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ALYSON SCORBY

SUPERIOR COURT OF THE STATE OF CALIFORNIA
MARIN COUNTY

ALYSON SCORBY, individually and on
behalf of all others similarly situated,

Plaintiff,

v.

WELLS FARGO, N.A., and DOES 1
through 10, inclusive,

Defendants.

CASE NO. **2100758**

CLASS ACTION COMPLAINT FOR:

**1. FAILURE TO INDEMNIFY FOR ALL
NECESSARY BUSINESS EXPENSES
(CAL. LAB. CODE § 2802)**

**2. VIOLATION OF CAL. BUS & PROF.
CODE § 17200**

Jury trial demanded

Plaintiff, Alyson Scorby, on behalf of herself and all others similarly situated.
complains and alleges as follows:

1 **INTRODUCTION**

2 1. This is a class action under California Code of Civil Procedure § 382 seeking
3 reimbursement of all unreimbursed business expenses, interest, attorney's fees and costs on
4 behalf of current and former employees of Defendant Wells Fargo, N.A. and DOES 1-10,
5 inclusive, who were not reimbursed for necessary business expenses as a result of Defendants'
6 violations of California Labor Code § 2802 in the last four years preceding the filing of this
7 action.

8 2. The "Class Period" is the period from the date four years prior to filing of this
9 Complaint through the date notice is mailed to the Class. The violations have been ongoing
10 prior to the filing of this action, are continuing at present, and will continue unless enjoined by
11 the Court.

12 **JURISDICTION AND VENUE**

13 3. This Court has jurisdiction over claims brought under the California Labor Code.

14 4. Venue is proper in this Court because Defendants operate offices and branches
15 within Marin County, and some of the harms complained of herein occurred within this
16 County. Defendants have not designated a principal business office or headquarters in
17 California.

18 **PARTIES**

19 5. During the Class Period, Plaintiff Alyson Scorby was employed by Defendants
20 as a Recruiter within the State of California.

21 6. During the Class Period, Defendant Wells Fargo, N.A. is a national bank with
22 its principal place of business in Sioux Falls, South Dakota.

23 7. The true names and capacities of persons or entities, whether individual,
24 corporate, associate, or otherwise, sued herein as DOES 1 through 10, inclusive, are currently
25 unknown to Plaintiff, and who therefore sues Defendants by such fictitious names under Code
26 of Civil Procedure § 474. Plaintiff is informed and believes, and based thereon alleges, that
27 each of the Defendants designated herein as a DOE is legally responsible in some manner for
28 the unlawful acts referred to herein. Plaintiff will seek leave of court to amend this Complaint

1 to reflect the true names and capacities of the Defendants designated hereinafter as DOES
2 when such identities become known.

3 8. All of Plaintiff's claims stated herein are asserted against Defendants and any
4 of their owners, predecessors, successors, subsidiaries, and/or assigns.

5 **FACTUAL BACKGROUND**

6 9. Plaintiff and similarly situated employees of Defendants were subject to
7 common policies, practices and/or procedures regarding reimbursement of reasonable and
8 necessary expenses, including expenses incurred while employees worked from home during
9 the COVID-19 pandemic.

10 10. Plaintiff and similarly situated employees incurred reasonable and necessary
11 business expenses, including expenses incurred while working from home during the COVID-
12 19 pandemic, including without limitation: fees and charges for internet service, cellphone
13 and/or telephone service, telecommunications equipment, cost of home office equipment (e.g.,
14 computers, printers, scanners, extra monitors, and headsets), office supplies, increased
15 electricity and other utility bills, and the fair rental value of space occupied by the home office.

16 11. Defendants knew or reasonably should have known that Plaintiff and the Class
17 were incurring such expenses but have failed to indemnify or reimburse Plaintiff and similarly
18 situated employees for these expenditures.

19 **CLASS ACTION ALLEGATIONS**

20 12. Plaintiff brings this action, on behalf of herself and all others similarly situated,
21 as a class action pursuant to Code of Civil Procedure § 382. The "Class" that Plaintiff seeks
22 to represent is composed of and defined as follows:

23 All exempt and non-exempt employees of Wells Fargo in California who incurred
24 reasonable and necessary business expenses as a result of their performance of
25 duties for Wells Fargo during the applicable statute of limitations, including
26 without limitation employees who incurred such expenses while working from
home during the COVID-19 pandemic.

