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

17 MICHAEL JACOBI and BRITTANEY
18 GRIFFIN, as aggrieved employees pursuant
19 to the Private Attorneys General Act
20 ("PAGA"), on behalf of the State of
21 California and other aggrieved employees,

22 Plaintiffs,

23 vs.

24 WALMART INC., a Delaware corporation;
25 and DOES 1 through 10, inclusive,

26 Defendants.

Case No.:

R G 20082737

**COMPLAINT – PAGA ENFORCEMENT
ACTION**

- (1) Claim for Civil Penalties Pursuant to PAGA § 2699 for Violations of California Labor Code and Wage Order 7-2001, Section 14(A); and
- (2) Claim for Civil Penalties Pursuant to PAGA § 2699 for Violations of California Labor Code and Wage Order 7-2001, Section 14(B).

Jury Trial Demanded

**ENDORSED
FILED
ALAMEDA COUNTY**

DEC 01 2020

CLERK OF THE SUPERIOR COURT

By CROGERS Deputy

Filed By Fax

1 Plaintiffs Michael Jacobi and Brittaney Griffin, as aggrieved employees and on behalf
2 of the State of California and all other aggrieved employees, allege as follows:

3 **JURISDICTION AND VENUE**

4 1. This is an enforcement action under the Labor Code Private Attorneys General
5 Act of 2004, California Labor Code sections 2698 *et seq.* (“PAGA”) to recover civil penalties
6 on behalf of the Plaintiffs, the State of California, and other current and former employees who
7 worked for Defendants in California as a non-exempt, hourly paid employee in one of
8 Defendants’ California retail stores, including Walmart Neighborhood Market stores, Walmart
9 Discount stores, and Walmart Supercenter stores, and who suffered violations of 7-2001 Wage
10 Order Section 14(A) and/or (B) as set forth in this complaint at any time between one year prior
11 to the filing of the pre-filing written notice to the Labor and Workforce Development Agency
12 (“LWDA”) in this case on August 24, 2020, until judgment (“non-party Aggrieved
13 Employees”). Plaintiffs’ share of civil penalties sought in this action does not exceed \$75,000.

14 2. This Court has jurisdiction over this action pursuant to the California
15 Constitution, Article VI, section 10. The overall amount in controversy exceeds \$25,000. The
16 statute under which this action is brought does not specify any other basis for jurisdiction.

17 3. This Court has jurisdiction over all Defendants because, on information and
18 belief, Defendants have sufficient minimum contacts in California, and otherwise intentionally
19 avail themselves of the California market so as to render the exercise of jurisdiction over them
20 by the California courts consistent with traditional notions of fair play and substantial justice.
21 Also, the Plaintiffs and all other non-party Aggrieved Employees were employed by Defendants
22 in California.

23 4. Venue is proper in this Court because Defendants employ and have employed
24 persons at Defendants’ retail stores located within the County of Alameda and have violated the
25 seating requirements of the applicable Wage Order in this county which give rise to the civil
26 penalties sought in this action. Cal. Code Civ. P. § 393. Specifically, Defendants have violated
27 the seating requirements in several retail stores within the County of Alameda, including
28 Defendants’ Walmart Discount Stores located at 4501 Rosewood Drive, Pleasanton, California

1 94588 (Store No. 2161), 44009 Osgood Road, Fremont, CA 94539 (Store No. 2989), and 30600
2 Dyer Street, Union City, CA 94587 (Store No. 2031). Pursuant to California Civil Code of
3 Procedure section 393, venue is proper for the recovery of a penalty imposed by statute in the
4 county in which the cause, or some part of the cause, arose. Because Defendants have employees
5 in Alameda County and the State of California could bring this action to recover penalties in
6 Alameda County, venue is proper. *Id.*

7 5. California Labor Code sections 2698 *et seq.*, the “Labor Code Private Attorneys
8 General Act of 2004” (“PAGA”), authorize aggrieved employees to sue as private attorneys
9 general their current or former employers for various civil penalties for violations of various
10 provisions in the California Labor Code. Labor Code section 1198 makes a violation of a Wage
11 Order such as Section 14(A) or 14(B) a violation of the Labor Code.

12 **THE PARTIES**

13 6. Plaintiff Michael Jacobi worked for Defendants as an hourly paid, non-exempt
14 employee from approximately November 2019 to August 2020. Plaintiff Jacobi worked at
15 Defendants’ Supercenter retail store in Highland, California, located at 4210 East Highland
16 Avenue, Highland, California 92346 (Store No. 1914). Plaintiff Jacobi worked for Defendants
17 as a front-end cashier and typically worked seven (7) hours or more a day, four (4) to five (5)
18 days a week. Plaintiff Jacobi’s primary job duties as a front-end cashier included, without
19 limitation, ringing up customer purchases at a front-end checkstand, scanning items, bagging
20 purchases, and providing customer service in the front-end checkstand area.

21 7. Many of the tasks that Plaintiff Jacobi performed at his assigned front-end
22 checkstand could have been performed from a seated position without impacting the quality and
23 efficiency of his performance. However, at no time during his employment did Defendants
24 provide him with a seat to use while performing his duties. While employed, on several
25 occasions, Plaintiff Jacobi asked Defendants’ supervisors for a seat at his front-end checkstand,
26 but, in each instance, the answer was “no.” For example, Plaintiff Jacobi asked at least four (4)
27 different supervisors, on separate occasions, for a seat at his checkstand. Specifically, he asked
28 his Team Lead Shavaughn for a seat, Front End Manager Crystal for a seat, and Customer

1 Service Managers Sweetle and Kathy for a seat. Not one of them provided him with a seat. The
2 Defendants also failed to provide Plaintiff Jacobi with a suitable seat.

3 8. Plaintiff Brittaney Griffin worked for Defendants as an hourly paid, non-exempt
4 employee from approximately August 2019 to October 2019. Plaintiff Griffin worked as a
5 fitting room attendant at Defendants' Discount retail store in Chico, California, located at 2044
6 Forest Avenue, Chico, California 95928 (Store No. 2044). Plaintiff Griffin worked for
7 Defendants as a fitting room associate and typically worked six (6) to eight (8) hours per day,
8 four (4) to five (5) days a week. Plaintiff Griffin worked various shifts, including, but not limited
9 to, shifts from 7:00 a.m. to 3:00 p.m., from 1:00 p.m. to 9:00 p.m., and from 3:30 p.m. to 11:30
10 p.m. Her primary job duties as a fitting room associate included, without limitation, monitoring
11 fitting rooms, answering the phones and customers' questions, directing customers to fitting
12 rooms, organizing and folding clothing, re-tagging items, and handling go-backs.

13 9. Many of the tasks that Plaintiff Griffin performed at her assigned workstation at
14 the fitting rooms could have been performed from a seated position without impacting the
15 quality and efficiency of her performance. However, at no time during her employment did
16 Defendants provide Plaintiff Griffin with a suitable seat to use while performing her duties.
17 While employed, Plaintiff Griffin asked Defendants' management for a seat at her workstation
18 but was told she was not allowed to sit or perch while on the clock. Specifically, Plaintiff Griffin
19 asked a manager for a seat at her workstation at the fitting rooms in order to rest and relieve her
20 bad knee while working but was not provided a seat. The Defendants also failed to provide
21 Plaintiff Griffin with a suitable seat near her workstation for use during lulls in her workflow.

22 10. Defendant WALMART INC., was and is, upon information and belief, a
23 Delaware corporation with its principal place of business in Bentonville, Arkansas, and was, at
24 all times relevant to this complaint, an employer whose employees are engaged throughout this
25 county and a retailer engaged in enormous commercial transactions throughout this county, the
26 State of California and the various states of the United States of America.

27 11. Plaintiffs are unaware of the true names or capacities of the Defendants sued
28 herein under the fictitious names DOES 1 through 10, but will seek leave of this Court to amend

1 the complaint and serve such fictitiously named Defendants once their names and capacities
2 become known.

3 12. Plaintiffs are informed and believe, and thereon allege, that DOES 1 through 10
4 are the partners, agents, owners, shareholders, managers, or employees of WALMART INC., at
5 all relevant times.

