19 5. Plaintiff was and is the victim of the policies, practices, and customs of
20 Defendants complained of in this action in ways that have deprived her of the rights guaranteed
21 by California Labor Code §§ 201-204, 226, 510, 558, 1194, 1197, 1197.1, 2698, *et seq.*, and the
22 UCL.

23 6. Plaintiff is informed and believes, and based thereon alleges, that at all times
24 herein mentioned Defendant and Does 1 through 50, are and were corporations, business entities,
25 individuals, and partnerships, licensed to do business and actually doing business in the State of
26 California. As such, and based upon all the facts and circumstances incident to Defendants’
27 business, Defendants are subject to California Labor Code §§ 201-204, 226, 510, 558, 1194,
28 1197, 1197.1, 2698, *et seq.*, and the UCL.

1 7. Plaintiff does not know the true names or capacities, whether individual, partner
2 or corporate, of the Defendant sued herein as Does 1 through 50, inclusive, and for that reason,
3 said Defendants are sued under such fictitious names, and Plaintiff prays for leave to amend this
4 complaint when the true names and capacities are known. Plaintiff is informed and believes and
5 based thereon alleges that each of said fictitious Defendants was responsible in some way for the
6 matters alleged herein and proximately caused Plaintiff and similarly aggrieved employees to be
7 subject to the illegal employment practices complained of herein.

8 8. At all times herein mentioned, each of said Defendants participated in the doing
9 of the acts hereinafter alleged to have been done by the named Defendants; and furthermore, the
10 Defendants, and each of them, were the agents, servants and employees of each of the other
11 Defendants, as well as the agents of all Defendants, and at all times herein mentioned, were
12 acting within the course and scope of said agency and employment.

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

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

23 11. At all times herein mentioned, the acts and omissions of various Defendants, and
24 each of them, concurred and contributed to the various acts and omissions of each and all of the
25 other Defendants in proximately causing the violations as herein alleged. At all times herein
26 mentioned, Defendants, and each of them, ratified each and every act or omission complained of
27 herein. At all times herein mentioned, Defendants, and each of them, aided and abetted the acts
28 and omissions of each and all of the other Defendants in proximately causing the violations as

herein alleged.

FIRST CAUSE OF ACTION

VIOLATION OF LABOR CODE § 2698, *ET SEQ.*

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

12. Plaintiff re-alleges and incorporates by reference paragraphs 1 through 11 as though fully set forth herein.

13. Plaintiff brings this cause of action as a proxy for the State of California and in this capacity, seeks penalties on behalf of all Aggrieved Employees from April 30, 2019, through the present, for Defendant's policy and practice of (a) failing to provide accurate itemized wage statements in violation of Labor Code § 226(a); (b) failing to pay employees wages for all hours worked, including minimum and overtime wages, for time spent undergoing security checks after they were clocked-out in violation of Labor Code §§ 204, 510, 558, 1194, 1197, and 1197.1; (c) violating Labor Code §§ 201-203 by failing to pay all wages owed and due to employees within the time requirements set forth in these statutes. As with all other non-exempt employees in the State of California who worked at and/or out of Distribution Centers/Warehouses, Plaintiff was required to undergo security checks after she clocked-out, *i.e.*, being required to clock-out and undergo the security check after Plaintiff's shift ended. Although Plaintiff was required to stay at work to undergo these checks, Plaintiff was not paid any wages, including applicable minimum and/or overtime wages, for these security checks. Although it is well-settled that Defendants should have paid applicable wages for time spent in these security checks, Defendants failed to do so. Thus, Plaintiff seeks penalties on behalf of the State and all similarly aggrieved non-exempt employees for the violations of Labor Code §§ 201, 202, 203, 204, 226, 510, 558, 1194, 1197, and 1197.1.

14. On or about April 30, 2020, Plaintiff sent written notice to the California Labor & Workforce Development Agency ("LWDA") of Defendants' violations of Labor Code sections 201, 202, 203, 204, 226, 510, 558, 1194, 1197, and 1197.1, pursuant to Labor Code section 2698, *et seq.*, the Private Attorney General Act ("PAGA"). To date, the LWDA has not responded to

1 Plaintiff's written notice.

2 15. As such, pursuant to Labor Code section 2699(a), Plaintiff seeks recovery of any
3 and all applicable civil penalties for Defendants' violation of Labor Code sections 201, 202, 203,
4 204, 226, 226.3, 510, 558, 1194, 1197, and 1197.1 for the time period described above, on behalf
5 of himself and other Aggrieved Employees.

6 **PRAYER FOR RELIEF**

7 WHEREFORE, Plaintiff prays for judgment on behalf of the State of California and all
8 similarly aggrieved employees on whose behalf this suit is brought against Defendants, jointly
9 and severally, as follows:

- 10 1. Upon the First Cause of Action, for civil penalties according to proof pursuant to
11 Labor Code sections 226.3 and 2698, *et seq.*, and for costs and attorneys' fees;
12 2. On all causes of action for attorneys' fees and costs as provided by California
13 Labor Code § 2699, and Code of Civil Procedure § 1021.5; and
14 3. For such other and further relief the Court may deem just and proper.

15
16 DATED: December 8, 2020

DIVERSITY LAW GROUP, P.C.

17
18 By: 

Larry W. Lee

19 Attorneys for Plaintiff
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1 **PROOF OF SERVICE**

2 **(Code of Civil Procedure Sections 1013a, 2015.5)**

3
4 STATE OF CALIFORNIA]
5 COUNTY OF LOS ANGELES]ss.
6]

7 I am employed in the County of Los Angeles, State of California. I am over the age of
8 18 and not a party to the within action; my business address is 515 S. Figueroa Street, Suite
9 1250, Los Angeles, California 90071.

10 On December 8, 2020, I served the following document(s) described as: **FIRST
11 AMENDED COMPLAINT** on the interested parties in this action as follows:

12 Aaron Lubeley
13 Seyfarth Shaw LLP
14 601 South Figueroa Street, Suite 3300
15 Los Angeles, CA 90017-5793
16 *Attorney for Restoration Hardware, Inc.*

17 X BY MAIL: by placing _____ the original or X a true and correct
18 copy thereof enclosed, in (a) sealed envelope(s) addressed to the party(ies) listed above or on the
19 attached mailing list. I am readily familiar with the firm's practice for collection and processing
20 of correspondence and other materials for mailing with the United States Postal Service. On this
21 date, I sealed the envelope(s) containing the above materials and placed the envelope(s) for
22 collection and mailing on this date at the address above following our office's ordinary business
23 practices. The envelope(s) will be deposited with the United States Postal Service on this date,
24 in the ordinary course of business.

25 I declare under penalty of perjury under the laws of the State of California that the
26 above is true and correct. Executed on December 8, 2020, at Los Angeles, California.

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Erika Mejia