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ALAMEDA COUNTY

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THE SUPERIOR COURT
By Milagros Cortez, Deputy

CASE NUMBER:

RG20083488

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**SUPERIOR COURT OF CALIFORNIA
COUNTY OF ALAMEDA**

KIANDRA HOLMAN, on behalf of the State of
California and Aggrieved Employees,

Plaintiff,

vs.

BATH & BODY WORKS, LLC, BATH & BODY
WORKS DIRECT, INC., and L BRANDS, INC.,

Defendants.

Case No. _____

**COMPLAINT FOR PENALTIES
PURSUANT TO SECTIONS 2699(a) and (f)
OF THE CALIFORNIA LABOR CODE
PRIVATE ATTORNEYS GENERAL ACT
AND DEMAND FOR JURY TRIAL**

COMPLAINT FOR PENALTIES PURSUANT TO SECTION 2699(a) AND (f) OF THE CALIFORNIA LABOR
CODE PRIVATE ATTORNEYS GENERAL ACT AND DEMAND FOR JURY TRIAL

Kiandra Holman v. Bath & Body Works, LLC, et al.

1 Plaintiff Kiandra Holman (“Plaintiff”), on behalf of the State of California and Aggrieved
2 Employees, complain and allege as follows:

3 **INTRODUCTION**

4 1. Plaintiff brings this enforcement action against Defendants Bath & Body Works, LLC,
5 Bath & Body Works Direct, Inc. and L Brands, Inc. (“Defendants” or “Bath & Body Works”) on
6 behalf of the State of California and individuals who have worked for Defendants in California as
7 non-exempt hourly employees and have been subject to Defendants’ timekeeping and security-check
8 policies and practices (the “Aggrieved Employees”). Throughout the relevant time period, Plaintiff
9 and Aggrieved Employees have been denied proper payment for all hours worked, including
10 overtime, and have been forced to wait in security-check lines while off-the-clock. Furthermore,
11 throughout the relevant time period, Defendants have failed to provide Plaintiff and Aggrieved
12 Employees timely and compliant wage statements, and have failed to pay all wages owed after
13 separation of employment to Plaintiff and Aggrieved Employees, pursuant to California law.

14 2. Defendants maintain a longstanding policy and/or practice of failing to properly
15 compensate non-exempt employees for work performed while “off-the-clock,” including but not
16 limited to pre-shift work, where employees are directed arrive ten to fifteen minutes early for their
17 shifts and to begin working, and post-shift work, where employees are directed to clock out then
18 spend time in a security-check line, which varied in length.

19 3. Plaintiff and Aggrieved Employees bring this action to challenge Defendants’ policies
20 and practices of (1) failing to pay Plaintiff and Aggrieved Employees all minimum wages owed; (2)
21 failing to pay Plaintiff and Aggrieved Employees overtime wages; (3) failing to compensate Plaintiff
22 and Aggrieved Employees for all hours worked; (4) failing to provide Plaintiff and Aggrieved
23 Employees accurate, itemized wage statements; and (5) failing to timely pay Plaintiff and Aggrieved
24 Employees full wages upon termination or resignation.

25 4. Plaintiff and Aggrieved Employees seek penalties under the Labor Code Private
26 Attorneys General Act of 2004 (“PAGA”).
27

1 **JURISDICTION AND VENUE**

2 5. This Court has jurisdiction over Plaintiff's claims for penalties pursuant to the PAGA.
3 The Court also has jurisdiction over Defendants because Defendants do business in the State of
4 California and are registered with the California Secretary of State.

5 6. Venue is proper in this judicial district pursuant to Code of Civil Procedure §§ 393
6 and/or 395.5. Defendants conduct business in this County, employ Aggrieved Employees in this
7 County, have jobsites in this County, and therefore liability, as well as the cause, or some part of the
8 cause, arose in this County.

9 **PARTIES**

10 1. Plaintiff Kiandra Holman is an individual over the age of eighteen, and at all times
11 relevant to this Complaint was a resident of Los Angeles County, California. Plaintiff was employed
12 as a non-exempt "sales associate" employee by Defendants at the Bath & Body Works store in
13 Palmdale, California from August 2019 to February 2020. Plaintiff has standing to bring this action
14 as the representative and proxy of the State of California pursuant to PAGA, which is legally and
15 conceptually different from an employee's own suit for damages and statutory penalties.

16 2. Plaintiff is informed, believes, and thereon alleges that Defendant Bath & Body Works,
17 LLC is a Delaware limited liability company with its principal place of business located in Columbus,
18 Ohio, and is registered to do business in California. Defendant Bath & Body Works, LLC may be
19 served with process by serving its registered agent, C T Corporation System, 818 West Seventh
20 Street, Suite 930, Los Angeles, California 90017.