6 13. Plaintiffs are informed and believe, and thereon allege, that each and all of the
7 acts and omissions alleged herein was performed by, or is attributable to, WALMART INC.
8 and/or DOES 1 through 10 (collectively “Defendants”), each acting as the agent, employee,
9 alter ego, and/or joint venturer of, or working in concert with, each of the other co-Defendants
10 and was acting within the course and scope of such agency, employment, joint venture, or
11 concerted activity with legal authority to act on the others’ behalf. The acts of any and all
12 Defendants were in accordance with, and represent, the official policy of Defendants.

13 14. At all relevant times, Defendants, and each of them, ratified each and every act
14 or omission complained of herein. At all relevant times, Defendants, and each of them, aided
15 and abetted the acts and omissions of each and all the other Defendants in proximately causing
16 the damages herein alleged.

17 15. Plaintiffs are informed and believe, and thereon allege, that each of said
18 Defendants are in some manner intentionally, negligently, or otherwise responsible for the acts,
19 omissions, occurrences, and transactions alleged herein.

20 **WALMART STORE TYPES AND STORE LAYOUT**

21 16. Defendants operate the nation’s largest chain of retail stores, including Walmart
22 Neighborhood Market stores (grocery), Discount stores (general merchandise and limited
23 grocery), and Supercenter stores (general merchandise and grocery). In California, there are
24 approximately 78 Neighborhood Market stores, 71 Discount stores, and 142 Supercenter stores.
25 Specifically, Walmart Neighborhood Market stores, which are each around 38,000 square feet,
26 employ approximately 100 associates. Walmart Neighborhood Markets sell fresh produce, meat
27 and dairy products, bakery and deli items, household supplies, health and beauty aids, and
28 pharmacy items. Walmart Discount stores, which are each around 106,000 square feet, employ

1 approximately 200 associates. Walmart Discount stores sell electronics, apparel, toys, home
2 furnishings, health and beauty aids, hardware, and limited food and grocery items. Walmart
3 Supercenter stores, which are each around 182,000 square feet, employ approximately 300
4 associates. Most Supercenters are open 24 hours a day, and combine grocery store offerings,
5 including fresh produce and bakery, deli, and dairy products, with electronics, apparel, toys,
6 and home furnishings.

7 17. While Defendants' California Neighborhood Market, Discount, and Supercenter
8 stores vary in size and by the services and merchandise offered, the three (3) store types share
9 generally similar checkstand and workspace designs and configurations. For example, a
10 majority of Defendants' Walmart stores utilize a mix of front-end checkstands, including
11 traditional checkstands, traditional checkstands with carousel bagging stations, Scan & Go self-
12 checkout stations with miniature conveyor belts, and/or corralled Scan & Go self-checkout
13 stations. Some Walmart stores have more front-end checkstands, some have less. Some have
14 more Scan & Go self-checkout stations, some have less. But regardless of the number of
15 checkstands and checkstand types in a particular store, the layout and design of the various
16 front-end checkstands are similar in Walmart Neighborhood Market, Discount, and Supercenter
17 stores.

18 18. Similarly, all Walmart Supercenter stores have fitting rooms in their apparel
19 departments and fitting-room attendant workstations that have the same or a similar design. And
20 Walmart Supercenter stores often have Lawn & Garden departments with checkstands adjacent
21 to the entrance of the Lawn & Garden department. The design and configuration of the Lawn &
22 Garden checkstands do not vary by store; rather, Defendants use the same general checkstand
23 designs and configurations in virtually all of its California Supercenter stores, regardless of the
24 department.

25 **PAGA REPRESENTATIVE ALLEGATIONS**

26 19. Plaintiffs allege that the nature of the work performed at a number of
27 workstations in Walmart Supercenter stores, Discount stores, and Neighborhood Market stores
28 would reasonably permit the use of a seat. Specifically, Defendants' workstations where the

1 nature of the work performed would reasonably permit the use of a seat include, but are not
2 limited to, front-end checkstands, automotive care centers, cosmetics checkstands, customer
3 service desks and/or courtesy desks, entertainment/electronics departments, fine jewelry
4 departments, fitting rooms, lawn and garden center checkstands, money centers, paint
5 departments, personal care checkstands, pharmacies, photo centers, pickups, returns, sporting
6 center/camping and hunting department checkstands, store entrances and/or exits, and vision
7 centers.

8 20. Plaintiffs and other non-party Aggrieved Employees have spent a substantial
9 portion of their day working at the above-described workstations in Defendants' stores. The
10 nature of the work of an employee assigned to perform cashiering and customer service duties
11 at Defendants' front-end checkstands, automotive care centers, cosmetics' checkstands,
12 customer service desks and/or courtesy desks, entertainment/electronics departments, fine
13 jewelry departments, fitting rooms, lawn and garden center checkstands, money centers, paint
14 departments, personal care checkstands, pharmacies, photo centers, pickups, returns, sporting
15 center/camping and hunting department checkstands, store entrances and/or exits, and vision
16 centers can reasonably be accomplished from a seated position without impacting the quality
17 and efficiency of their performance. However, as set forth herein, Defendants have not and do
18 not provide employees, including Plaintiffs and other non-party Aggrieved Employees, with
19 seats or stools at these various workstations.

20 21. Moreover, Defendants have not and do not make seats available in reasonable
21 proximity to these employee work areas for use during lulls in store operations. As a result,
22 Plaintiffs and other non-party Aggrieved Employees have been denied seating when they were
23 not engaged in the active duties of their employment and the nature of the work requires
24 standing.

25 22. Defendants continue to employ thousands of non-exempt or hourly paid
26 employees at Defendants' various store types throughout California.

27 23. Plaintiffs are informed and believe, and thereon allege, that Defendants knew or
28 should have known that Plaintiffs and other non-party Aggrieved Employees were entitled to

1 suitable seating and/or were entitled to sit or perch when it did not interfere with the
2 performance of their duties at Defendants' front-end checkstands, automotive care centers,
3 cosmetics checkstands, customer service desks and/or courtesy desks, entertainment/electronics
4 departments, fine jewelry departments, fitting rooms, lawn and garden center checkstands,
5 money centers, paint departments, personal care checkstands, pharmacies, photo centers,
6 pickups, returns, sporting center/camping and hunting department checkstands, store entrances
7 and/or exits, and vision centers. Plaintiffs are informed and believe, and thereon allege, that
8 Defendants failed to provide Plaintiffs and other non-party Aggrieved Employees with suitable
9 seating at the above-mentioned workstations.

10 24. Plaintiffs are informed and believe, and thereon allege, that Defendants knew or
11 should have known that Plaintiffs and other non-party Aggrieved Employees were entitled to
12 have seats in reasonable proximity to their work area and be permitted to use such seats when
13 it did not interfere with the performance of their duties during lulls in operations when an
14 employee, while still on the job, is not then actively engaged in any duties. Plaintiffs are
15 informed and believe, and thereon allege, that Defendants failed to provide Plaintiffs and other
16 non-party Aggrieved Employees with seats in reasonable proximity to their work areas to use
17 during lulls in store operations.

18 25. At all times herein set forth, PAGA provides that any provision of law under the
19 Labor Code and applicable IWC Wage Order that provides for a civil penalty to be assessed and
20 collected by the LWDA for violations of the California Labor Code and applicable IWC Wage
21 Order may, as an alternative, be recovered by aggrieved employees in a civil action brought on
22 behalf of themselves and other current or former employees pursuant to procedures outlined in
23 California Labor Code section 2699.3.

24 26. PAGA defines an "aggrieved employee" in Labor Code section 2699(c) as "any
25 person who was employed by the alleged violator and against whom one or more of the alleged
26 violations was committed."

27 27. Plaintiffs and other current and former California employees of Defendants are
28 "aggrieved employees" as defined by Labor Code section 2699(c) in that they are all

Defendants' current or former California employees who experienced violations of 7-2001 Wage Order, Sections 14(A) and 14(B).

