

MICHELLE KENNEDY
310.712.8146 Direct
Michelle.Kennedy@capstonelawyers.com

May 11, 2020

VIA ONLINE SUBMISSION

California Labor & Workforce Development Agency
ATTN: PAGA Administrator
(<https://dir.tfaforms.net/266>)

Subject: *Anthony Starks v. Wal-Mart Associates, Inc., et al.*

Dear PAGA Administrator:

This office represents Anthony Starks in connection with his claims under the California Labor Code, and this letter is sent in compliance with the notice requirements of the California Labor Code Private Attorneys General Act, California Labor Code section 2699.3. Mr. Starks was an employee of either WAL-MART ASSOCIATES, INC.; SAM'S WEST, INC.; and/or WALMART, INC. For purposes of this letter, Mr. Starks collectively refers to these entities as "SAM'S CLUB."

Mr. Starks believes that his employer is one of the entities listed below, and that they can be contacted at the addresses listed below:

WAL-MART ASSOCIATES, INC.
708 SW 8TH STREET
BENTONVILLE AR 72716

SAM'S WEST, INC.
708 SW 8TH STREET
BENTONVILLE AR 72716

WALMART, INC.
708 SW 8TH STREET
BENTONVILLE AR 72716

Mr. Starks intends to seek civil penalties, attorney's fees, costs, and other available relief for violations of the California Labor Code, which are recoverable under sections 2698, *et seq.*, the Labor Code Private Attorneys General Act of 2004 ("PAGA"). Mr. Starks seeks relief on behalf of himself, the State of California, and other persons who were employed by SAM'S CLUB in California as a non-exempt, hourly paid employee and who received at least one wage statement ("aggrieved employees").

Mr. Starks worked for SAM'S CLUB as an hourly paid, non-exempt employee from approximately August 2017 to July 2019. Mr. Starks worked for SAM'S CLUB as a Cashier at the Sam's Club store located in Palmdale, California. During his employment, Mr. Starks typically worked six (7) to seven (7) hours per day, five (5) to six (6) days per week, from 1:00 p.m. to 8:00 p.m. At the time his employment ended, Mr. Starks earned \$13.00 per hour. His job duties included, without limitation, processing purchases, providing customer service, packing items, and cleaning his work area.

SAM'S CLUB committed one or more of the following Labor Code violations against Mr. Starks, the facts and theories of which follows, making him an "aggrieved employee" pursuant to California Labor Code section 2699(c):¹

SAM'S CLUB's Company-Wide and Uniform Payroll and HR Practices

WAL-MART ASSOCIATES, INC.; SAM'S WEST, INC.; and WALMART, INC. are Arkansas corporations, with their principal place of business and corporate headquarters located in Bentonville, Arkansas. Together, they operate retail warehouse giants Wal-Mart and Sam's Club. Upon information and belief, SAM'S CLUB maintains a centralized Human Resources (HR) department at its corporate headquarters in Bentonville, Arkansas, which implements uniform, standardized policies and practices affecting all of its non-exempt, hourly paid employees in California, including Mr. Starks and other aggrieved employees. At all relevant times, SAM'S CLUB issued and maintained uniform, standardized scheduling and timekeeping practices and procedures for all non-exempt, hourly paid employees in California, including Mr. Starks and other aggrieved employees, regardless of their location or position.

On information and belief, SAM'S CLUB maintains a centralized Payroll department at its corporate headquarters, which processes payroll for all its non-exempt, hourly paid employees in California, including Mr. Starks and other aggrieved employees. SAM'S CLUB also issues uniformly formatted wage statements to all non-exempt, hourly paid employees in California, including Mr. Starks and other aggrieved employees, irrespective of their location or position. SAM'S CLUB processes payroll for non-exempt, hourly paid employees in the same manner throughout California, and the same methods and formulas were used to calculate wages due to Mr. Starks and other aggrieved employees in California.

Violation of California Labor Code §§ 510 and 1198 – Unpaid Overtime

California Labor Code sections 510 and 1198 and the applicable Industrial Welfare Commission ("IWC") Wage Order require employers to pay employees working more than eight (8) hours in a day or more than forty (40) hours in a workweek at the rate of time-and-one-half (1½) times the regular rate of pay for all hours worked in excess of eight (8) hours in a day or more than forty (40) hours in a workweek. The applicable IWC Wage Order further provides that employers are required to pay

¹ These facts, theories, and claims are based on Mr. Starks's experience and counsel's review of those records currently available relating to Mr. Starks's employment. Discovery conducted in litigation of wage and hour claims such as these often reveals additional claims that the aggrieved employee was not initially aware of (because the aggrieved employee was not aware of the law's requirements, the employer misinformed its employee of the law's requirements, or because the employer effectively hid the violations). Thus, Mr. Starks reserves the right to supplement this letter with additional facts, theories, and claims if he becomes aware of them subsequent to the submission of this letter.

employees working more than twelve (12) hours in a day overtime compensation at a rate of two (2) times their regular rate of pay. An employee's regular rate of pay includes all remuneration for employment paid to, or on behalf of, the employee, including nondiscretionary bonuses and incentive pay.

SAM'S CLUB willfully failed to pay all overtime wages owed to Mr. Starks and other aggrieved employees. During the relevant time period, Mr. Starks and other aggrieved employees were not paid overtime premiums for all of the hours they worked in excess of eight (8) hours in a day, in excess of twelve (12) hours in a day, and/or in excess of forty (40) hours in a week, because all hours that they worked were not recorded.

First, on information and belief, SAM'S CLUB also has a company-wide policy of staffing its retail store/warehouse locations strictly based on a labor budget set by the corporate office. SAM'S CLUB's use of labor budgets resulted in chronic understaffing, such that there were too few employees on duty to handle the workload and provide uninterrupted meal period coverage. As a result of SAM'S CLUB's systemic utilization of labor budgets, Mr. Starks and other aggrieved employees were not provided adequate meal period coverage to allow them to be relieved of their duties for compliant meal periods and/or were required to perform pre-shift and/or post-shift work while off-the-clock to meet supervisor and customer demands. For example, Mr. Starks had his meal periods interrupted to respond to management inquiries regarding work-related matters several times per month.

Further, on information and belief, because SAM'S CLUB frowned upon employees accruing meal period penalties, SAM'S CLUB pressured Mr. Starks and other aggrieved employees to clock out for meal periods and/or adjusted employee time records to reflect compliant meal periods, regardless of whether they had received a compliant meal period or not, in order to strictly limit meal penalties that SAM'S CLUB would otherwise owe. Consequently, Mr. Starks and other aggrieved employees performed work during meal periods for which they were not paid.

Second, SAM'S CLUB's staffing policies required other aggrieved employees to perform work duties prior to clocking in for their shifts, during meal periods, and after clocking out at the end of their shifts. For example, SAM'S CLUB had a policy requiring that two (2) employees be on the sales floor in the tire and battery center at all times. However, SAM'S CLUB did not staff a sufficient number of employees to both allow for two (2) employees to be on the floor at all times and provide adequate meal period coverage. Thus, other aggrieved employees were required to perform work during their unpaid meal periods because they would be the only mechanic on staff to respond to customer questions and perform certain repairs.

Moreover, SAM'S CLUB also had a company-wide policy and/or practice of requiring other aggrieved employees to carry company-issued radios and respond to any calls at all times during their shifts. SAM'S CLUB required that other aggrieved employees be available via radio at all times, including during their unpaid meal periods.