21 3. Plaintiff is informed, believes, and thereon alleges that Defendant Bath & Body Works
22 Direct, Inc. is a Delaware corporation with its principal place of business located in Columbus, Ohio.
23 Defendant Bath & Body Works Direct, Inc. may be served with process by serving its registered
24 agent, C T Corporation System, 818 West Seventh Street, Suite 930, Los Angeles, California 90017.

25 4. Plaintiff is informed, believes, and thereon alleges that Defendant L Brands, Inc. is a
26 Delaware corporation with its principal place of business located in Columbus, Ohio. Defendant L
27

Brands, Inc. may be served with process by serving its registered agent, the Corporation Trust Company, Corporation Trust Center, 1209 Orange Street, Wilmington, Delaware 19801.

5. Plaintiff is informed, believes, and thereon alleges that, in California, Defendants own, operate, and/or manage retail stores throughout the state doing business as Bath & Body Works. Plaintiff is informed, believes, and thereon alleges that Defendants employ, individually and/or jointly, Aggrieved Employees, among other hourly employees, in this County and throughout California.

6. Plaintiff is informed, believes, and thereon alleges that Defendants jointly exercised control over Plaintiff and Aggrieved Employees with respect to their employment.

7. Plaintiff is informed and believes that each and every one of the acts and omissions alleged herein were performed by, and/or attributable to, Defendants, each acting as agents and/or employees, and/or under the direction and control of each of the other, and that said acts and failures to act were within the course and scope of said agency, employment and/or direction and control.

8. At all material times, Defendants have done business under the laws of California, have had places of business in California, including in Alameda County, and have employed Aggrieved Employees in this County and elsewhere throughout California. Defendants are “person[s]” as defined in Labor Code § 18, and are “employer[s]” as that term is used in the Labor Code and the IWC Wage Orders regulating wages, hours, and working conditions.

9. Defendants employ Aggrieved Employees, because Defendants, directly or indirectly, control the employment terms, pay practices, timekeeping practices, and daily work of Plaintiff and similarly situated employees.

FACTUAL ALLEGATIONS

10. Defendants operate a chain of retail stores throughout the United States and California. Defendants employ thousands of hourly non-exempt workers similarly situated to Plaintiff across these facilities.

11. Plaintiff Kiandra Holman worked at the Bath & Body Works store in Palmdale,

1 California as a non-exempt employee as a “sales associate” from August 2019 through February
2 2020. Plaintiff was paid at an hourly rate of approximately \$13. On average, Plaintiff worked 20
3 hours per week. However, Plaintiff occasionally worked upwards of eight hours per day during the
4 retail “busy season,” the weeks leading up to December 25th.

5 12. Aggrieved Employees were and are employed by Defendants and performed work
6 materially similar to Plaintiff throughout California, including in this County.

7 13. Aggrieved Employees perform their jobs under Defendants’ supervision and using
8 materials and technology approved and supplied by Defendants.

9 14. Aggrieved Employees are required to follow and abide by common work, time, and
10 pay policies and procedures in the performance of their jobs.

11 15. At the end of each pay period, Aggrieved Employees receive wages from Defendants
12 that are determined by common systems and methods that Defendants select and control.

13 16. Defendants pay Aggrieved Employees on an hourly rate basis.

14 17. As a matter of policy and or/practice, Defendants routinely make Plaintiff and
15 Aggrieved Employees wait in security-check lines at the end of their shift after they have already
16 clocked out and are off-the-clock. Plaintiff and Aggrieved Employees are required to wait a few
17 minutes, and sometimes even longer. This time spent waiting in the security check lines is
18 compensable, but nevertheless goes unpaid.

19 18. Defendants also encourage Plaintiff and Aggrieved Employees to arrive early before
20 their shift is scheduled to start, but instruct them not to clock in until a few minutes before their
21 scheduled start time. For example, Plaintiff would normally arrive 10 to 15 minutes before her
22 scheduled start time, but was told not to clock in until five minutes before her shift. During this time,
23 Plaintiff would put on her apron and nametag, and would generally prepare for her day. This
24 preliminary time is compensable, but nevertheless goes unpaid.

25 19. As a result of this off-the-clock work, Plaintiff and Aggrieved Employees are not
26 adequately compensated for all hours worked at their regular rate or at the applicable overtime rates.
27

20. Defendants' common course of wage-and-hour abuse includes routinely failing to maintain true and accurate records of the hours worked by Aggrieved Employees. In particular, Defendants have failed to record hours that Plaintiff and Aggrieved Employees worked off the clock.

