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August 26, 2020

*VIA EMAIL*

California Labor & Workforce Development Agency  
801 K Street, Suite 2101  
Sacramento, CA 95814

Re: Cal. Lab. Code Section 2699.3 Notice

Dear Sir or Madam:

This law firm represents Mark Chen, a current employee of Walmart, Inc. (hereinafter "Walmart"). Pursuant to Cal. Lab. Code Section 2699.3, this letter notifies you that Mr. Chen intends to file a lawsuit seeking penalties against Walmart for violation of Wage Order 7-2001, Section 14(A) and Cal. Lab. Code Section 1198.

Under Wage Order 7-2001, Section 14(A), an employer is required to provide its employees with suitable seats if the nature of the work performed reasonably permits the use of a seat. See, *Kilby v. CVS Pharmacy, Inc.* (2016) 63 Cal.4<sup>th</sup> 1. Mr. Chen is currently employed by Walmart at store number 2609 in Lakewood, California as a Money Center Cashier. As a Money Center Cashier, Mr. Chen, like all other aggrieved employee Money Center Cashiers, works at a fixed location operating a cash register/point of sale system.

As a Money Center Cashier, the nature of the work performed by Mr. Chen and all other aggrieved employee Money Center Cashiers consists of: (1) being positioned in a fixed location behind a cash register/point of sale system; and (2) processing customer transactions using a cash register/point of sale system. In the performance of these duties, Mr. Chen, and all other aggrieved employee Money Center Cashiers, were required to stand in a fixed location behind a cash register/point of sale system. At all times relevant, Walmart had a policy requiring Mr. Chen, and all other aggrieved employee Money Center Cashiers, to stand at all times during the

performance of their work duties and did not provide Mr. Chen, or any other aggrieved employee Money Center Cashiers, with a suitable seat.

In addition to Money Center Cashiers, Walmart also employs a number of associates for whom the nature of their work consists of standing in a fixed location and operating a cash register / point of sale system in order to process customer transactions. These aggrieved employee cashiers work at outlying registers located throughout Walmart's California store locations away from the "front-end" registers. The job titles of these similarly aggrieved employee "cashiers" include, but are not limited to: Electronics Cashier, Smoke Shop Cashier, Specialty Shop Cashier, Mall Shop Cashier, Electronics Associate/Cashier, Hardware Associate/Cashier, Jewelry Associate/Cashier, Lawn and Garden Associate/Cashier, and Sporting Goods Associate/Cashier. Similar to Money Center Cashiers, Walmart had a policy requiring these aggrieved employee Cashiers to stand at all times during the performance of their work duties and did not provide them with a suitable seat while performing work at a cash register/point of sale system.

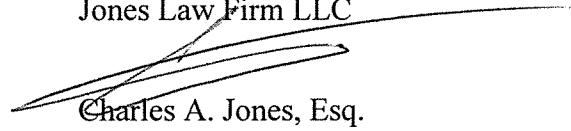
A notable exception to Walmart's policy requiring all Money Center Cashiers and other aggrieved employee Cashiers to stand while performing their work at a cash register/point of sale system applies to those Cashiers who were provided with seats pursuant to Walmart's ADA Accommodations and/or Job Adjustment policy. Under these policies, when Aggrieved Employee Cashiers provide a doctor's note to Walmart, Walmart does provide seats/stools to said Cashiers for their use while processing customer transactions using a cash register/point of sale system. We believe this policy proves that the nature of the work performed by Money Center Cashiers and other aggrieved employee Cashiers does reasonably permit the use of a seat.

Based on our investigation, we believe that the nature of the work performed by Mr. Chen, and all other aggrieved employee Cashiers, reasonably permits the use of a seat. Specifically, we believe that it is feasible for Money Center Cashiers and other aggrieved employee Cashiers to perform their work while seated at a cash register/point of sale system and that the provision of a seat would neither interfere with the performance of any tasks that require standing nor affect the quality and effectiveness of the aggrieved employee's job performance. See, *Kilby*, 63 Cal.4<sup>th</sup> at 18-20. As a result, we believe that Walmart has violated Wage Order 7-2001, Section 14(a), and Cal. Lab. Code Section 1198 by failing to provide suitable seating to Mr. Chen and all other aggrieved employee Cashiers because the nature of their work reasonably permits the use of a seat.

Under Cal. Lab. Code Section 1198, "the employment of an employee ... under conditions of labor prohibited by the [wage] order is unlawful." We believe that Mr. Chen and other current and former employees employed by Walmart as Money Center Cashiers, Electronics Cashiers, Smoke Shop Cashiers, Specialty Shop Cashiers, Mall Shop Cashiers, Electronics Associate/Cashiers, Hardware Associate/Cashiers, Jewelry Associate/Cashiers, Lawn

and Garden Associate/Cashiers, and Sporting Goods Associate/Cashiers are entitled to penalties under Cal. Lab. Code Section 2699(f) based on Walmart's violation of Wage Order 7-2001, Section 14(a) and Cal. Lab. Code Section 1198.

Sincerely,  
Jones Law Firm LLC

A handwritten signature in black ink, appearing to read "Charles A. Jones", is written over the printed name. The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Charles A. Jones, Esq.

cc: Walmart, Inc.