Third, SAM'S CLUB has and continues to have a company-wide loss prevention policy requiring employees to undergo mandatory security checks before leaving the premises. Specifically, other aggrieved employees were required to clock out and then wait to undergo security screenings, performed by one of the store's Greeters, before leaving the store at the end of a shift or at the beginning of a meal period. For example, other aggrieved employees were required to spend time waiting to undergo a security check after clocking out at the end of the shift or at the beginning of a

meal period before SAM'S CLUB permitted them to leave the premises. Once other aggrieved employees clocked out, they would then have to traverse the store from where the timeclock was located to the exit and then undergo a security check. But because SAM's CLUB's Greeters were also tasked with greeting and assisting incoming customers, monitoring departing customers, and checking customer receipts, a Greeter was not always available to immediately perform a security screening when an employee was ready to leave. Although SAM'S CLUB's requirement that other aggrieved employees undergo security checks prior to exiting the store was mandatory, SAM'S CLUB did not compensate other aggrieved employees for the time spent waiting for and undergoing security checks.

Fourth, SAM'S CLUB required other aggrieved employees to work both before and after their shifts traveling to SAM'S CLUB's retail store/warehouse locations or hardware stores to pick up parts and supplies. For example, other aggrieved employees were required to drive and transport inventory between SAM'S CLUB's retail stores/warehouses or pick up parts that retail stores/warehouses needed from hardware stores. However, SAM'S CLUB did not compensate other aggrieved employees for time spent traveling to other SAM'S CLUB's retail warehouses or hardware stores to pick up parts and supplies. SAM'S CLUB also had a company-wide policy of requiring other aggrieved employees to complete tasks from home while off-the-clock, such as communicating with co-workers, supervisors, and customers about servicing vehicles and mechanical issues related to customers' vehicles, but were not compensated for this time.

SAM'S CLUB knew or should have known that as a result of its policies, Mr. Starks and other aggrieved employees were performing their assigned duties during their meal periods and/or before and after their scheduled shifts, and were suffered or permitted to perform work for which they were not paid. SAM'S CLUB also knew or should have known that they did not compensate Mr. Starks and other aggrieved employees applicable overtime rates of pay for overtime hours that they worked.

Because Mr. Starks and other aggrieved employees worked shifts of eight (8) hours a day or more or forty (40) hours a week or more, some of this off-the-clock work qualified for overtime premium pay. Therefore, Mr. Starks and other aggrieved employees were not paid overtime wages for all of the overtime hours they actually worked. SAM'S CLUB's failure to pay Mr. Starks and other aggrieved employees the balance of overtime compensation, as required by California law, violates the provisions of California Labor Code sections 510 and 1198.

Furthermore, SAM'S CLUB did not pay Mr. Starks and other aggrieved employees the correct overtime rate for the recorded overtime hours that they generated. In addition to an hourly wage, SAM'S CLUB also paid Mr. Starks and other aggrieved employees nondiscretionary bonuses, incentive pay, and/or other forms of remuneration. For example, Mr. Starks and other aggrieved employees were entitled to annual nondiscretionary bonuses based on overall store performance. However, in violation of the California Labor Code, SAM'S CLUB failed to incorporate all remunerations, including incentive pay and/or other nondiscretionary bonuses, into the calculation of the regular rate of pay for purposes of calculating the overtime wage rate. Therefore, during times when Mr. Starks and other aggrieved employees worked overtime and received these other forms of remuneration, SAM'S CLUB failed to pay all overtime wages by paying a lower overtime rate than required.

Mr. Starks and other aggrieved employees are entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 558 and/or 2699(a), (f)-(g).

Violation of California Labor Code §§ 1182.12, 1194, 1197, 1197.1, and 1198 – Unpaid Minimum Wages

California Labor Code sections 1182.12, 1194, 1197, 1197.1, and 1198 require employers to pay employees the minimum wage fixed by the IWC. The payment of a lesser wage than the minimum so fixed is unlawful. Compensable work time is defined by the applicable wage order as “the time during which an employee is subject to the control of an employer, and includes all the time the employee is suffered or permitted to work, whether or not required to do so.” Cal. Code. Regs. tit. 8, § 11070(2)(G) (defining “Hours Worked”).

As set forth above, due to SAM’S CLUB’s company-wide policies, including labor budgets, understaffing, and resultant lack of meal period coverage, Mr. Starks and other aggrieved employees were impeded and prevented from taking uninterrupted, duty-free meal periods. In addition, SAM’S CLUB required other aggrieved employees to wait to undergo mandatory security checks while off-the-clock, but did not compensate them for the time spent waiting and undergoing these security checks. As also stated, SAM’S CLUB required that other aggrieved employees perform some of their duties off-the-clock before and after their scheduled shifts and to carry radios on their persons at all times while on SAM’S CLUB’s premises, including during unpaid meal periods.

Furthermore, during the relevant time period, SAM’S CLUB maintained and implemented a company-wide policy of requiring employees travel to a medical facility on their own time and using their own personal vehicles to undergo mandatory drug testing and/or physical examinations. At all times, SAM’S CLUB was in control of scheduling the date and time for the testing and/or physical examinations, selecting the provider/facility where the testing and/or physical examinations were to take place, and determining the scope of the testing and/or physical examinations. For example, SAM’S CLUB instructed Mr. Starks to undergo a drug test, and Mr. Starks underwent the testing and examination for the sole benefit of SAM’S CLUB. Mr. Starks followed the instruction of SAM’S CLUB and traveled to the designated medical facility in Palmdale, California. Mr. Starks spent 5 minutes driving to the medical facility designated by SAM’S CLUB, 30 minutes waiting, 10 minutes undergoing the requisite testing, and 5 minutes driving home from the facility. However, SAM’S CLUB did not compensate Mr. Starks and other aggrieved employees for the travel time they to and from the medical facility or for the time they spent undergoing the drug testing and/or physical examinations.

Thus, SAM’S CLUB did not pay at least minimum wages for off-the-clock hours that qualified for overtime premium payment. To the extent that these off-the-clock hours did not qualify for overtime premium payment, SAM’S CLUB did not pay at least minimum wages for those hours worked off-the-clock in violation of California Labor Code sections 1182.12, 1194, 1197, 1197.1, and 1198. Accordingly, SAM’S CLUB regularly failed to pay at least minimum wages to Mr. Starks and other aggrieved employees for all of the hours they worked in violation of California Labor Code sections 1182.12, 1194, 1197, 1197.1, and 1198.

Mr. Starks and other aggrieved employees are therefore entitled to recover civil penalties, attorney’s fees, costs, and interest thereon, pursuant to Labor Code sections 1197.1 and/or 2699(a), (f)-(g).

Violation of California Labor Code §§ 226.7, 512(a), 516, and 1198 – Failure to Provide Meal Periods

California Labor Code sections 226.7, 512(a), 516, and 1198 and the applicable IWC Wage Order require employers to provide meal and rest periods and to pay an employee one (1) additional hour of pay at the employee's regular rate for each work day that a meal or rest period is not provided.