28. Pursuant to California Labor Code sections 2699.3 and 2699.5, an aggrieved employee, including Plaintiffs, may pursue a civil action arising under PAGA after the following requirements have been met:

- (a) The aggrieved employee or representative shall give written notice by online filing with the LWDA and by certified mail to the employer of the specific provisions of the California Labor Code alleged to have been violated, including the facts and theories to support the alleged violation.
- (b) An aggrieved employee's notice filed with the LWDA pursuant to 2699.3(a) and any employer response to that notice shall be accompanied by a filing fee of seventy-five dollars (\$75).
- (c) The LWDA shall notify the employer and the aggrieved employee or representative by certified mail that it does not intend to investigate the alleged violation ("LWDA's Notice") within sixty (60) calendar days of the postmark date of the aggrieved employee's notice. Upon receipt of the LWDA Notice, or if no LWDA Notice is provided within sixty-five (65) calendar days of the postmark date of the aggrieved employee's notice, the aggrieved employee may commence a civil action pursuant to California Labor Code section 2699 to recover civil penalties.

29. Pursuant to California Labor Code section 2699.3(c), aggrieved employees, through Plaintiffs, may pursue a civil action arising under the PAGA for violations of any provision other than those listed in Section 2699.5 after the following requirements have been met:

- (a) The aggrieved employee or representative shall give written notice by online filing with the LWDA and by certified mail to the employer of the specific provisions of the California Labor Code alleged to have been violated (other than those listed in Section 2699.5), including the facts

1 and theories to support the alleged violation.

2 (b) An aggrieved employee's notice filed with the LWDA pursuant to
3 2699.3(c) and any employer response to that notice shall be accompanied
4 by a filing fee of seventy-five dollars (\$75).

5 (c) The employer may cure the alleged violation within thirty-three (33)
6 calendar days of the postmark date of the notice sent by the aggrieved
7 employee or representative. The employer shall give written notice within
8 that period of time by certified mail to the aggrieved employee or
9 representative and by online filing with the LWDA if the alleged violation
10 is cured, including a description of actions taken, and no civil action
11 pursuant to Section 2699 may commence. If the alleged violation is not
12 cured within the 33-day period, the aggrieved employee may commence
13 a civil action pursuant to Section 2699.

14 30. On August 24, 2020, Plaintiff Jacobi provided written notice by online filing to
15 the LWDA and by Certified Mail to Defendants of the specific provisions of the California
16 Labor Code alleged to have been violated, including facts and theories to support the alleged
17 violations, in accordance with California Labor Code section 2699.3. Plaintiff Jacobi's written
18 notice was accompanied with the applicable filing fees of seventy-five dollars (\$75). That same
19 day, the LWDA PAGA Administrator confirmed receipt of Plaintiff Jacobi's written notice and
20 assigned Plaintiff Jacobi PAGA Case Number LWDA-CM-803766-20. A true and correct copy
21 of Plaintiff Jacobi's written notice to the LWDA and Defendants dated August 24, 2020 is
22 attached hereto as "Exhibit 1."

23 31. On August 26, 2020, Plaintiff Griffin provided written notice by online filing to
24 the LWDA and by Certified Mail to Defendants of the specific provisions of the California
25 Labor Code alleged to have been violated, including facts and theories to support the alleged
26 violations, in accordance with California Labor Code section 2699.3. Plaintiff Griffin's written
27 notice was accompanied with the applicable filing fees of seventy-five dollars (\$75). That same
28 day, the LWDA PAGA Administrator confirmed receipt of Plaintiff Griffin's written notice and

1 assigned Plaintiff Griffin PAGA Case Number LWDA-CM-804012-20. A true and correct copy
2 of Plaintiff Griffin's written notice to the LWDA and Defendants dated August 26, 2020 is
3 attached hereto as "Exhibit 2."

4 32. As of the filing date of this complaint, over 65 days have passed since Plaintiffs
5 sent the notices described above to the LWDA, and the LWDA has not responded that it intends
6 to investigate Plaintiffs' claims and Defendants have not cured the violations.

7 33. Thus, Plaintiffs have satisfied the administrative prerequisites under California
8 Labor Code sections 2699.3(a) and 2699.3(c) to recover civil penalties against Defendants for
9 violations of California Labor Code section 1198.

10 34. Defendants, at all times relevant to this complaint, were employers or persons
11 acting on behalf of an employer(s) who violated Plaintiffs' and other non-party Aggrieved
12 Employees' rights by violating sections of the California Labor Code as set forth above.

13 35. As set forth below, Defendants have violated provisions of both the Labor Code
14 sections regulating hours and days of work as well as the applicable IWC Wage Order,
15 specifically, Labor Code section 1198 and California Code of Regulations, Title 8, section
16 11070(14)(A)-(B).

17 36. Pursuant to PAGA, and in particular, California Labor Code sections 2699(a),
18 2699.3(a), 2699.3(c), and 2699.5, Plaintiffs, acting in the public interest as private attorneys
19 general, seek assessment and collection of civil penalties for themselves, all other non-party
20 Aggrieved Employees, and the State of California against Defendants for violations of
21 California Labor Code section 1198.

22 **FIRST CAUSE OF ACTION**

23 **FAILURE TO PROVIDE SUITABLE SEATING**

24 **VIOLATION OF LABOR CODE SECTION 1198 AND CALIFORNIA CODE OF**
25 **REGULATIONS, TITLE 8, SECTION 11070(14)(A)**

26 **(By Plaintiffs on Behalf of the State of California and**
27 **Aggrieved Employees Against all Defendants)**

28 37. Plaintiffs incorporate by reference and re-allege as if fully stated herein each and

every allegation set forth above.

38. California Labor Code §§ 2698, *et seq.* (“PAGA”) permits Plaintiffs to recover civil penalties for the violation(s) of the Labor Code sections enumerated in Labor Code section 2699.5. Section 2699.5 enumerates Labor Code section 1198, among others. Defendants’ conduct, as alleged herein, violates section 1198 of the California Labor Code, by failing to provide suitable seating to Plaintiffs and other non-party Aggrieved Employees as set forth below.

39. At all relevant times herein, 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.”

40. 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.*

41. During the relevant time period, Defendants violated California Labor Code section 1198 and California Code of Regulations, Title 8, section 11070(14)(A), because

1 Plaintiffs and other non-party Aggrieved Employees were not allowed to sit or perch, even when
2 the nature of their work would reasonably permit the use of seats, nor were they provided with
3 suitable seats. As set forth above, Plaintiffs allege that Defendants' various store types consist
4 of workstations that are generally similar in their layout and design and there was, and continues
5 to be, space at various workstations in Defendants' three (3) store types that could accommodate
6 seats (with reasonable or no modification), which cashiers and customer service employees
7 could use while performing various location-specific tasks. These workstations include, but are
8 not limited to, front-end checkstands, automotive care centers, cosmetics checkstands, customer
9 service desks and/or courtesy desks, entertainment/electronics departments, fine jewelry
10 departments, fitting rooms, lawn and garden center checkstands, money centers, paint
11 departments, personal care checkstands, pharmacies, photo centers, pickups, returns, sporting
12 center/camping and hunting department checkstands, store entrances and/or exits, vision
13 centers, and/or other workstations.

14 42. As cashiers and customer service employees assigned to work at the above-
15 mentioned workstations, a substantial number of Plaintiffs' and other non-party Aggrieved
16 Employees' tasks could have been reasonably performed from a seated position. Plaintiffs and
17 other non-party Aggrieved Employees could have handled customer transactions and provided
18 customer service at the above-mentioned workstations while seated, with reasonable or no
19 modification to these workstations. However, on a company-wide basis, Defendants did not
20 provide seats or stools at these various workstations.

21 43. For example, during his employment, Plaintiff Jacobi worked for the most part
22 at an assigned front-end checkstand. Plaintiff Jacobi's location-specific tasks included, without
23 limitation, operating the cash register, scanning items, and bagging items—all of which could
24 have been performed from a seated position without negatively affecting the quality or
25 efficiency of his performance. As stated, Plaintiff Jacobi asked for a seat from Defendants'
26 supervisors on multiple occasions—he asked Team Lead Shavaughn, Front End Manager
27 Crystal, and Customer Service Managers Sweetle and Kathy. Not one of them provided him
28 with a seat. As a result, Plaintiff Jacobi was required to stand throughout his shifts.