21. Defendants' failure to record all hours worked results in a failure to provide Aggrieved Employees, including Plaintiff, accurate itemized wage statements as required by California law. The wage statements Defendants provide are not accurate because they do not reflect the actual hours worked by Plaintiff and Aggrieved Employees.

22. Further, Defendants do not provide Aggrieved Employees, including Plaintiff, whose employment with Defendants has ended, with full payment of all wages owed at the end of their employment. As these workers are owed for off-the-clock work, unpaid overtimes, premium pay when their employment ends, and these amounts remain unpaid under Defendants' policies and practices, Defendants fail to pay all wages due upon termination. As a consequence, Defendants are subject to waiting time penalties.

23. Defendants have employed thousands of people similarly situated to Plaintiff.

24. Defendants' method of paying Plaintiff and Aggrieved Employees is willful, and is not based on a good faith and reasonable belief that their conduct complies with California law. Defendants' conduct causes significant damages to non-exempt hourly employees in an amount to be determined at trial.

FIRST CAUSE OF ACTION
Penalties Pursuant to Labor Code § 2699(a)
(On Behalf of the State of California and Aggrieved Employees)

25. Plaintiff re-alleges and incorporates the foregoing paragraphs as though fully set forth herein.

26. Labor Code § 2699(a) provides:

Notwithstanding any other provision of law, any provision of this code that provides for a civil penalty to be assessed and collected by the Labor and Workforce Development Agency or any of its departments, divisions, commissions, boards, agencies or employees, for a violation of this code, may, as an alternative, be recovered through a civil action brought by an aggrieved employee on behalf of himself or herself and other current or former employees.

1 27. Labor Code § 226(a) provides:

2 Every employer shall, semimonthly or at the time of each payment of
3 wages, furnish each of his or her employees, either as a detachable part of
4 the check, draft, or voucher paying the employee's wages, or separately
5 when wages are paid by personal check or cash, an accurate itemized
6 statement in writing showing (1) gross wages earned, (2) total hours worked
7 by the employee, except for any employee whose compensation is solely
8 based on a salary and who is exempt from payment of overtime under
9 subdivision (a) of Section 515 or any applicable order of the Industrial
10 Welfare Commission, (3) the number of piece-rate units earned and any
11 applicable piece rate if the employee is paid on a piece-rate basis, (4) all
12 deductions, provided that all deductions made on written orders of the
13 employee may be aggregated and shown as one item, (5) net wages earned,
14 (6) the inclusive dates of the period for which the employee is paid, (7) the
15 name of the employee and his or her social security number, (8) the name
16 and address of the legal entity that is the employer, and (9) all applicable
17 hourly rates in effect during the pay period and the corresponding number
18 of hours worked at each hourly rate by the employee.

19 28. Labor Code § 203 provides, in relevant part:

20 If an employer willfully fails to pay, without abatement or reduction, in
21 accordance with Sections 201, 201.3, 201.5, 201.6, 201.8, 201.9, 202, and
22 205.5, any wages of an employee who is discharged or who quits, the wages
23 of the employee shall continue as a penalty from the due date thereof at the
24 same rate until paid or until an action therefor is commenced; but the wages
25 shall not continue for more than 30 days.

26 29. Labor Code § 226(e)(1) provides:

27 An employee suffering injury as a result of a knowing and intentional failure by
28 an employer to comply with subdivision (a) is entitled to recover the greater of
29 all actual damages or fifty dollars (\$50) for the initial pay period in which a
30 violation occurs and one hundred dollars (\$100) per employee for each violation
31 in a subsequent pay period, not to exceed an aggregate penalty of four thousand
32 dollars (\$4,000), and is entitled to an award of costs and reasonable attorney's
33 fees.

34 30. Labor Code § 226.3 provides:

35 Any employer who violates subdivision (a) of Section 226 shall be subject to
36 a civil penalty in the amount of two hundred fifty dollars (\$250) per employee
37 per violation in an initial citation and one thousand dollars (\$1,000) per
38 employee for each violation in a subsequent citation, for which the employer
39 fails to provide the employee a wage deduction statement or fails to keep the
40 records required in subdivision (a) of Section 226. The civil penalties provided
41 for in this section are in addition to any other penalty provided by law. In
42 enforcing this section, the Labor Commissioner shall take into consideration
43 whether the violation was inadvertent, and in his or her discretion, may decide
44 not to penalize an employer for a first violation when that violation was due to
45 a clerical error or inadvertent mistake.