Pursuant to Labor Code sections 226.7 and 512(a) and the applicable IWC Wage Order, an employer may not require, cause or permit an employee to work for a period of more than five (5) hours per day without providing the employee with an uninterrupted meal period of not less than thirty (30) minutes, except that if the total work period per day of the employee is not more than six (6) hours, the meal period may be waived by mutual consent of both the employer and the employee. Under California law, first meal periods must start after no more than five hours. *Brinker Rest. Corp. v. Superior Court*, 53 Cal. 4th 1004, 1041-1042 (Cal. 2012). Labor Code sections 226.7 and 512(a) and the applicable IWC Wage Order also require employers to provide a second meal period of not less than thirty (30) minutes if an employee works over ten (10) hours per day or to pay an employee one (1) additional hour of pay at the employee's regular rate, except that if the total hours worked is no more than twelve (12) hours, the second meal period may be waived by mutual consent of the employer and the employee only if the first meal period was not waived.

As mentioned above, SAM'S CLUB's systemic understaffing arising from its company-wide use of labor budgets and limited staffing policies, and failure to provide adequate meal period coverage, prevented Mr. Starks and other aggrieved employees from taking compliant meal periods. Mr. Starks and other aggrieved employees had their meal periods interrupted to return to work and/or waited extended periods of time before taking meal periods in order to attend to customers needing assistance. Further, as stated above, because SAM'S CLUB had a policy that two associates be on the tire and battery sales floor at all times, and would only schedule three (3) employees in the department, other aggrieved employees would often be forced to work in excess of five (5) hours before taking a meal period and/or miss their meal period altogether to ensure that two (2) employees were on the floor at all times. And, when there was only one mechanic on duty, other aggrieved employees were required to answer phone calls from customers and assist co-workers with making repairs to customer vehicles during their unpaid meal periods. Moreover, as stated, other aggrieved employees were assigned company-issued radios and were expected to carry and keep them on while on SAM'S CLUB's premises, including during unpaid meal periods.

Additionally, on information and belief, because SAM'S CLUB frowned upon employees accruing meal period penalties, SAM'S CLUB's management would adjust Mr. Starks's and other aggrieved employees' time records and/or pressured employees to clock out for meal periods to reflect compliant meal periods, regardless of whether they had received a compliant meal period or not, in order to strictly limit meal penalties that would need to be paid by SAM'S CLUB.

As a result of SAM'S CLUB's practices and/or policies, Mr. Starks and other aggrieved employees were forced to work in excess of five (5) hours before taking a meal period and, at times, had their meal periods interrupted, and/or had to forgo their meal periods altogether. For example, several times per month, Mr. Starks worked in excess of five (5) hours without being permitted to take a meal period.

Further, SAM'S CLUB did not provide other aggrieved employees with second 30-minute meal periods on days that they worked in excess of ten (10) hours in one day. Other aggrieved employees worked shifts in excess of ten (10) hours without receiving an uninterrupted second 30-minute meal

period. Mr. Starks and other aggrieved employees did not sign valid meal period waivers on days that they were entitled to meal periods and were not relieved of all duties.

SAM'S CLUB knew or should have known that as a result of its policies, Mr. Starks and other aggrieved employees were not actually relieved of all duties to take timely, uninterrupted meal periods. SAM'S CLUB further knew or should have known that it did not pay Mr. Starks and other aggrieved employees meal period premium wages when meal periods were missed, late, short, and/or interrupted because SAM'S CLUB engaged in a practice of altering employee time records to reflect compliant meal periods, even if none were taken.

SAM'S CLUB also engaged in a systematic, company-wide policy of not paying all meal period premiums owed when compliant meal periods were not provided. Because of this practice and/or policy, Mr. Starks and other aggrieved employees did not receive premium pay for missed, late, and interrupted meal periods. Alternatively, to the extent that SAM'S CLUB did pay Mr. Starks and other aggrieved employees meal period premium wages, it did so at the incorrect rates. Because SAM'S CLUB did not properly calculate Mr. Starks's and other aggrieved employees' regular rates of pay for purposes of paying premium wages by including all remunerations, such as incentive pay and/or nondiscretionary bonuses, any premiums paid for meal period violations were also paid at an incorrect rate and resulted in an underpayment of meal period premium wages.

Accordingly, SAM'S CLUB failed to provide all meal periods in violation of California Labor Code sections 226.7, 512(a), 516, and 1198. Mr. Starks and other aggrieved employees are therefore entitled to civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 558 and/or 2699(a), (f)-(g).

Violation of California Labor Code §§ 226.7, 516, and 1198 – Failure to Authorize and Permit Rest Periods

California Labor Code section 226.7 provides that no employer shall require an employee to work during any rest period mandated by an applicable order of the California IWC. The applicable IWC Wage Order provides that “[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 period” and that the “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” unless the total daily work time is less than three and one-half (3½) hours.

To comply with its obligation to authorize and permit rest periods under California Labor Code section 226.7 and the applicable IWC Wage Order, an employer must “relinquish any control over how employees spend their break time, and relieve their employees of all duties — including the obligation that an employee remain on call. A rest period, in short, must be a period of rest.” *Augustus, et al. v. ABM Security Services, Inc.*, 2 Cal. 5th 257, 269-270 (2016).

During the relevant time period, SAM'S CLUB regularly failed to authorize and permit Mr. Starks and other aggrieved employees to take a ten (10) minute rest period per each four (4) hour period worked or major fraction thereof. As with meal periods, SAM'S CLUB's labor budget policies and resultant understaffing of its retail store/warehouse locations also prevented Mr. Starks and other aggrieved employees from being relieved of all duties to take compliant rest periods. Additionally,

SAM'S CLUB had no policy of scheduling rest periods for employees, which further impeded and prevented Mr. Starks and other aggrieved employees from taking rest periods.

As a result of SAM'S CLUB's understaffing and failure to schedule rest periods, Mr. Starks and other aggrieved employees worked shifts in excess of 3.5 hours, in excess of 6 hours, and in excess of 10 hours without receiving all uninterrupted 10-minute rest periods to which they were entitled. For example, Mr. Starks missed rest periods on at least 5 occasions due to workload and lack of coverage, and his supervisors asked him to cut his rest breaks short on several occasions to assist with customers. Moreover, other aggrieved employees were routinely forced to work through rest periods to assist co-workers and customers. Other aggrieved employees were also assigned company-issued radios and were expected to carry and keep them on while clocked in for their shifts, including during rest periods.

Additionally, upon information and belief, SAM'S CLUB maintained and implemented a company-wide on-premises rest period policy, which mandated that Mr. Starks and other aggrieved employees remain on SAM'S CLUB's premises during their rest periods. Because Mr. Starks and other aggrieved employees were restricted from leaving SAM'S CLUB's premises during rest periods, they were denied the ability to use their rest periods freely for their own purposes. Thus, SAM'S CLUB effectively maintained control over Mr. Starks and other aggrieved employees during rest periods, and, as a result of this rest period policy, SAM'S CLUB did not relinquish control over Mr. Starks and other aggrieved employees during rest periods.

SAM'S CLUB also has engaged in a company-wide practice and/or policy of not paying all rest period premiums owed when compliant rest periods are not authorized and permitted. Because of this practice and/or policy, Mr. Starks and other aggrieved employees have not received premium pay for all missed rest periods. Alternatively, to the extent that SAM'S CLUB did pay rest period premium wages to Mr. Starks and other aggrieved employees, it did so at the incorrect rates. Because SAM'S CLUB did not properly calculate Mr. Starks's and other aggrieved employees' regular rates of pay by including all forms of compensation, such as incentive pay, nondiscretionary bonuses, and/or other forms of remuneration, any premiums paid for rest period violations were also paid at an incorrect rate and resulted in an underpayment of rest period premium wages.