1 44. Plaintiff Griffin was similarly denied seating by Defendants during her
2 employment. Plaintiff Griffin worked for the most part at her assigned workstation by the fitting
3 rooms. Plaintiff Griffin's location-specific tasks included, without limitation, monitoring fitting
4 rooms, answering the phones and customers' questions, directing customers to their fitting
5 rooms, organizing and folding clothing, re-tagging items, and handling go-backs—all of which
6 could have been performed from a seated position without negatively affecting the quality or
7 efficiency of her performance. As stated, Plaintiff Griffin asked for a seat from Defendants'
8 management in order to rest and relieve her bad knee while working, but was not provided with
9 a seat. As a result, Plaintiff Griffin was required to stand throughout her shifts.

10 45. Other non-party Aggrieved Employees similarly were not permitted to sit while
11 performing their assigned cashiering and customer service duties because Defendants did not
12 provide seats or stools at front-end checkstands, automotive care centers, cosmetics
13 checkstands, customer service desks and/or courtesy desks, entertainment/electronics
14 departments, fine jewelry departments, fitting rooms, lawn and garden center checkstands,
15 money centers, paint departments, personal care checkstands, pharmacies, photo centers,
16 pickups, returns, sporting center/camping and hunting department checkstands, store entrances
17 and/or exits, vision centers, and/or other workstations.

18 46. Moreover, Defendants had a policy and/or practice of requiring Plaintiffs and
19 other non-party Aggrieved Employees to submit doctors' notes justifying the use of a seat at
20 work before Defendants would permit employees to use a seat. And sometimes, even when
21 other non-party Aggrieved Employees provided Defendants with a doctor's note justifying that
22 they be allowed the use of a seat at work, Defendants would still deny them the use of a seat.

23 47. As a result of Defendants' company-wide policy and/or practice prohibiting
24 employees from sitting during their shifts and failure to provide suitable seating to these
25 employees, Plaintiffs and other non-party Aggrieved Employees were forced to stand during
26 shifts and denied seats. Defendants' failure to provide suitable seating to Plaintiffs and other
27 non-party Aggrieved Employees violated and continues to violate California Labor Code
28 section 1198 and IWC Wage Order 7-2001, Section 14(A).

1 48. Plaintiffs and other non-party Aggrieved Employees and the State of California
2 are therefore entitled to recover civil penalties in the amount of one hundred dollars (\$100) for
3 each aggrieved employee per pay period for the initial violation and two hundred dollars (\$200)
4 for each aggrieved employee per pay period for each subsequent violation, attorney’s fees, costs,
5 and interest thereon, pursuant to Labor Code sections 2699(a), (f), and (g). Plaintiffs also seek
6 subsequent penalties in light of the judgment and civil penalties awarded in *Brown v. Wal-Mart*
7 *Stores, Inc.*, Case No. 5:09-cv-03339-EJD (N.D. Cal. 2019).

8 **SECOND CAUSE OF ACTION**

9 **FAILURE TO PROVIDE SUITABLE SEATING**

10 **VIOLATION OF LABOR CODE SECTION 1198 AND CALIFORNIA CODE OF**
11 **REGULATIONS, TITLE 8, SECTION 11070(14)(B)**

12 **(By Plaintiffs on Behalf of the State of California and**
13 **Aggrieved Employees Against all Defendants)**

14 49. Plaintiffs incorporate by reference and re-allege as if fully stated herein each and
15 every allegation set forth above.

16 50. California Labor Code §§ 2698, *et seq.* (“PAGA”) permits Plaintiffs to recover
17 civil penalties for the violation(s) of the Labor Code sections enumerated in Labor Code section
18 2699.5. Section 2699.5 enumerates Labor Code section 1198, among others. Defendants’
19 conduct, as alleged herein, violates section 1198 of the California Labor Code, by failing to
20 provide suitable seating to Plaintiffs and other non-party Aggrieved Employees as set forth
21 below.

22 51. At all relevant times herein, California Labor Code section 1198 makes it illegal
23 to employ an employee under conditions of labor that are prohibited by the applicable wage
24 order. California Labor Code section 1198 requires that “. . . the standard conditions of labor
25 fixed by the commission shall be the . . . standard conditions of labor for employees. The
26 employment of any employee . . . under conditions of labor prohibited by the order is unlawful.”

27 52. California Code of Regulations, Title 8, section 11070(14)(B) provides that
28 “[w]hen employees are not engaged in the active duties of their employment and the nature of

1 the work requires standing, an adequate number of suitable seats shall be placed in reasonable
2 proximity to the work area and employees shall be permitted to use such seats when it does not
3 interfere with the performance of their duties.”

4 53. The IWC states that section 14(B) applies during “lulls in operation” when an
5 employee, while still on the job, is not then actively engaged in any duties. *Kilby v. CVS*
6 *Pharmacy, Inc.*, 368 P.3d 554, 565 (Cal. 2016), citing IWC, 1976 Wage Orders, Summary of
7 Basic Provisions, Seats. When taken together, an employee is entitled to a seat under section
8 14(A) if his or her actual tasks at a discrete location make seated work feasible, while working
9 there. *Id.* However, if other job tasks take the employee to a different location where he or she
10 must perform tasks requiring standing, the employee would be entitled to a seat under section
11 14(B) during “lulls in operation.” *Id.*

12 54. During the relevant time period, Defendants violated California Labor Code
13 section 1198 and California Code of Regulations, Title 8, section 11070(14)(B), because
14 Plaintiffs and other non-party Aggrieved Employees were not allowed to sit, even during lulls
15 in their work duties, nor were they provided with suitable seats in reasonable proximity to their
16 work areas. As set forth above, Plaintiffs allege that Defendants’ various store types consist of
17 workstations that are generally similar in their layout and design and there was, and continues
18 to be, space near employees’ work areas (with reasonable or no modification) in Defendants’
19 three (3) store types that could accommodate seats that Plaintiffs could have used during lulls
20 in operations. Defendants could have provided Plaintiffs and other non-party Aggrieved
21 Employees with a seat in their work areas, but instead denied employees seating and forces
22 Plaintiffs and other non-party Aggrieved Employees to stand throughout the day.

23 55. Defendants did not provide Plaintiffs and other non-party Aggrieved Employees
24 with seats or stools in reasonable proximity to their work areas to allow them to use seats when
25 it would not interfere with the performance of their duties for times when they were not engaged
26 in active duties that require standing. In other words, to the extent Plaintiffs and other non-party
27 Aggrieved Employees engaged in duties in which the nature of the work required standing,
28 Defendants denied them the use of seats nearby when they were not engaged in those duties.

1 56. For example, as a front-end cashier, Plaintiff Jacobi experienced lulls in his work
2 at various times during a typical shift, especially when the store was not busy. Oftentimes,
3 Plaintiff Jacobi's location would experience slower customer traffic near the close of business,
4 toward the end of his shift. Typically, there were fewer customers in the store during the last
5 hour the store was open. During these lulls when Plaintiff Jacobi was not actively checking out
6 customers, Plaintiff Jacobi could have taken a moment to sit or perch and rest his legs and back.
7 However, because Defendants did not and do not furnish suitable seats in reasonable proximity
8 to Plaintiffs and other non-party Aggrieved Employees' work areas, Plaintiffs and other non-
9 party Aggrieved Employees were not permitted to sit during lulls in Defendants' operations.

10 57. As another example, as a fitting room associate, Plaintiff Griffin experienced
11 lulls in her work at various times during a typical shift, especially when the store was not busy.
12 Plaintiff Griffin's store location would experience slower customer traffic at various times
13 throughout the day, including during the morning, during the late afternoon, and near the late
14 evening and close of business. When Plaintiff Griffin worked the 7:00 a.m. to 3:30 p.m. shift,
15 the store experienced slower customer traffic in the morning and did not start to pick up until
16 around noon. When she worked the 1:00 p.m. to 9:00 p.m. shift, the store would start to slow
17 down around 4:00 p.m. and again around 7:00 p.m. And, when she worked the 3:30 p.m. to
18 11:30 p.m. shift, the store was slower in the late afternoon and again slowed down around 8:00
19 p.m. until the end of her shift. During these lulls, when Plaintiff Griffin was not actively
20 assisting customers at the fitting room or folding clothing, Plaintiff Griffin could have taken a
21 moment to sit or perch, and rest and give her bad knee a break. But, because Defendants did not
22 and do not furnish suitable seats in reasonable proximity to Plaintiffs' and other non-party
23 Aggrieved Employees' work areas, or at all for that matter, Plaintiffs and other non-party
24 Aggrieved Employees were not permitted to sit during lulls in Defendants' store operations.

