

James R. Hawkins, Esq. SBN 192925
james@jameshawkinsaplc.com
Sean Sasan Vahdat, Esq. SBN 239080 (Of Counsel)
Sean@jameshawkinsaplc.com
JAMES HAWKINS APLC
9880 Research Drive, Suite 200
Irvine, CA 92618
TEL: (949) 387-7200
FAX: (949) 387-6676

Attorneys for Plaintiff, Cheryl L. Woolf,
on behalf of herself and in her representative
capacity as private attorney general

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF ORANGE**

CHERYL L. WOOLF, on behalf of herself and
in her representative capacity as private attorney
general,

Plaintiff,

vs.

TRADER JOE’S COMPANY, INC., a
California Corporation; and DOES 1-50,
inclusive,

Defendants.

Case No.
Assigned For All Purposes to:

COMPLAINT FOR:

1) Civil Penalties Under the Private
Attorneys’ General Act, Labor Code
Section 2698 *et seq.*

JURY TRIAL DEMANDED

Plaintiff CHERYL L. WOOLF (“Plaintiff”), individually and on behalf of the general
public as private attorneys general, hereby asserts representative claims against defendants
TRADER JOE’S COMPANY, INC., a California Corporation (“Trader Joe’s”) and DOES 1-50,
inclusive (collectively “Defendants”) in this complaint as follows:

INTRODUCTION

1. This is a representative action for recovery of penalties under the Private
Attorneys General Act of 2004 (“PAGA”), Cal. Lab. Code sections 2698 *et seq.* PAGA permits
“aggrieved employees” to bring a lawsuit as a representative action on behalf of themselves and

1 all other current and former employees, to recover civil penalties and address an employer's
2 violations of the California Labor Code.

3 2. Plaintiff brings this action pursuant to the PAGA on a representative basis. Any
4 and all persons who are or were employed as non-exempt employees, however titled, in
5 Defendants' retail locations (the "Aggrieved Non-Exempt Employees") during the liability
6 period are aggrieved employees.

7 3. Plaintiff brings this suit on behalf of herself and the Aggrieved Non-Exempt
8 Employees during the relevant time period to recover civil penalties and address the employer's
9 violations of the California Labor Code and the IWC Wage Order 4-2001 and 7-2001.

10 4. In this case, Defendants violated the provisions of the California Labor Code and
11 relevant IWC Wage Orders. As set forth below, Defendants implemented policies and practices
12 which led to Defendants' (1) failure to provide adequate seating to non-exempt employees.

13 5. Plaintiff in her representative capacity seeks civil penalties on behalf of herself
14 and other aggrieved employees pursuant to PAGA for Defendants failure to comply with
15 California Labor Code and IWC Wage Order requirements.

16 6. As set forth in greater detail herein, Defendants engaged in conduct and adopted
17 policies that were and continue to be in violation of the California Labor Code and applicable
18 law. Plaintiff, on behalf of herself and all other Aggrieved Non-Exempt Employees, bring this
19 PAGA action and seek penalties for violations of the California Labor Code, including without
20 limitation sections 1198.

21 7. This action is timely because Plaintiff suffered from a violation or numerous
22 violations of the California Labor Code within one year of the date on which a PAGA notice was
23 sent to the LWDA via online submission. More than 65 days have passed and no response has
24 been received by the LWDA. A copy of the letter sent to the LWDA with enclosure is attached
25 hereto as **Exhibit A**, thereby satisfying the notice requirement under the statute and permitting
26 Plaintiff to proceed with this action in a representative capacity.

27 **JURISDICTION AND VENUE**

28 8. The California Superior Court has jurisdiction over this action pursuant to

1 California Constitution Article VI, Section 10, which grants the Superior Court "original
2 jurisdiction in all cases except those given by statute to other trial courts." The statutes under
3 which this action is brought do not give jurisdiction to any other court.

4 9. This Court has jurisdiction over Plaintiff's claims for civil penalties under PAGA.

5 10. This Court has jurisdiction over the Defendants because each Defendant is a
6 person having sufficient minimum contacts with the State of California so as to render the
7 exercise of jurisdiction over the Defendant by the California courts consistent with traditional
8 notions of fair play and substantial justice.

9 11. Defendant has done and is doing business throughout the State of California, as it
10 maintains retail locations throughout the state, including without limitation in the County of
11 Orange where Plaintiff worked. Defendant is within the jurisdiction of this Court for service of
12 process purposes. The unlawful acts alleged herein have a direct effect on Plaintiff and those
13 similarly situated within the State of California and within Orange County. Defendant employs
14 or has employed Plaintiff and numerous aggrieved employees in Orange County.