Accordingly, SAM'S CLUB failed to authorize and permit all rest periods in violation of California Labor Code sections 226.7, 516, and 1198. Mr. Starks and other aggrieved employees are therefore entitled to civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 558 and/or 2699(a), (f)-(g).

Violation of California Labor Code §§ 226(a), 1174(d), and 1198 – Non-Compliant Wage Statements and Failure to Maintain Accurate Payroll Records

California Labor Code section 226(a) requires employers to furnish and maintain true, accurate and complete wage statements and employment records. SAM'S CLUB has not provided Mr. Starks and other aggrieved employees with compliant wage statements. Labor Code section 226(e) provides that if an employer fails to comply with providing an employee with properly itemized wages statements as set forth in 226(a), then the employee is entitled to recover the greater of all actual damages or \$50 for the initial pay period in which a violation occurs and \$100 per employee for each violation in a subsequent pay period, not to exceed \$4,000. Further, Labor Code section 226.3 provides that any employer who violates section 226(a) shall be subject to a civil penalty in the amount of \$250 per employee per violation in an initial citation and \$1,000 per employee for each violation in a

subsequent citation, for which the employer fails to provide the employee a wage statement or fails to keep the required records pursuant to Section 226(a).

During the relevant time period, SAM'S CLUB has knowingly and intentionally provided Mr. Starks and other aggrieved employees with uniform, incomplete, and inaccurate wage statements. For example, SAM'S CLUB issued uniform wage statements to Mr. Starks and other aggrieved employees that fail to correctly list: gross wages earned; total hours worked; net wages earned; the last four digits of the employee's social security number or an employee identification number other than a social security number; the inclusive dates of the period for which employees were paid; the correct address of the legal entity that is the employer; and all applicable hourly rates in effect during the pay period, including overtime rates of pay, and the corresponding number of hours worked at each hourly rate. Specifically, SAM'S CLUB violated sections 226(a)(1), 226(a)(2), 226(a)(5), 226(a)(6), 226(a)(8), and 226(a)(9).

Because SAM'S CLUB did not record the time Mr. Starks and other aggrieved employees spent working off-the-clock and deducted time from their records for meal periods that were interrupted and/or missed (and therefore time for which they should have been paid), SAM'S CLUB did not list the correct amount of gross wages and net wages earned by Mr. Starks and other aggrieved employees, in compliance with section 226(a)(1) and 226(a)(5), respectively. For the same reason, SAM'S CLUB failed to accurately list the total number of the hours worked by Mr. Starks and other aggrieved employees, in violation of section 226(a)(2), and failed to list the applicable hourly rates of pay in effect during the pay period and the corresponding accurate number of hours worked at each hourly rate, in violation of section 226(a)(9).

Further, because SAM'S CLUB did not calculate Mr. Starks's and other aggrieved employees' regular rate of pay correctly for purposes of paying overtime, SAM'S CLUB did not list the correct amount of gross wages earned by Mr. Starks and other aggrieved employees in compliance with section 226(a)(1) and did not list the correct amount of net wages earned by Mr. Starks and other aggrieved employees in violation of section 226(a)(5). SAM'S CLUB also failed to correctly list all applicable hourly rates in effect during the pay period, namely, correct overtime rates of pay and correct rates of pay for premium wages, in violation of section 226(a)(9).

Separate from these violations, SAM'S CLUB issued uniform wage statements to other aggrieved employees that fail to list the correct name and address of the legal entity of the actual employer, in violation of Labor Code section 226(a)(8). The purpose of section 226(a)(8) is to provide California employees with transparency as to the true identity of their employer, to allow the employee to contact their employer during employment in the future for various reasons, including, filing an administrative claim, judicial claim, or other action to seek relief against their employer, obtain unemployment benefits, etc. Other aggrieved employees' wage statements and W-2 forms list an entity named "Wal-Mart Associates, Inc." with the address of "702 S.W. 8th St., Bentonville, Arkansas 72716" which is not the address of the legal entity that employed them. However, upon information and belief, and according to Wal-Mart Associates, Inc.'s Statement of Information filed with the California Secretary of State, the correct address of Wal-Mart Associates, Inc. is "708 S.W. 8th St., Bentonville, Arkansas 72716." Adding to the confusion, SAM'S CLUB issued a Wage Theft Notice to other aggrieved employees that indicates that their employer is a different entity, "Wal-Mart Stores, Inc.," located at "702 S.W. 8th St., Bentonville, Arkansas 72716," as the employer.

Further, on information and belief, SAM'S CLUB fails to list, on their wage statements, the inclusive dates of the pay periods representing the dates other aggrieved employees worked, for which they are being paid, in violation of section 226(a)(6).

The wage statement deficiencies also include, among other things, failing to list the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis; failing to list all deductions; failing to list the name of the employee and only the last four digits of his or her social security number or an employee identification number other than a social security number; and/or failing to state all hours worked as a result of not recording or stating the hours they worked off-the-clock.

California Labor Code section 1174(d) provides that "[e]very person employing labor in this state shall ... [k]eep a record showing the names and addresses of all employees employed and the ages of all minors" and "[k]eep, at a central location in the state or at the plants or establishments at which employees are employed, payroll records showing the hours worked daily by and the wages paid to, and the number of piece-rate units earned by and any applicable piece rate paid to, employees employed at the respective plants or establishments..." Labor Code section 1174.5 provides that employers are subject to a \$500 civil penalty if they fail to maintain accurate and complete records as required by section 1174(d). During the relevant time period, and in violation of Labor Code section 1174(d), SAM'S CLUB willfully failed to maintain accurate payroll records for Mr. Starks and other aggrieved employees showing accurately the daily hours they worked and the wages paid thereto as a result of failing to record the off-the-clock hours that they worked.

California Labor Code section 1198 provides that the maximum hours of work and the standard conditions of labor shall be those fixed by the Labor Commissioner and as set forth in the applicable IWC Wage Orders. Section 1198 further provides that "[t]he employment of any employees for longer hours than those fixed by the order or under conditions of labor prohibited by the order is unlawful." Pursuant to the applicable IWC Wage Order, employers are required to keep accurate time records showing when the employee begins and ends each work period and meal period. During the relevant time period, SAM'S CLUB failed, on a company-wide basis, to keep accurate records of work period and meal period start and stop times for Mr. Starks and other aggrieved employees in violation of section 1198. As stated, SAM'S CLUB engaged in a company-wide practice and/or policy of falsifying Mr. Starks's and other aggrieved employees' time records by deducting meal periods or recording that compliant meal periods were taken regardless of if or when meal periods were actually taken, and thereby failed to keep accurate records of meal start and end times for other aggrieved employees. Furthermore, in light of SAM'S CLUB's failure to provide other aggrieved employees with all second 30-minute meal periods to which they were entitled, SAM'S CLUB did not keep accurate records of meal start and end times for second meal periods.

Because SAM'S CLUB failed to provide the correct net and gross wages earned, applicable rates of pay, and number of total hours on wage statements, Mr. Starks and other aggrieved employees have been prevented from verifying, solely from information on the wage statements themselves, that they were paid correctly and in full and were given confusing information to contact their employer. Instead, Mr. Starks and other aggrieved employees have had to look to sources outside of the wage statements themselves and reconstruct time records to determine whether in fact they were paid correctly and the extent of underpayment, thereby causing them injury.

Mr. Starks and other aggrieved employees are therefore entitled to recover civil penalties, attorney's fees, costs, and interest thereon pursuant to Labor Code sections 226.3, 1174.5, and/or 2699(a), (f)-(g).