25 58. As a result of Defendants' policy and/or practice prohibiting Plaintiffs and other
26 non-party Aggrieved Employees from sitting, even when they were not engaged in active duties
27 requiring standing, and company-wide failure to provide seats in reasonable proximity to their
28 work areas, Plaintiffs and other non-party Aggrieved Employees were forced to stand during

1 shifts and denied seats. Defendants' failure to provide suitable seating to Plaintiffs and other
2 non-party Aggrieved Employees violated and continues to violate California Labor Code
3 section 1198 and IWC Wage Order 7-2001, Section 14((B).

4 59. Plaintiffs and other non-party Aggrieved Employees and the State of California
5 are therefore entitled to recover civil penalties in the amount of one hundred dollars (\$100) for
6 each aggrieved employee per pay period for the initial violation and two hundred dollars (\$200)
7 for each aggrieved employee per pay period for each subsequent violation, attorney's fees, costs,
8 and interest thereon, pursuant to Labor Code sections 2699(a), (f), and (g). Plaintiffs also seek
9 subsequent penalties in light of the judgment and civil penalties awarded in *Brown v. Wal-Mart*
10 *Stores, Inc.*, Case No. 5:09-cv-03339-EJD (N.D. Cal. 2019).

11 **REQUEST FOR JURY TRIAL**

12 Plaintiffs hereby request a trial by jury.

13 **PRAYER FOR RELIEF**

14 Plaintiffs, on behalf of the State of California and all other non-party Aggrieved
15 Employees, pray for relief and judgment against Defendants, jointly and severally, as follows:

16 1. For civil penalties and attorneys' fees in excess of twenty-five thousand dollars
17 (\$25,000) to the State of California and aggrieved employees.

18 **As to the First Cause of Action**

19 2. That the Court declare, adjudge and decree that Defendants violated California
20 Labor Code section 1198 and IWC 7-2001 Wage Order, Section 14(A) as to Plaintiffs and other
21 non-party Aggrieved Employees (by failing to provide suitable seating);

22 3. For civil penalties pursuant to California Labor Code sections 2699(a), (f)-(g) for
23 violations of California Labor Code section 1198;

24 4. For attorneys' fees and costs pursuant to California Labor Code section
25 2699(g)(1), and any and all other relevant statutes, for Defendants' violations of California
26 Labor Code section 1198;

27 5. For pre-judgment and post-judgment interest as provided by law; and

28 ///

1 6. For such other and further relief as the Court may deem equitable and
2 appropriate.

3 **As to the Second Cause of Action**

4 7. That the Court declare, adjudge and decree that Defendants violated California
5 Labor Code section 1198 and IWC 7-2001 Wage Order, Section 14(B) as to Plaintiffs and other
6 non-party Aggrieved Employees (by failing to provide suitable seating);

7 8. For civil penalties pursuant to California Labor Code sections 2699(a), (f)-(g) for
8 violations of California Labor Code section 1198;

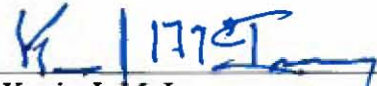
9 9. For attorneys' fees and costs pursuant to California Labor Code section
10 2699(g)(1), and any and all other relevant statutes, for Defendants' violations of California
11 Labor Code section 1198;

12 10. For pre-judgment and post-judgment interest as provided by law; and

13 11. For such other and further relief as the Court may deem equitable and
14 appropriate.

15
16 Dated: November 30, 2020

Respectfully submitted,

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18 _____
Kevin J. McInerney

19 Attorneys for Plaintiffs Michael Jacobi
20 and Brittaney Griffin
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Exhibit 1



1875 Century Park East, Suite 1000
Los Angeles, California 90067
310.556.4811 Main | 310.943.0396 Fax

MAO SHIOKURA
310.712.8030 Direct
Mao.Shiokura@capstonelawyers.com

August 24, 2020

VIA ONLINE SUBMISSION

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

Subject: *Michael Jacobi v. Walmart Inc.*

Dear PAGA Administrator:

This office represents Michael Jacobi 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. Until August 2020, Mr. Jacobi was an employee of WALMART INC. ("WALMART").

The employer may be contacted directly at the address below:

WALMART INC.
708 SW 8TH STREET
BENTONVILLE AR 72716

Mr. Jacobi 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. Jacobi seeks relief on behalf of himself, the State of California, and other persons who are or were employed by WALMART as a non-exempt, hourly paid employee in a WALMART California retail store location, including WALMART's Neighborhood Market stores, Discount stores, and Supercenter stores ("aggrieved employees").

WALMART's Store Types and Workstations

WALMART operates the nation's largest chain of retail stores, including Neighborhood Market stores (grocery), Discount stores (general merchandise and limited grocery), and Supercenter stores (general merchandise and grocery). In California, there are approximately 78 Neighborhood Market stores, 71 Discount stores, and 142 Supercenter stores. Specifically, WALMART's Neighborhood Market stores, which are each around 38,000 sq. ft., employ approximately 100 associates. WALMART's Neighborhood Markets sell fresh produce, meat and dairy products, bakery and deli items, household supplies, health and beauty aids, and pharmacy items. WALMART's Discount stores, which are each around 106,000 sq. ft., employ approximately 200 associates. WALMART's Discount stores sell electronics, apparel, toys, home furnishings, health and beauty aids, hardware, and limited food and

grocery items. WALMART's Supercenter stores, which are each around 182,000 sq. ft., employ approximately 300 associates. Most Supercenters are open 24 hours a day, and combine grocery store offerings, including fresh produce and bakery, deli, and dairy products, with electronics, apparel, toys, and home furnishings.

While WALMART's California Neighborhood Market, Discount, and Supercenter stores vary by size and by the services and merchandise they offer, the three (3) store types share generally similar checkstand and workspace designs and configurations. For example, each WALMART store type utilizes a mix of front-end checkstands, including traditional checkstands, traditional checkstands with carousel bagging stations, Scan & Go self-checkout stations with miniature conveyor belts, and/or corralled Scan & Go self-checkout stations. Some WALMART stores have more front-end checkstands, some have less. Some have more Scan & Go self-checkout stations, some have less. But regardless of the number of checkstands and checkstand types in a particular store, the layout and design of the various front-end checkstands are the same in WALMART Neighborhood Market, Discount, and Supercenter stores.

Similarly, all WALMART Supercenter stores have fitting rooms in their apparel departments and fitting-room attendant workstations that have the same or a similar design. And WALMART's Supercenter stores often have Lawn & Garden departments with checkstands adjacent to the entrance of the Lawn & Garden department. The design and configuration of WALMART's Lawn & Garden checkstands do not vary by store; rather, WALMART uses the same checkstand designs and configurations in all of its California Supercenter stores, regardless of the department.

The nature of the work performed at a number of workstations in WALMART's Supercenter stores, Discount stores and Neighborhood Market stores would reasonably permit the use of a seat. Specifically, the WALMART workstations where the nature of the work performed would reasonably permit the use of a seat include, but are not limited to, WALMART's front-end checkstands, automotive care centers, cosmetics checkstands, customer service desks and/or courtesy desks, entertainment/electronics departments, fine jewelry departments, fitting rooms, lawn and garden center checkstands, money centers, paint departments, personal care checkstands, pharmacies, photo centers, pickups, returns, sporting center/campaign and hunting department checkstands, store entrances and/or exits, and vision centers.