15 12. This Court has subject matter jurisdiction over this action pursuant to Code of
16 Civil Procedure section 410.10. There is no federal question at issue, as the issues herein are
17 based solely on California statutes and law, including the Labor Code, IWC Wage Orders, the
18 California Code of Civil Procedure, and the California Civil Code.

19 13. Venue is proper in the Superior Court of Orange County pursuant to Code of Civil
20 Procedure section 395.5 because one or more of the violations alleged in this Complaint arise in
21 that county. Venue as to Defendant is also proper in this judicial district pursuant to Code of
22 Civil Procedure section 395.

23 14. Venue is proper in this Court because upon information and belief, one or more of
24 the Defendants transact business, or have offices in this County and the acts or omissions alleged
25 herein took place in this County.

26 **PARTIES**

27 15. Plaintiff CHERYL L. WOOLF is an individual who, at all times relevant herein,
28 resided in or near the County of Orange, State of California. Plaintiff brings this action on behalf

1 of herself and other past and present employees similarly situated. She was employed by
2 Defendants as a Clerk performing among other things cashiering, and customer service functions
3 from February 2, 2004 through January 23, 2020.

4 16. Plaintiff worked as a non-exempt employee for Defendants at their retail locations
5 in Tustin, and Orange California performing Cashiering, restocking, and other customer service
6 functions. This action is timely because Plaintiff suffered from a violation of the California Labor
7 Code within one year of the date on which her PAGA notice was sent to the LWDA.

8 Upon information and belief, Defendant, Trader Joe's Company, Inc., is a California corporation
9 in good standing and authorized to do business in California. Trader Joe's, Inc.'s headquarters
10 are located at 800 S. Shamrock Avenue Monrovia, California.

11 17. Trader Joe's Company, Inc. operates throughout the United States with multiple
12 locations in California. Trader Joe's Company, Inc. is grocery store chain and in the business of
13 selling goods.

14 18. Whenever in this complaint reference is made to any act, deed, or conduct of
15 Defendants, the allegation means that Defendants engaged in the act, deed, or conduct by or
16 through one or more of Trader Joe's Company Inc., officers, directors, agents, employees, or
17 representatives, who was actively engaged in the management, direction, control, or transaction
18 of the ordinary business and affairs of Defendants.

19 19. Whenever in this complaint reference is made to any act, deed, or conduct of
20 Defendants, the allegation means that Defendants engaged in the act, deed, or conduct by or
21 through one or more of Defendants' officers, directors, agents, employees, or representatives,
22 who was actively engaged in the management, direction, control, or transaction of the ordinary
23 business and affairs of Defendants.

24 20. The true names and capacities of Defendants, whether individual, corporate,
25 associate, or otherwise, sued herein as DOES 1 through 50, inclusive, are currently unknown to
26 Plaintiff, who therefore sue Defendants by such fictitious names under Code of Civil Procedure §
27 474. Plaintiffs will seek leave of court to amend this Complaint to reflect the true names and
28 capacities of the Defendants designated hereinafter as DOES when such identities become

known.

FACTUAL ALLEGATIONS

21. During the relevant time frame, Defendants compensated Plaintiff and the Aggrieved Non-Exempt Employees based upon an hourly wage.

22. Plaintiff and the Aggrieved Non-Exempt Employees were, and at all times pertinent hereto, have been non-exempt employees within the meaning of the California Labor Code, and the implementing rules and regulations of the IWC California Wage Orders. They are subject to the protections of the IWC Wage Orders and the Labor Code.

23. Plaintiff was employed as an hourly, non-exempt retail employee by Defendants from February 9, 2004 through January 23, 2020. Plaintiff performed Cashiering, restocking, and customer service functions for Defendants at their retail locations in Tustin and Orange, California.

24. The members of the aggrieved group were non-exempt, hourly retail employees of Defendants throughout the state of California during the liability period.

25. Plaintiff typically worked five days a week, averaging 35 hours a week.

26. Plaintiff is informed and believes, and thereon alleges, that Defendants are and were advised by skilled lawyers and other professionals, employees, and advisors with knowledge of the requirements of California's wage and employment laws.

27. All Aggrieved Non-Exempt Employees, including Plaintiff, are similarly situated in that they are all subject to Defendants' uniform policies and systemic practices as specified herein.

28. Defendants failed to provide suitable seats to working employees when the nature of the work reasonably permitted the use of such seats. For example, Defendants failed to provide aggrieved employees to use during downtime or while working at the cash registers.

29. Plaintiff is informed and believes that Defendants' violation of the Labor Code and the IWC wage orders as specified herein was willful and deliberate.

30. Plaintiff and the Aggrieved Non-Exempt Employees are covered by applicable California IWC Wage Orders and corresponding applicable provisions of the California Code of

1 Regulations, Title 8, section 11000 *et seq.*

2 **Failure to Provide Suitable Seats**

3 31. Wage Order 7-2001 states “All working employees shall be provided with suitable
4 seats when the nature of the work reasonably permits the use of seats.”