Violation of California Labor Code § 204 – Failure to Timely Pay Wages During Employment

California Labor Code section 204 requires that all wages earned by any person in any employment between the 1st and the 15th days, inclusive, of any calendar month, other than those wages due upon termination of an employee, are due and payable between the 16th and the 26th day of the month during which the labor was performed, and that all wages earned by any person in any employment between the 16th and the last day, inclusive, of any calendar month, other than those wages due upon termination of an employee, are due and payable between the 1st and the 10th day of the following month. California Labor Code section 204 also requires that all wages earned for labor in excess of the normal work period shall be paid no later than the payday for the next regular payroll period. Alternatively, California Labor Code section 204 provides that the requirements of this section are deemed satisfied by the payment of wages for weekly, biweekly, or semimonthly payroll if the wages are paid not more than seven (7) calendar days following the close of the payroll period.

During the relevant time period, SAM'S CLUB failed to pay Mr. Starks and other aggrieved employees all wages due to them, including, but not limited to, overtime wages, minimum wages, meal and rest period premium wages, and/or reporting time pay, within any time period specified by California Labor Code section 204.

Mr. Starks and other aggrieved employees are entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 210 and/or 2699(a), (f)-(g).

Violation of California Labor Code §§ 201, 202, and 203 – Failure to Timely Pay Final Wages Upon Termination

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 that if an employee voluntarily leaves his or her employment, his or her wages shall become due and payable not later than seventy-two (72) hours thereafter, unless the employee has given seventy-two (72) hours previous 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.

During the relevant time period, SAM'S CLUB willfully failed to pay Mr. Starks and other aggrieved employees who are no longer employed by SAM'S CLUB all their earned wages, including, but not limited to, overtime wages, minimum wages, meal and rest period premium wages, and/or reporting time pay, either at the time of discharge, or within seventy-two (72) hours of their leaving SAM'S CLUB's employ in violation of Labor Code sections 201, 202, and 203.

Mr. Starks and other aggrieved employees are entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 256 and/or 2699(a), (f)-(g).

Violation of California Labor Code § 222.5 – Failure to Pay for Costs of Mandatory Physical Exams and/or Drug Testing

At all times herein set forth, California Labor Code section 222.5 requires employers to pay for the costs an employee incurs for obtaining any medical or physical examination.

During the relevant time period, SAM'S CLUB implemented, on a company-wide basis, an employer-imposed requirement that Mr. Starks and other aggrieved employees undergo mandatory drug tests and/or physical examinations, but required them to do so at their own expense. As stated, SAM'S CLUB had a company-wide policy requiring that Mr. Starks and other aggrieved employees travel to a specified medical facility on their own time and use their own means of transportation to undergo drug testing and/or physical examinations. At all times, SAM'S CLUB was in control of scheduling the date and time for the drug testing and/or physical examinations, selecting the provider/facility where the drug testing and/or physical examinations were to take place, and determining the scope of the drug test and/or physical examinations.

Mr. Starks was instructed by SAM'S CLUB to travel to a designated medical facility in Palmdale, California, and obtain a drug test. Mr. Starks followed SAM'S CLUB's instructions, traveled 10 minutes roundtrip, waited 30 minutes to take the test, and spent 10 minutes undergoing the drug testing.

However, SAM'S CLUB did not compensate Mr. Starks and other aggrieved employees for the time they spent traveling to and from their drug tests and/or physical examinations, or for the time they spent undergoing the testing and/or examinations, or reimburse them for the travel expenses they incurred getting to and from the medical facilities. SAM'S CLUB policy and/or not paying for all costs Mr. Starks and other aggrieved employees incurred obtaining mandatory drug tests and/or physical examinations is in violation of California Labor Code section 222.5.

Mr. Starks and other aggrieved employees are therefore entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 2699(a), (f)-(g).

Violation of California Labor Code § 1198 and California Code of Regulations Title 8, Section 11070 Subdivision 4(C) – Failure to Pay Split-Shift Premiums

California Labor Code section 1198 provides that no employer may employ an employee under conditions of labor that are prohibited by the applicable IWC wage order. California Labor Code section 1198 further requires that “. . . the standard conditions of labor fixed by the commission shall be the . . . standard conditions of labor for employees. The employment of any employee . . . under conditions of labor prohibited by the order is unlawful.”

California Code of Regulations, Title 8, section 11070(4)(C) provides that “When an employee works a split shift, one (1) hour's pay at the minimum wage shall be paid in addition to the minimum wage for that workday, except when the employee resides at the place of employment.” California Code of Regulations, Title 8, defines a split shift as “a work schedule, which is interrupted by non-paid non-working periods established by the employer, other than bona fide rest or meal periods.”

SAM'S CLUB willfully violated California Labor Code section 1198 and California Code of Regulations, Title 8, section 11070(4)(C), because SAM'S CLUB failed to pay other aggrieved employees a split-shift premium when they returned to work for an additional shift in the same day, after having been clocked out for more than an hour. SAM'S CLUB sometimes scheduled other aggrieved employees to work double shifts separated by more than one (1) hour of time, but failed to pay them one (1) additional hour's pay at minimum wage in addition to the minimum wage for that day. Accordingly, SAM'S CLUB required other aggrieved employees to work split shifts but failed to pay them an additional hour at minimum wage in violation of California Labor Code section 1198.

SAM'S CLUB's failure to provide other aggrieved employees with split-shift pay when they returned to work for an additional shift in the same day, after having been clocked out for more than an hour, violates California Labor Code section 1198 and California Code of Regulations Title 8, Section 11070(4)(C). Other aggrieved employees are therefore entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 2699(a), (f)-(g).

Violation of California Labor Code § 1198 and California Code of Regulations Title 8, Section 11070 Subdivision 5(C) – Failure to Pay Reporting Time Pay

California Labor Code section 1198 dictates that no employer may employ an employee under conditions of labor that are prohibited by the applicable IWC wage order. California Labor Code section 1198 further requires that “. . . the standard conditions of labor fixed by the commission shall be the . . . standard conditions of labor for employees. The employment of any employee . . . under conditions of labor prohibited by the order is unlawful.”

California Code of Regulations, Title 8, section 11070(5)(A) provides that “[e]ach workday an employee is required to report for work and does report, but is not put to work or is furnished less than half said employee's usual or scheduled day's work, the employee shall be paid for half the usual or scheduled day's work, but in no event for less than two (2) hours nor more than four (4) hours, at the employee's regular rate of pay, which shall not be less than the minimum wage.” SAM'S CLUB violated California Labor Code section 1198 and California Code of Regulations, Title 8, section 11070(5), because SAM'S CLUB failed to pay other aggrieved employees reporting time pay when they reported to work for their scheduled shift but were put to work for less than half of the regular schedule.

SAM'S CLUB had a company-wide practice of sending employees home early from their shifts, including before they had worked at least half of their regular shift. For example, on occasion, other aggrieved employees would report to work, and SAM'S CLUB's management would send them home immediately within the first or second hour of work. Although other aggrieved employees would report to work based on the schedule that SAM'S CLUB provided to them, SAM'S CLUB would send them home before they had worked at least half of their scheduled shifts. Accordingly, other aggrieved employees were not properly compensated with reporting time pay in violation of California Labor Code section 1198.

Other aggrieved employees are therefore entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 2699(a), (f)-(g).