Mr. Jacobi's Employment at WALMART

WALMART employed Mr. Jacobi as an hourly paid, non-exempt employee from approximately November 2019 to August 2020. Mr. Jacobi worked at WALMART's Supercenter retail store in Highland, California, located at 4210 East Highland Avenue, Highland, California 92346 (Store #1914). Mr. Jacobi worked for WALMART as a front-end cashier and typically worked seven (7) hours or more a day, four (4) to five (5) days a week. His primary job duties as a front-end cashier included, without limitation, ringing up customer purchases at the cash register, scanning items, bagging purchases, and providing customer service in the front-end checkstand area.

Many of the tasks that Mr. Jacobi performed at his assigned checkstand could have been performed from a seated position. However, at no time during his employment did WALMART provide Mr. Jacobi with a seat to use while performing his duties. While employed, on several occasions, Mr. Jacobi asked his supervisors for a seat at his front-end checkstand, but, in each instance, the answer was "no." For example, Mr. Jacobi asked at least four (4) different supervisors, on separate occasions, for a seat at his checkstand. Specifically, he asked his Team Lead Shavaughn for a seat, Front End Manager Crystal for a seat, and Customer Service Managers Sweetle and Kathy for a seat. Not one of them provided him with a seat.

Because WALMART refused to let Mr. Jacobi use a seat while performing cashier tasks at his checkstand, the majority of which could reasonably have been performed from a seated position, WALMART committed Labor Code violations against Mr. Jacobi, making him an “aggrieved employee” pursuant to California Labor Code section 2699(c).¹

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.*

There was, and continues to be, space at various workstations in WALMART’s three (3) store types that could accommodate seats (with reasonable or no modification), which cashiers and customer service employees could use while performing various location-specific tasks. These WALMART workstations include, but are not limited to, front-end checkstands, automotive care centers, cosmetics checkstands, customer service desks and/or courtesy desks, entertainment/electronics departments, fine jewelry departments, fitting rooms, lawn and garden center checkstands, money centers, paint departments, personal care checkstands, pharmacies, photo centers, pickups, returns, sporting center/campaign and hunting department checkstands, store entrances and/or exits, vision centers, and/or other work stations. WALMART could have provided Mr. Jacobi and other aggrieved employees with a seat at these workstations, but instead denied and continues to deny aggrieved employees seats altogether or denies them suitable seats. WALMART only permits an employee to use a seat if they have a doctor’s note stating that the employee should be allowed to sit while working.

During his employment, Mr. Jacobi worked for the most part at an assigned front-end checkstand. His location-specific tasks included, without limitation, operating the cash register, scanning items, and

¹ These facts, theories, and claims are based on Mr. Jacobi’s experience and counsel’s review of those records currently available relating to Mr. Jacobi’s employment. Discovery conducted in litigation of 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. Jacobi 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.

bagging items—all of which could have been performed from a seated position without negatively affecting the quality or efficiency of his performance. As stated, Mr. Jacobi asked for a seat from WALMART’s supervisors on multiple occasions—he asked Team Lead Shavaughn, Front End Manager Crystal, and Customer Service Managers Sweetle and Kathy. Not one of them provided him with a seat. As a result, Mr. Jacobi was required to stand throughout his shifts.

Other aggrieved employees similarly spent a substantial portion of their day at front-end checkstands, automotive care centers, cosmetics checkstands, customer service desks and/or courtesy desks, entertainment/electronics departments, fine jewelry departments, fitting rooms, lawn and garden center checkstands, money centers, paint departments, personal care checkstands, pharmacies, photo centers, pickups, returns, sporting center/campaign and hunting department checkstands, store entrances and/or exits, vision centers, and/or other work stations. The nature of the work of an employee performing cashier, greeter, entrance and/or exit security, fitting room monitoring and assistance, money center transactions, self-checkout monitoring and assistance, and/or other customer service duties can reasonably be accomplished from a seated position. Mr. Jacobi and other aggrieved employees could have handled transactions, provided customer service, monitored fitting rooms, and performed other similar tasks at these workstations at any of WALMART’s stores while seated without interfering with their ability to perform their job duties. WALMART’s failure to furnish seats to Mr. Jacobi and/or other aggrieved employees at or near their workstations has occurred, and continues to occur, systematically and on a company-wide basis at all of its stores.

WALMART’s failure to provide suitable seating to Mr. Jacobi and other aggrieved employees when the nature of their work reasonably permits seats violates California Labor Code section 1198 and Industrial Welfare Commission (“IWC”) Wage Order 7-2001, Section 14(A). Mr. Jacobi and other aggrieved employees are therefore entitled to recover civil penalties in the amount of one hundred dollars (\$100) for each aggrieved employee per pay period for the initial violation and two hundred dollars (\$200) for each aggrieved employee per pay period for each subsequent violation, attorney’s fees, costs, and interest thereon, pursuant to Labor Code sections 2699(a), (f)-(g). Subsequent penalties appear appropriate in light of the judgment and \$65 million in civil penalties awarded in *Brown v. Wal-Mart Stores, Inc.*, Case No. 5:09-cv-03339-EJD (N.D. Cal. 2019).

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.*

There was, and continues to be, space near employees' work areas (with reasonable or no modification to work areas) in WALMART's three (3) store types that could accommodate seats that Mr. Jacobi and other aggrieved employees could have used during lulls in operations. WALMART could provide Mr. Jacobi and other aggrieved employees with a seat in its work areas, but instead denies employees seating and forces Mr. Jacobi and other aggrieved employees to stand throughout the day.

WALMART did not provide Mr. Jacobi and other aggrieved employees with seats in reasonable proximity to their work areas to allow them to use seats when it would not interfere with the performance of their duties during times when they were not engaged in active duties that require standing. For example, as a front-end cashier, Mr. Jacobi experienced lulls in his work at various times during a typical shift, especially when the store was not busy. Oftentimes, Mr. Jacobi's location would experience slower customer traffic near the close of business, toward the end of his shift. Typically, there were fewer customers in the store during the last hour the store was open. During these lulls when Mr. Jacobi was not actively checking out customers, Mr. Jacobi could have taken a moment to sit and rest his legs and back. But, because WALMART did not and continues to not furnish suitable seats in reasonable proximity to Mr. Jacobi's and other aggrieved employees' work areas, or at all for that matter, Mr. Jacobi and other aggrieved employees were not permitted to sit during lulls in WALMART's operations.

WALMART's failure to provide suitable seating in reasonably proximity to Mr. Jacobi's and other aggrieved employees' work areas violates California Labor Code section 1198 and IWC Wage Order 7-2001, Section 14(B), for which Mr. Jacobi and other aggrieved employees are entitled to recover civil penalties in the amount of one hundred dollars (\$100) for each aggrieved employee per pay period for the initial violation and two hundred dollars (\$200) for each aggrieved employee per pay period for each subsequent violation, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 2699(a), (f)-(g).

Thank you for your attention to this matter.

Best Regards,

A handwritten signature in black ink, appearing to read 'Mao Shiokura', with a stylized flourish at the end.

Mao Shiokura

Copy: WALMART INC. (via U.S. Certified Mail); Brian L. Duffy, Esq. & Naomi G. Beer, Esq., Greenberg Traurig, LLP, 1144 15th Street, Suite 3300, Denver, CO 80202 (via U.S. Certified Mail); Robert J. Herrington, Esq., Greenberg Traurig, LLP, 1840 Century Park East, Suite 1900, Los Angeles, CA 90067 (via U.S. Certified Mail)



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- Print your name and address on the reverse so that we can return the card to you.
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WALMART INC.
708 SW 8TH STREET
BENTONVILLE AR 72716



9590 9403 0424 5163 3662 01

2. Article Number (Transfer from service label)

7019 0700 0001 7653 2268

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

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☐ Agent☐ Addressee

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

- ☐ Priority Mail Express®
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- ☐ Registered Mail Restricted Delivery
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- ☐ Signature Confirmation™
- ☐ Signature Confirmation Restricted Delivery

Domestic Return Receipt

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7019 0700 0001 7653 2268

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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®.

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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

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

See Reverse for Instructions

Postmark

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Jacobi J. Walmsley
Inc.