1 31. Plaintiff seeks civil penalties pursuant to Labor Code § 2699(a) for each failure by
2 Defendants, as alleged above, to timely pay all wages owed to Plaintiff and Aggrieved Employees
3 in compliance with Labor Code §§ 201-202 in the amounts established by Labor Code § 203. Plaintiff
4 seeks such penalties as an alternative to the penalties available under Labor Code § 203, as prayed
5 for herein.

6 32. Plaintiff also seeks civil penalties pursuant to Labor Code § 2699(a) for each failure by
7 Defendants, alleged above, to provide Plaintiff and Aggrieved Employees an accurate, itemized wage
8 statement in compliance with Labor Code § 226(a) in the amounts established by Labor Code §
9 226(e). Plaintiff seeks such penalties as an alternative to the penalties available under Labor Code §
10 226(e), as prayed for herein.

11 33. Plaintiff also seeks civil penalties pursuant to Sections 225.5, 226.3, and 256 of the
12 California Labor Code.

13 34. Pursuant to Labor Code § 2699.3(a)(1) and (2), Plaintiff provided the Labor and
14 Workforce Development Agency (“LWDA”) with notice of her intention to file this claim on October
15 8, 2020. Sixty-five calendar days have passed without notice from the LWDA. Plaintiff therefore
16 satisfied the administrative prerequisite to commence this civil action in compliance with §
17 2699.3(a).

18 35. Plaintiff seeks the aforementioned penalties on behalf of the State and Aggrieved
19 Employees as set forth in Labor Code § 2699(g)(i).

20 36. Defendants are liable to Aggrieved Employees and the State of California for the civil
21 penalties set forth in this Complaint. Plaintiff is also entitled to an award of attorneys’ fees and costs
22 as set forth below.

23 37. Wherefore, Plaintiff request relief as hereinafter provided.

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26 ///

SECOND CAUSE OF ACTION
Penalties Pursuant to Labor Code § 2699(f)
(On Behalf of the State of California and Aggrieved Employees)

38. Plaintiff re-alleges and incorporates the foregoing paragraphs as though fully set forth herein.

39. Labor Code § 2699(f) provides:

For all provisions of this code except those for which a civil penalty is specifically provided, there is established a civil penalty for a violation of these provisions, as follows: . . . (2) If, at the time of the alleged violation, the person employs one or more employees, the civil penalty is 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.

40. To the extent than any violation alleged herein does not carry penalties under Labor Code § 2699(a), Plaintiff seeks civil penalties pursuant to Labor Code § 2699(f) for Plaintiff and Aggrieved Employees each pay period in which they were aggrieved, in the amounts established by Labor Code § 2699(f). Plaintiff seeks civil penalties under Labor Code § 2699(f) for Defendants' violations of Labor Code § 204, 510, and 1194.

41. Pursuant to Labor Code § 2699.3(a)(1) and (2), Plaintiff has provided the LWDA with notice of their intention to file this claim. Sixty-five calendar days have passed without notice from the LWDA on October 8, 2020. Plaintiff satisfied the administrative prerequisites to commence this civil action in compliance with § 2699.3(a).

42. Plaintiff seeks the aforementioned penalties on behalf of the State and Aggrieved Employees as set forth in Labor Code § 2699(g)(i).

43. Defendants are liable to Plaintiff, Aggrieved Employees, and the State of California for the civil penalties set forth in this Complaint. Plaintiff is also entitled to an award of attorneys' fees and costs as set forth below.

44. Wherefore, Plaintiff requests relief as hereinafter provided.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff, on behalf of the State of California and Aggrieved Employees, requests the following relief:

1. For an order awarding civil penalties to the full extent provided for by the PAGA;
2. For an award of reasonable attorneys' fees as provided by the California Labor Code, including Labor Code § 2699(g)(1); California Code of Civil Procedure §1021.5; and/or any other applicable law;
3. For all costs of suit; and
4. For such other and further relief as this Court deems just and proper.

Respectfully submitted,

Date: December 21, 2020



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*Attorneys for Plaintiff, on behalf of the State of
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1 **DEMAND FOR JURY TRIAL**

2 Plaintiff hereby demands a jury trial on all claims and issues for which Plaintiff is entitled to
3 a jury.

4 Respectfully submitted,

5 Date: December 21, 2020

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11 Carolyn H. Cottrell
12 Ori Edelstein
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14 Kristabel Sandoval
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28 *Attorneys for Plaintiff, on behalf of the State of
California and Aggrieved Employees*