Violation of California Labor Code § 1198 and California Code of Regulations Title 8, Section 11070 Subdivision 14(A) – Failure to Provide Suitable Seating

California Labor Code section 1198 makes it illegal to employ an employee under conditions of labor that are prohibited by the applicable wage order. California Labor Code section 1198 requires that “. . . the standard conditions of labor fixed by the commission shall be the . . . standard conditions of labor for employees. The employment of any employee . . . under conditions of labor prohibited by the order is unlawful.” California Code of Regulations, Title 8, section 11070(14)(A) provides that “[a]ll working employees shall be provided with suitable seats when the nature of the work reasonably permits the use of seats.”

“The ‘nature of the work’ refers to an employee’s tasks performed at a given location for which a right to a suitable seat is claimed, rather than a ‘holistic’ consideration of the entire range of an employee’s duties anywhere on the jobsite during a complete shift. If the tasks being performed at a given location reasonably permit sitting, and provision of a seat would not interfere with performance of any other tasks that may require standing, a seat is called for.” *Kilby v. CVS Pharmacy, Inc.*, 368 P.3d 554, 558 (Cal. 2016). “Whether the nature of the work reasonably permits sitting is a question to be determined objectively based on the totality of the circumstances. An employer’s business judgment and the physical layout of the workplace are relevant but not dispositive factors. The inquiry focuses on the nature of the work, not an individual employee’s characteristics.” *Id.* The burden of proof to show suitable seating is not available is on the employer. *Id.* at 568. In other words, the employer must show that compliance is “infeasible because no suitable seating exists.” *See id.*

SAM’S CLUB’s California retail store/warehouse locations are generally similar in their layout and design and there was, and continues to be, space behind the cash wraps and at store entrances/exits to allow for the presence and use of a seat or stool by Mr. Starks and other aggrieved employees during the performance of their work duties. SAM’S CLUB could provide Mr. Starks and other aggrieved employees with a seat or stool at its cash wraps and store entrances/exits, with reasonable or no modification to these work areas, but instead denies employees seating and forces Mr. Starks and other aggrieved employees to stand throughout the day. In fact, SAM’S CLUB even states that the duties and responsibilities of its cashier and front-end associates include standing throughout their shifts. SAM’S CLUB’s lists on its website that cashiers and front-end associates are expected to “[s]tand for long periods of time while checking out customers quickly and accurately.”

Mr. Starks and other aggrieved employees spent a substantial portion of their day behind or at these cash wraps and standing at store entrances/exits. The nature of the work of an employee performing cashier, greeter, and exit security duties at cash registers or cash wraps can reasonably be accomplished from a seated position. Mr. Starks and other aggrieved employees could have operated the cash register, bagged items, processed returns, greeted customers, checked departing customer’s receipts, and provided customer service while seated without interference in their ability to complete these duties. However, as set forth herein, SAM’S CLUB systematically, and on a company-wide basis, does not provide seats or stools at or near the cash wraps and store entrances/exits, forcing Mr. Starks and other aggrieved employees to stand throughout their work shifts.

SAM’S CLUB violated California Labor Code section 1198 and California Code of Regulations, Title 8, section 11070(14)(A) because Mr. Starks and other aggrieved employees were not allowed to sit, even when the nature of their work would reasonably permit the use of seats, nor were they provided with suitable seats. SAM’S CLUB’s management did not inform Mr. Starks and other aggrieved employees that they were allowed to sit down, provide any means for them to sit down, or mention any policy regarding sitting.

As a result of SAM’S CLUB’s company-wide policy and/or practice of prohibiting employees from sitting during their shifts and company-wide failure to provide suitable seating, Mr. Starks and other aggrieved employees were forced to stand during shifts and denied seats. SAM’S CLUB’s failure to provide suitable seating to Mr. Starks and other aggrieved employees violates California Labor Code section 1198 and IWC Wage Order 7-2001, Section 14(A).

Mr. Starks and other aggrieved employees are therefore entitled to recover civil penalties, attorney’s fees, costs, and interest thereon, and seek injunctive relief to bring SAM’S CLUB into compliance

with California's seating requirements, pursuant to Labor Code sections 1194.5 and/or 2699(a), (f)-(g).

Violation of California Labor Code § 1198 and California Code of Regulations Title 8, Section 11070 Subdivision 14(B) – Failure to Provide Suitable Seating

California Labor Code section 1198 makes it illegal to employ an employee under conditions of labor that are prohibited by the applicable wage order. California Labor Code section 1198 requires that “. . . the standard conditions of labor fixed by the commission shall be the . . . standard conditions of labor for employees. The employment of any employee . . . under conditions of labor prohibited by the order is unlawful.” California Code of Regulations, Title 8, section 11070(14)(B) provides that “[w]hen employees are not engaged in the active duties of their employment and the nature of the work requires standing, an adequate number of suitable seats shall be placed in reasonable proximity to the work area and employees shall be permitted to use such seats when it does not interfere with the performance of their duties.”

The IWC states that section 14(B) applies during “lulls in operation” when an employee, while still on the job, is not then actively engaged in any duties. *Kilby v. CVS Pharmacy, Inc.*, 368 P.3d 554, 565 (Cal. 2016), citing IWC, 1976 Wage Orders, Summary of Basic Provisions, Seats. When taken together, an employee is entitled to a seat under section 14(A) if his or her actual tasks at a discrete location make seated work feasible, while working there. *Id.* However, if other job duties take the employee to a different location where he or she must perform tasks requiring standing, the employee would be entitled to a seat under section 14(B) during “lulls in operation.” *Id.*

As stated, SAM'S CLUB's California retail store/warehouse locations are generally similar in their layout and design and there was, and continues to be, space near their work areas to allow for the presence and use of a seat or stool by Mr. Starks and other aggrieved employees during lulls in operation. SAM'S CLUB could provide Mr. Starks and other aggrieved employees with a seat or stool in its work areas, with reasonable or no modification to these work areas, but instead denies employees seating and forces Mr. Starks and other aggrieved employees to stand throughout the day.

SAM'S CLUB did not provide Mr. Starks and other aggrieved employees with seats or stools in reasonable proximity to their work areas to allow them to use seats when it would not interfere with the performance of their duties for times when they were not engaged in active duties that require standing. In other words, to the extent Mr. Starks and other aggrieved employees engaged in duties in which the nature of the work required standing, SAM'S CLUB denied them the use of seats nearby during lulls in their work duties. Moreover, SAM'S CLUB did not inform Mr. Starks and other aggrieved employees of their rights to a seat or stool under California law.

As a result of SAM'S CLUB's company-wide policy and/or practice of prohibiting employees from sitting at any time, even when they were not engaged in active duties requiring standing, and company-wide failure to provide seats in reasonable proximity to their work areas, Mr. Starks and other aggrieved employees were forced to stand during shifts and denied seats. SAM'S CLUB's failure to provide suitable seating to Mr. Starks and other aggrieved employees violates California Labor Code section 1198 and IWC Wage Order 7-2001, Section 14(B).

Mr. Starks and other aggrieved employees are therefore entitled to recover civil penalties, attorney's fees, costs, and interest thereon, and seek injunctive relief to bring SAM'S CLUB into compliance

with California's seating requirements, pursuant to Labor Code sections 1194.5 and/or 2699(a), (f)-(g).