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LAW APC

ury Park East, Ste 1000
ss, CA 90067

stone
LAW APC
Century Park East, Ste 1000
Fresno, CA 93702



7019 0700 0001 7653 2275

Brian L. Duffy, Esq. & Naomi G. Beer, Esq.
Greenberg Traurig, LLP
1144 15th Street, Suite 3300
Denver, CO 80202



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1. Article Addressed to:

Brian L. Duffy, Esq. & Naomi G. Beer, Esq.
Greenberg Traurig, LLP
1144 15th Street, Suite 3300
Denver, CO 80202



9590 9403 0424 5163 3662 18

2. Article Number (Transfer from service label)

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- ☐ Agent
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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
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☐ Collect on Delivery Restricted Delivery
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☐ Return Receipt (electronic) \$
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☐ Adult Signature Required \$
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Postage

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Total Postage and Fees

\$ 7.93

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Greenberg Traurig, LLP
1144 15th Street, Suite 3300
Denver, CO 80202

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Jacobi v. Wal-Mart
Inc.

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- 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:

Robert J. Herrington, Esq.,
Greenberg Traurig, LLP
1840 Century Park East, Suite 1900
Los Angeles, CA 90067



9590 9403 0424 5163 3662 25

2. Article Number (Transfer from service label)

7019 0700 0001 7653 2282

PS Form 3811, April 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

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

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7019 0700 0001 7653 2282

Robert J. Herrington, Esq.,
Greenberg Traurig, LLP
1840 Century Park East, Suite 1900
Los Angeles, CA 90067

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)

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|---|---------|
| ☒ Return Receipt (hardcopy) | \$ 2.50 |
| ☐ Return Receipt (electronic) | \$ |
| ☐ Certified Mail Restricted Delivery | \$ |
| ☐ Adult Signature Required | \$ |
| ☐ Adult Signature Restricted Delivery | \$ |

Postage

\$ 1.63

Total Postage and Fees

\$ 7.93

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Robert J. Herrington, Esq.,
Greenberg Traurig, LLP
1840 Century Park East, Suite 1900
Los Angeles, CA 90067

Postmark
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Jacobi v. Walmart
Inc.

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

See Reverse for Instructions

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

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Exhibit 2

MAO SHIOKURA
310.712.8030 Direct
Mao.Shiokura@capstonelawyers.com

August 26, 2020

VIA ONLINE SUBMISSION

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

Subject: *Brittaney Griffin v. Walmart Inc.*

Dear PAGA Administrator:

This office represents Brittaney Griffin in connection with her 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. Until October 2019, Ms. Griffin was an employee of WALMART INC. (“WALMART”).

The employer may be contacted directly at the address below:

WALMART INC.
708 SW 8TH STREET
BENTONVILLE AR 72716

Ms. Griffin 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”). Ms. Griffin seeks relief on behalf of herself, the State of California, and other persons who are or were employed by WALMART as a non-exempt, hourly paid employee in a WALMART California retail store location, including WALMART’s Neighborhood Market stores, Discount stores, and Supercenter stores (“aggrieved employees”).

WALMART’s Store Types and Workstations

WALMART operates the nation’s largest chain of retail stores, including Neighborhood Market stores (grocery), Discount stores (general merchandise and limited grocery), and Supercenter stores (general merchandise and grocery). In California, there are approximately 78 Neighborhood Market stores, 71 Discount stores, and 142 Supercenter stores. Specifically, WALMART’s Neighborhood Market stores, which are each around 38,000 sq. ft., employ approximately 100 associates. WALMART’s Neighborhood Markets sell fresh produce, meat and dairy products, bakery and deli items, household supplies, health and beauty aids, and pharmacy items. WALMART’s Discount stores, which are each around 106,000 sq. ft., employ approximately 200 associates. WALMART’s Discount stores sell electronics, apparel, toys, home furnishings, health and beauty aids, hardware, and limited food and

grocery items. WALMART's Supercenter stores, which are each around 182,000 sq. ft., employ approximately 300 associates. Most Supercenters are open 24 hours a day, and combine grocery store offerings, including fresh produce and bakery, deli, and dairy products, with electronics, apparel, toys, and home furnishings.

While WALMART's California Neighborhood Market, Discount, and Supercenter stores vary by size and by the services and merchandise they offer, the three (3) store types share generally similar checkstand and workspace designs and configurations. For example, each WALMART store type utilizes a mix of front-end checkstands, including traditional checkstands, traditional checkstands with carousel bagging stations, Scan & Go self-checkout stations with miniature conveyor belts, and/or corralled Scan & Go self-checkout stations. Some WALMART stores have more front-end checkstands, some have less. Some have more Scan & Go self-checkout stations, some have less. But regardless of the number of checkstands and checkstand types in a particular store, the layout and design of the various front-end checkstands are the same in WALMART Neighborhood Market, Discount, and Supercenter stores.

Similarly, all WALMART Supercenter stores have fitting rooms in their apparel departments and fitting-room attendant workstations that have the same or a similar design. And WALMART's Supercenter stores often have Lawn & Garden departments with checkstands adjacent to the entrance of the Lawn & Garden department. The design and configuration of WALMART's Lawn & Garden checkstands do not vary by store; rather, WALMART uses the same checkstand designs and configurations in all of its California Supercenter stores, regardless of the department.

The nature of the work performed at a number of workstations in WALMART's Supercenter stores, Discount stores, and Neighborhood Market stores would reasonably permit the use of a seat. Specifically, the WALMART workstations where the nature of the work performed would reasonably permit the use of a seat include, but are not limited to, WALMART's front-end checkstands, automotive care centers, cosmetics checkstands, customer service desks and/or courtesy desks, entertainment/electronics departments, fine jewelry departments, fitting rooms, lawn and garden center checkstands, money centers, paint departments, personal care checkstands, pharmacies, photo centers, pickups, returns, sporting center/campaign and hunting department checkstands, store entrances and/or exits, and vision centers.

Ms. Griffin's Employment at WALMART

WALMART employed Ms. Griffin as an hourly paid, non-exempt employee from approximately August 2019 to October 2019. Ms. Griffin worked at WALMART's Discount retail store in Chico, California, located at 2044 Forest Ave., Chico, California 95928 (Store #2044). Ms. Griffin worked for WALMART as a fitting room associate and typically worked six (6) to eight (8) hours a day, four (4) to five (5) days a week. She worked various shifts, including, but not limited to, shifts from 7:00 a.m. to 3:00 p.m., from 1:00 p.m. to 9:00 p.m., and from 3:30 p.m. to 11:30 p.m. Her primary job duties as a fitting room associate included, without limitation, answering the phones and customers' questions, directing customers to fitting rooms, organizing and folding clothing, re-tagging items, and handling go-backs.

Many of the tasks that Ms. Griffin performed at her assigned workspace at the fitting rooms could have been performed from a seated position. However, at no time during her employment did WALMART provide Ms. Griffin with a seat to use while performing her duties. While employed, Ms. Griffin asked WALMART's management for a seat at her workstation, but was told she was not allowed to sit while on the clock. Specifically, Ms. Griffin asked a manager for a seat at her workstation at the fitting rooms in order to rest and relieve her bad knee while working, but was not provided a seat.

Because WALMART refused to let Ms. Griffin use a seat while performing fitting room associate tasks at her workstation, the majority of which could reasonably have been performed from a seated position,

WALMART committed Labor Code violations against Ms. Griffin, making her an “aggrieved employee” pursuant to California Labor Code section 2699(c).¹

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.*

There was, and continues to be, space at various workstations in WALMART’s three (3) store types that could accommodate seats (with reasonable or no modification), which customer service employees and cashiers could use while performing various location-specific tasks. These WALMART workstations include, but are not limited to, front-end checkstands, automotive care centers, cosmetics checkstands, customer service desks and/or courtesy desks, entertainment/electronics departments, fine jewelry departments, fitting rooms, lawn and garden center checkstands, money centers, paint departments, personal care checkstands, pharmacies, photo centers, pickups, returns, sporting center/campaign and hunting department checkstands, store entrances and/or exits, vision centers, and/or other work stations. WALMART could have provided Ms. Griffin and other aggrieved employees with a seat at these workstations, but instead denied and continues to deny aggrieved employees seats altogether or denies them suitable seats. WALMART only permits an employee to use a seat if they have a doctor’s note stating that the employee should be allowed to sit while working.