5 32. Plaintiff alleges that Defendants failed to provide suitable seats to aggrieved
6 employees working in the retail locations even though the nature of the work reasonably
7 permitted the use of such seats. For example, without limitation, Defendants failed to provide
8 aggrieved employees with suitable seats for use during downtime or while working at the
9 registers.

10 33. Defendants’ failure to provide suitable seats constitutes a violation of Labor Code
11 section 1198, and Wage Order 7-2001.

12 34. Labor Code section 1198 makes it unlawful to employ an employee under
13 conditions of labor that are prohibited by the applicable Wage Order.

14 35. By failing to provide Plaintiff and the other current and former aggrieved
15 employees with suitable seats in violation of Wage Order 7-2001, Defendants also violated Labor
16 Code section 1198.

17 36. Plaintiff is informed and believes that Defendants’ violation of the Labor Code
18 and the IWC wage orders as specified herein was willful and deliberate.

19 **FIRST CAUSE OF ACTION**

20 **THE PRIVATE ATTORNEYS GENERAL ACT - LABOR CODE §§ 2698, *et. seq.***

21 37. Plaintiff incorporates by reference and realleges each and every allegation
22 contained above, as though fully set forth herein.

23 38. On or about November, 2020, Plaintiff provided written notice by online
24 submission to the Labor and Workforce Development Agency (“LWDA”) and certified mail to
25 Defendants of the specific violations of the California Labor Code that Defendants have violated
26 and continue to violate, including the facts and theories that supported each alleged violation.
27 All fees were paid as required by statute. A copy of the letter sent to the LWDA with enclosure
28 is attached hereto as **Exhibit A**.

1 39. The LWDA did not provide notice of intention to investigate Plaintiff's
2 allegations within 65 calendar days of the November , 2020 notice. Labor Code section
3 2699.3(a)(2)A). Thus, this action is timely.

4 40. Accordingly, Plaintiff has exhausted all administrative procedures required of
5 them under Labor Code §§2698, 2699 and 2699.3, and as a result, is justified as a matter of right
6 in bringing forward this cause of action.

7 41. Plaintiff is an aggrieved employee as defined in Labor Code Section 2699(a). She
8 bring this cause of action on her own behalf and all persons who are or were as non-exempt
9 employees, however titled, in Defendants' retail locations during the liability period.

10 42. Pursuant to Labor Code section 2698 et seq and 2699(a) Plaintiff seeks to recover
11 civil penalties for which Defendants are liable due to numerous Labor Code and Wage Order
12 violations as set forth in this Complaint.

13 43. Specifically, Plaintiff seeks penalties under Labor Code §2699, for, without
14 limitation, the following:

- 15 a. Defendants' failure to provide suitable seats to employees in
16 violation of Labor Code section 1198 and Wage Order 7-2001.

17 44. As a result of the acts alleged above, Plaintiffs seek penalties under Labor Code
18 §§2698 and 2699 because of Defendants' violation of the provisions of the California Labor
19 Code and IWC Wage Orders.

20 45. Plaintiff seeks civil penalties for Defendants' violation of Labor Code provisions
21 for which a civil penalty is specifically provided, including but not limited to the following:

- 22 a. Pursuant to Labor Code Labor Code §2699, for violations of Labor
23 Code § 1198, Defendants are subject to a civil penalty of \$100 for
24 each aggrieved employee per pay period for the first violation and
25 \$200 per employee per pay period for each subsequent violation.

26 46. Under Labor Code §2699, Plaintiff and the Aggrieved Employees should be
27 awarded twenty-five percent (25%) of all penalties due under California law, as well as interest,
28 attorneys' fees and costs.

47. Under Labor Code §2699, the State of California should be awarded seventy-five percent (75%) of the penalties due under California law.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays judgment against Defendants, as follows:

1. For penalties according to proof, pursuant to Labor Code §§ 2698 et seq. for the violations specified above;
2. For penalties under Labor Code section 2699(a) and (f);
3. For interest at the legal rate pursuant to Labor Code §§, California Civil Code §§ 3287, 3288, and/or any other applicable provision providing for pre-judgment interest;
4. For reasonable attorneys' fees, expenses and costs under Labor Code 2698 et seq., and/or Code of Civil Procedure §1021.5, and/or any other applicable provisions providing for attorneys' fees and costs;
5. For any applicable injunctive relief pursuant to the Wage Order and/or the Labor code; and
6. For such other and further relief as the Court deems proper.

Dated: November 11, 2020

Respectfully submitted,

By:

JAMES HAWKINS APLC

Sean S. Vahdat, Esq.

Attorneys for Plaintiff

CHERYL L. WOOLF on behalf of herself and her
representative capacity as private attorney general