Violation of California Labor Code § 2802 – Unreimbursed Business Expenses

California Labor Code section 2802 requires employers to pay for all necessary expenditures and losses incurred by the employee in the performance of his or her job. The purpose of Labor Code section 2802 is to prevent employers from passing off their cost of doing business and operating expenses on to their employees. *Cochran v. Schwan's Home Service, Inc.*, 228 Cal. App. 4th 1137, 1144 (2014). The applicable wage order, IWC Wage Order 7-2001, provides that: "[w]hen tools or equipment are required by the employer or are necessary to the performance of a job, such tools and equipment shall be provided and maintained by the employer, except that an employee whose wages are at least two (2) times the minimum wage provided herein may be required to provide and maintain hand tools and equipment customarily required by the trade or craft."

During the relevant time period, SAM'S CLUB, on a company-wide basis, required that other aggrieved employees use their own personal cellular phones and/or cellular phone data to carry out their job duties, but SAM'S CLUB failed to reimburse them for the costs of their work-related cellular phone expenses. For example, other aggrieved employees frequently used their personal cellular phone in order to discuss work related issues with co-workers, supervisors, and, occasionally, customers. Although SAM'S CLUB required other aggrieved employees to regularly utilize their personal cellular phones to carry out work-related responsibilities, SAM'S CLUB failed to reimburse them for this cost.

Also, as mentioned, SAM'S CLUB had a company-wide policy of requiring Mr. Starks and other aggrieved employees to travel in their own personal vehicles to medical facilities to undergo mandatory drug testing, but did not reimburse them for their travel expenses. For example, as described above, Mr. Starks drove 10 minutes roundtrip to undergo drug testing per SAM'S CLUB's instructions, but was not reimbursed for his mileage to and from the medical facility. SAM'S CLUB also had a company-wide policy of requiring other aggrieved employees to use their personal vehicles to drive to neighboring SAM'S CLUB stores and hardware stores, but failed to reimburse other aggrieved employees for the use of their personal vehicles to carry out work-related duties.

SAM'S CLUB could have provided Mr. Starks and other aggrieved employees with the actual tools required for use on the job, including company phones and/or company vehicles to be used for fulfilling work-related tasks, or reimbursed employees for their cellular phone, mileage, and/or travel expenses, but instead, SAM'S CLUB passed these operating costs off onto Mr. Starks and other aggrieved employees. At all relevant times, Mr. Starks did not earn at least two (2) times the minimum wage.

Thus, SAM'S CLUB had, and continues to have, a company-wide policy and/or practice of not reimbursing employees for expenses necessarily incurred. Mr. Starks and other aggrieved employees are entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 2699(a), (f)-(g).

California Labor Code § 558(a)

California Labor Code section 558(a) provides "[a]ny employer or other person acting on behalf of an employer who violates, or causes to be violated, a section of this chapter or any provision regulating

hours and days of work in any order of the Industrial Welfare Commission shall be subject to a civil penalty as follows: (1) For any initial violation, fifty dollars (\$50) for each underpaid employee for each pay period for which the employee was underpaid . . . (2) For each subsequent violation, one hundred dollars (\$100) for each underpaid employee for each pay period for which the employee was underpaid . . .” Labor Code section 558(c) provides that “[t]he civil penalties provided for in this section are in addition to any other civil or criminal penalty provided by law.” SAM’S CLUB, at all relevant times, was an employer or person acting on behalf of an employer(s) who violated Mr. Stark’s and other aggrieved employees’ rights by violating various sections of the California Labor Code.

Accordingly, Mr. Starks seeks the remedies set forth in Labor Code section 558 for himself, the State of California, and all other aggrieved employees. Specifically, pursuant to PAGA, and in particular California Labor Code sections 1194.5, 2699(a), 2699.3(a) and 2699.3(c), 2699.5, and 558, Mr. Starks, acting in the public interest as a private attorney general, seeks assessment and collection of civil penalties and injunctive relief for himself, all other aggrieved employees, and the State of California against SAM’S CLUB for violations of California Labor Code sections 201, 202, 203, 204, 222.5, 226(a), 226.7, 510, 512(a), 516, 1174(d), 1182.12, 1194, 1197, 1197.1, 1198, and 2802.

Therefore, on behalf of all aggrieved employees, Mr. Starks seeks all applicable penalties related to these violations of the California Labor Code pursuant to PAGA.

Thank you for your attention to this matter. If you have any questions, please contact me at the phone number or address below:

Michelle Kennedy
Capstone Law APC
1875 Century Park East, Suite 1000
Los Angeles, CA 90067
(310) 556-4811

Best Regards,



Michelle Kennedy

Copy: WAL-MART ASSOCIATES, INC. (via U.S. Certified Mail); SAM’S WEST, INC. (via U.S. Certified Mail); WALMART, INC. (via U.S. Certified Mail); Mitchell A. Wrosch, Paloma P. Peracchio, Ogletree, Deakins, Nash, Smoak & Stewart, P.C., 400 S. Hope Street, 12th Floor, Los Angeles, CA 90071 (via U.S. Certified Mail)

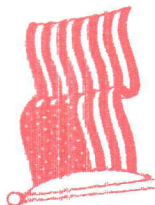
CERTIFIED MAIL®



7020 0090 0001 3768 4759

stone
LAW APC
Century Park East, Ste 1000
es, CA 90067

WAL-MART ASSOCIATES, INC.
708 SW 8TH STREET
BENTONVILLE AR 72716



SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

WAL-MART ASSOCIATES, INC.
708 SW 8TH STREET
BENTONVILLE AR 72716



9590 9402 4882 9032 7431 92

2. Article Number (Transfer from service label)

7020 0090 0001 3768 4759

PS Form 3811, July 2015 PSN 7530-02-000-9053

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X

☐ Agent
☐ Addressee

B. Received by (Printed Name)

C. Date of Delivery

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

3. Service Type

- ☐ Adult Signature
- ☒ Adult Signature Restricted Delivery
- ☒ Certified Mail®
- ☐ Certified Mail Restricted Delivery
- ☐ Collect on Delivery
- ☐ Collect on Delivery Restricted Delivery
- ☐ Insured Mail
- ☐ Insured Mail Restricted Delivery (over \$500)
- ☐ Priority Mail Express®
- ☐ Registered Mail™
- ☐ Registered Mail Restricted Delivery
- ☐ Return Receipt for Merchandise
- ☐ Signature Confirmation™
- ☐ Signature Confirmation Restricted Delivery

Domestic Return Receipt

U.S. Postal Service™
CERTIFIED MAIL® RECEIPT
Domestic Mail Only

For delivery information, visit our website at www.usps.com®.

OFFICIAL USE

Certified Mail Fee

\$ 3.50

Extra Services & Fees (check box, add fee as appropriate)

- ☒ Return Receipt (hardcopy) \$ 2.80
- ☐ Return Receipt (electronic) \$
- ☐ Certified Mail Restricted Delivery \$
- ☐ Adult Signature Required \$
- ☐ Adult Signature Restricted Delivery \$

Postage

\$ 1.63

Total Postage and Fees

\$ 7.93

Sent To

WAL-MART ASSOCIATES, INC.

Street and Apt. No., or PO Box No.
708 SW 8TH STREET

City, State, ZIP+4®
BENTONVILLE AR 72716

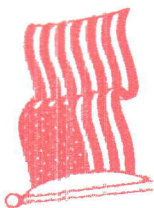
PS Form 3800, April 2015 PSN 7530-02-000-9047

See Reverse for Instructions

Postmark
Here

Starks v. Wal-Mart Associates, Inc.