During her employment, Ms. Griffin worked for the most part at her assigned workspace by the fitting rooms. Her location-specific tasks included, without limitation, answering the phones and customers’ questions, directing customers to their fitting rooms, organizing and folding clothing, re-tagging items, and handling go-backs—all of which could have been performed from a seated position without

¹ These facts, theories, and claims are based on Ms. Griffin’s experience and counsel’s review of those records currently available relating to Ms. Griffin’s employment. Discovery conducted in litigation of 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, Ms. Griffin reserves the right to supplement this letter with additional facts, theories, and claims if she becomes aware of them subsequent to the submission of this letter.

negatively affecting the quality or efficiency of her performance. As stated, Ms. Griffin asked for a seat from WALMART's management in order to rest and relieve her bad knee while working, but was not provided with a seat. As a result, Ms. Griffin was required to stand throughout her shifts.

Other aggrieved employees similarly spent a substantial portion of their day at front-end checkstands, automotive care centers, cosmetics checkstands, customer service desks and/or courtesy desks, entertainment/electronics departments, fine jewelry departments, fitting rooms, lawn and garden center checkstands, money centers, paint departments, personal care checkstands, pharmacies, photo centers, pickups, returns, sporting center/campaign and hunting department checkstands, store entrances and/or exits, vision centers, and/or other work stations. The nature of the work of an employee performing cashier, greeter, entrance and/or exit security, fitting room monitoring and assistance, money center transactions, self-checkout monitoring and assistance, and/or other customer service duties can reasonably be accomplished from a seated position. Ms. Griffin and other aggrieved employees could have monitored fitting rooms, handled transactions, provided customer service, and performed other similar tasks at these workstations at any of WALMART's stores while seated without interfering with their ability to perform their job duties. WALMART's failure to furnish seats to Ms. Griffin and/or other aggrieved employees at or near their workstations has occurred, and continues to occur, systematically and on a company-wide basis at all of its stores.

WALMART's failure to provide suitable seating to Ms. Griffin and other aggrieved employees when the nature of their work reasonably permits seats violates California Labor Code section 1198 and Industrial Welfare Commission ("IWC") Wage Order 7-2001, Section 14(A). Ms. Griffin and other aggrieved employees are therefore entitled to recover civil penalties in the amount of one hundred dollars (\$100) for each aggrieved employee per pay period for the initial violation and two hundred dollars (\$200) for each aggrieved employee per pay period for each subsequent violation, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 2699(a), (f)-(g). Subsequent penalties appear appropriate in light of the judgment and \$65 million in civil penalties awarded in *Brown v. Wal-Mart Stores, Inc.*, Case No. 5:09-cv-03339-EJD (N.D. Cal. 2019).

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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.*

There was, and continues to be, space near employees' work areas (with reasonable or no modification to work areas) in WALMART's three (3) store types that could accommodate seats that Ms. Griffin and other aggrieved employees could have used during lulls in operations. WALMART could provide Ms. Griffin and other aggrieved employees with a seat in its work areas, but instead denies employees seating and forces Ms. Griffin and other aggrieved employees to stand throughout the day.

WALMART did not provide Ms. Griffin and other aggrieved employees with seats in reasonable proximity to their work areas to allow them to use seats when it would not interfere with the performance of their duties during times when they were not engaged in active duties that require standing. For example, as a fitting room associate, Ms. Griffin experienced lulls in her work at various times during a typical shift, especially when the store was not busy. Ms. Griffin's WALMART location would experience slower customer traffic at various times throughout the day, including during the morning, during the late afternoon, and near the late evening and close of business. When Ms. Griffin worked the 7:00 a.m. to 3:30 p.m. shift, the store experienced slower customer traffic in the morning and did not start to pick up until around noon. When she worked the 1:00 p.m. to 9:00 p.m. shift, the store would start to slow down around 4:00 p.m. and again around 7:00 p.m. And, when she worked the 3:30 p.m. to 11:30 p.m. shift, the store was slower in the late afternoon and again slowed down around 8:00 p.m. until the end of her shift. During these lulls, when Ms. Griffin was not actively assisting customers at the fitting room or folding clothing, Ms. Griffin could have taken a moment to sit and rest and give her bad knee a break. But, because WALMART did not and continues to not furnish suitable seats in reasonable proximity to Ms. Griffin's and other aggrieved employees' work areas, or at all for that matter, Ms. Griffin and other aggrieved employees were not permitted to sit during lulls in WALMART's operations.

WALMART's failure to provide suitable seating in reasonably proximity to Ms. Griffin's and other aggrieved employees' work areas violates California Labor Code section 1198 and IWC Wage Order 7-2001, Section 14(B), for which Ms. Griffin and other aggrieved employees are entitled to recover civil penalties in the amount of one hundred dollars (\$100) for each aggrieved employee per pay period for the initial violation and two hundred dollars (\$200) for each aggrieved employee per pay period for each subsequent violation, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 2699(a), (f)-(g).

Thank you for your attention to this matter.

Best Regards,

A handwritten signature in black ink, appearing to read "Mao Shikura", with a stylized flourish at the end.

Mao Shikura

Copy: WALMART INC. (via U.S. Certified Mail); Brian L. Duffy, Esq. & Naomi G. Beer, Esq., Greenberg Traurig, LLP, 1144 15th Street, Suite 3300, Denver, CO 80202 (via U.S. Certified Mail); Robert J. Herrington, Esq., Greenberg Traurig, LLP, 1840 Century Park East, Suite 1900, Los Angeles, CA 90067 (via U.S. Certified Mail)

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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:

WALMART INC.
708 SW 8TH STREET
BENTONVILLE AR 72716



9590 9403 0424 5163 3661 71

2. Article Number (Transfer from service label)

7019 0700 0001 7653 2329

PS Form 3811, April 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

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

☐ Registered Mail
☐ Registered Mail Restricted Delivery
or \$500)

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

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

City, State, ZIP+4®

WALMART INC.

708 SW 8TH STREET

BENTONVILLE AR 72716

Postmark

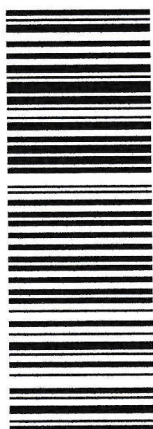
Here

Griffin v. Walmart
Inc.

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

See Reverse for Instructions

CERTIFIED MAIL



7019 0700 0001 7653 2299



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:

Brian L. Duffy, Esq. & Naomi G. Beer,
Esq.
Greenberg Traurig, LLP
1144 15th Street, Suite 3300
Denver, CO 80202



9590 9403 0424 5163 3661 88

2. Article Number (Transfer from service label)

7019 0700 0001 7653 2299

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

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

ed Mail
ed Mail Restricted Delivery
\$500)

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

Domestic Return Receipt

Brian L. Duffy, Esq. & Naomi G. Beer, Esq.
Greenberg Traurig, LLP
1144 15th Street, Suite 3300
Denver, CO 80202

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

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

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- ☐ 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

Street and Apt. No.

City, State, ZIP+4®

Brian L. Duffy, Esq. & Naomi G. Beer,
Esq.
Greenberg Traurig, LLP
1144 15th Street, Suite 3300
Denver, CO 80202

Postmark
Here

Griffin v. Walmart
Inc.

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

See Reverse for Instructions.

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



7019 0700 0001 7653 2305

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

Robert J. Herrington, Esq.
Greenberg Traurig, LLP
1840 Century Park East, Suite 1900
Los Angeles, CA 90067



SENDER: COMPLETE THIS SECTION

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- 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:

Robert J. Herrington, Esq.
Greenberg Traurig, LLP
1840 Century Park East, Suite 1900
Los Angeles, CA 90067



9590 9403 0424 5163 3661 95

2. Article Number (Transfer from service label)

7019 0700 0001 7653 2305

PS Form 3811, April 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

\$ 7.13

Sent To

Robert J. Herrington, Esq.
Greenberg Traurig, LLP
1840 Century Park East, Suite 1900
Los Angeles, CA 90067

Postmark
Here

Griffin v. Walmart
Inc.

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

See Reverse for Instructions