7020 0090 0001 3768 4759



SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

SAM'S WEST, INC.
708 SW 8TH STREET
BENTONVILLE AR 72716



9590 9402 4882 9032 7431 85

2. Article Number (Transfer from service label)

7020 0090 0001 3768 4766

PS Form 3811, July 2015 PSN 7530-02-000-9053

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X☐ Agent☐ Addressee

B. Received by (Printed Name)

C. Date of Delivery

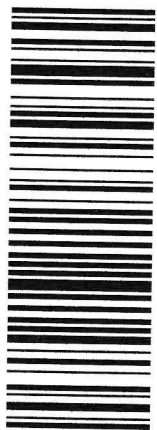
D. Is delivery address different from item 1? ☐ YesIf YES, enter delivery address below: ☐ No

3. Service Type

☐ Adult Signature☐ Adult Signature Restricted Delivery☒ Certified Mail®☐ Certified Mail Restricted Delivery☐ Collect on Delivery☐ Collect on Delivery Restricted Delivery☐ Insured Mail☐ Insured Mail Restricted Delivery (over \$500)☐ Priority Mail Express®☐ Registered Mail™☐ Registered Mail Restricted Delivery☐ Return Receipt for Merchandise☐ Signature Confirmation™☐ Signature Confirmation Restricted Delivery

Domestic Return Receipt

CERTIFIED MAIL®



7020 0090 0001 3768 4766

SAM'S WEST, INC.
708 SW 8TH STREET
BENTONVILLE AR 72716

U.S. Postal Service™

CERTIFIED MAIL® RECEIPT

Domestic Mail Only

For delivery information, visit our website at www.usps.com®.

OFFICIAL USE

Certified Mail Fee

\$ 3.50

Extra Services & Fees (check box, add fee as appropriate)

☒ Return Receipt (hardcopy) \$ 2.80☐ Return Receipt (electronic) \$☐ Certified Mail Restricted Delivery \$☐ Adult Signature Required \$☐ Adult Signature Restricted Delivery \$

Postage

\$ 1.03

Total Postage and Fees

\$ 7.93

Sent To

SAM'S WEST, INC.

Street and Apt. No., or PO Box No.

708 SW 8TH STREET

City, State, ZIP+4®

BENTONVILLE AR 72716

PS Form 3800, April 2015 PSN 7530-02-000-9047

See Reverse for Instructions

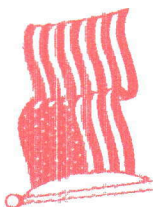
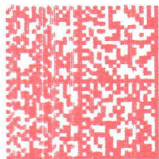
Postmark
HereStarks v. Sam's
West, Inc.

7020 0090 0001 3768 4766

stone

LAW APC

Century Park East, Ste 1000
Fresno, CA 93706



SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

WALMART, INC.
708 SW 8TH STREET
BENTONVILLE AR 72716



9590 9402 4882 9032 7431 78

2. Article Number (Transfer from service label)

7020 0090 0001 3768 4773

PS Form 3811, July 2015 PSN 7530-02-000-9053

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X☐ Agent☐ Addressee

B. Received by (Printed Name)

C. Date of Delivery

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

3. Service Type

- ☐ Adult Signature
- ☐ Adult Signature Restricted Delivery
- ☒ Certified Mail®
- ☐ Certified Mail Restricted Delivery
- ☐ Collect on Delivery
- ☐ Collect on Delivery Restricted Delivery
- ☐ Insured Mail
- ☐ Insured Mail Restricted Delivery (over \$500)

- ☐ Priority Mail Express®
- ☐ Registered Mail™
- ☐ Registered Mail Restricted Delivery
- ☐ Return Receipt for Merchandise
- ☐ Signature Confirmation™
- ☐ Signature Confirmation Restricted Delivery

Domestic Return Receipt

CERTIFIED MAIL®



7020 0090 0001 3768 4773

WALMART, INC.
708 SW 8TH STREET
BENTONVILLE AR 72716

U.S. Postal Service™
CERTIFIED MAIL® RECEIPT
Domestic Mail Only

For delivery information, visit our website at www.usps.com®.**OFFICIAL USE**

Certified Mail Fee

\$ 3.50

Extra Services & Fees (check box, add fee as appropriate)

- ☒ Return Receipt (hardcopy) \$ 2.80
- ☐ Return Receipt (electronic) \$
- ☐ Certified Mail Restricted Delivery \$
- ☐ Adult Signature Required \$
- ☐ Adult Signature Restricted Delivery \$

Postage

\$ 1.63

Total Postage and Fees

\$ 7.93

Sent To

WALMART, INC.
Street and Apt. No., or PO Box No.
708 SW 8TH STREET
City, State, ZIP+4®
BENTONVILLE AR 72716

Postmark
HereStarks v. Walmart
Inc.

PS Form 3800, April 2015 PSN 7530-02-000-9047

See Reverse for Instructions

stone
LAW APC
Century Park East, Ste 1000
Bentonville, AR 72716

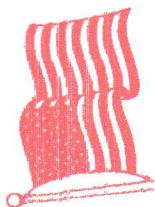
CERTIFIED MAIL®



7020 0090 0001 3768 4780

stone
LAW APC
Century Park East, Ste 1000
Los Angeles, CA 90067

Mitchell A. Wrosch, Paloma P. Peracchio
Ogletree, Deakins, Nash, Smoak & Stewart P.C.
400 S. Hope Street, 12th Floor
Los Angeles, CA 90071



SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Mitchell A. Wrosch, Paloma P.
Peracchio
Ogletree, Deakins, Nash, Smoak &
Stewart P.C.
400 S. Hope Street. 12th Floor



9590 9402 4882 9032 7431 61

2. Article Number (Transfer from service label)

7020 0090 0001 3768 4780

PS Form 3811, July 2015 PSN 7530-02-000-9053

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X

- ☐ Agent
- ☐ Addressee

B. Received by (Printed Name)

C. Date of Delivery

D. Is delivery address different from item 1? If YES, enter delivery address below:

- ☐ Yes
- ☐ No

3. Service Type

- ☐ Adult Signature
- ☐ Adult Signature Restricted Delivery
- ☒ Certified Mail®
- ☐ Certified Mail Restricted Delivery
- ☐ Collect on Delivery
- ☐ Collect on Delivery Restricted Delivery
- ☐ Registered Mail
- ☐ Registered Mail Restricted Delivery (over \$500)

- ☐ Priority Mail Express®
- ☐ Registered Mail™
- ☐ Registered Mail Restricted Delivery
- ☐ Return Receipt for Merchandise
- ☐ Signature Confirmation™
- ☐ Signature Confirmation Restricted Delivery

Domestic Return Receipt

U.S. Postal Service™
CERTIFIED MAIL® RECEIPT
Domestic Mail Only

For delivery information, visit our website at www.usps.com®.

OFFICIAL USE

Certified Mail Fee

\$ 3.50

Extra Services & Fees (check box, add fee as appropriate)

- ☒ Return Receipt (hardcopy) \$ 2.80
- ☐ Return Receipt (electronic) \$
- ☐ Certified Mail Restricted Delivery \$
- ☐ Adult Signature Required \$
- ☐ Adult Signature Restricted Delivery \$

Postage

\$ 1.63

Total Postage and Fees

\$ 7.93

Sent To

Mitchell A. Wrosch, Paloma P.
Peracchio

Street and Apt. No., or Post Box No.

Ogletree, Deakins, Nash, Smoak &

City, State, ZIP+4®

Stewart P.C.

PS Form 3800, April 2012 PSN 7530-02-000-9053 Instructions

Postmark
Here

Starks v. Sam's
Club