27 13. This action has been brought and may properly be maintained as a class action
28 under Code of Civil Procedure § 382 because there is a well-defined community of interest in

1 the litigation, the proposed Class is easily ascertainable, and Plaintiff is a proper representative
2 of the Class.

3 14. Numerosity: The potential members of the proposed Class as defined are
4 numerous and therefore joinder of all the members of the Class is impracticable. While the
5 precise number of employees has not been determined at this time, Plaintiff is informed and
6 believes that Defendants have employed well over 1,000 Class members during the Class
7 Period.

8 15. Ascertainability: The Class is ascertainable in that its members can be
9 identified and located using information contained in Defendants' payroll and personnel
10 records.

11 16. Commonality: There are questions of law and fact common to Plaintiff and to
12 the Class that predominate over any questions affecting only individual members of the Class.
13 These common questions of law and fact include, but are not limited to, the following: (a)
14 Defendants' policies and practices for reimbursing business expenses incurred by employees,
15 including those expenses incurred while employees are working from home; and (b) whether
16 Plaintiff and similarly situated employees incurred reasonable and necessary expenses as a
17 consequence of performing duties for Defendants, including duties performed while working
18 from home.

19 17. Typicality: Plaintiff's claims are typical of the claims of the Class members.
20 Plaintiff and the proposed Class members incurred unreimbursed business expenses arising out
21 of and caused by Defendants' common course of conduct and policies in violation of the law
22 as alleged herein, in similar ways and for the same types of expenses.

23 18. Adequacy of Representation: Plaintiff is a member of the proposed Class and
24 will fairly and adequately protect the interests of the proposed Class members. Plaintiff's
25 interests do not conflict with those of the proposed Class members. Plaintiff's counsel are
26 competent and experienced in litigating wage and hour class actions and will devote sufficient
27 time and resources to the case and otherwise adequately represent the proposed Class.

28 ///

1 19. Superiority of Class Action: A class action is superior to other available means
2 for the fair and efficient adjudication of this controversy, since individual joinder of all
3 members of the proposed Class is impractical. Class action treatment will permit a large
4 number of similarly situated persons to prosecute their common claims in a single forum
5 simultaneously, efficiently and without unnecessary duplication of effort and expense that
6 numerous individual actions would engender. Furthermore, the amounts suffered by each
7 individual member of the proposed Class may be relatively small, the expenses and burden of
8 individualized litigation would make it difficult or impossible for individuals of the Class to
9 redress the wrongs done to them while an important public interest will be served by addressing
10 the manner as a class action. The cost to the court system of adjudication of such individualized
11 litigation would be substantial. Individualized litigation would also present the potential for
12 inconsistent or contradictory judgments.

13
14 **FIRST CAUSE OF ACTION**
 Cal. Labor Code § 2802
15 **(Failure to Reimburse Business Expenses)**

16 20. Plaintiff incorporates by reference the preceding paragraphs as fully set forth
17 herein.

18 21. Labor Code § 2802(a) provides: “An employer shall indemnify his or her
19 employee for all necessary expenditures or losses incurred by the employee in direct
20 consequence of the discharge of his or her duties.”

21 22. While discharging their duties for Defendants, Plaintiff and similarly situated
22 employees have incurred reasonable and necessary work-related expenses. Such expenses
23 include, but are not limited to, work-from-home expenses such as internet service charges,
24 telephone service and equipment, cellphone service and equipment, home office equipment,
25 office supplies, mileage for work related errands or travel, increased electric or other utility
26 bills, as well as the fair rental value of home office space.

27 23. Defendants knew or reasonably should have known that Plaintiff and the Class
28 were incurring such expenses but have failed to indemnify or reimburse Plaintiff and similarly

1 situated employees for these expenditures. By requiring those employees to pay expenses they
2 incurred in direct consequence of the discharge of their duties, Defendants have violated and
3 continue to violate Labor Code § 2802.

4 24. By unlawfully failing to indemnify Plaintiff and similarly situated employees,
5 Defendants are liable for reasonable attorneys' fees and costs under Labor Code § 2802(c).

6
7 **SECOND CAUSE OF ACTION**
8 **Cal. Business & Professions Code § 17200**
(Violation of the Unfair Competition Law)

9 25. Plaintiff incorporates by reference the preceding paragraphs as fully set forth
10 herein.

11 26. Business & Professions Code § 17200, California's Unfair Competition Law
12 ("UCL"), prohibits unfair competition in the form of any unlawful, unfair, or fraudulent
13 business act of practice. Business & Professions Code § 17204 allows "any person who has
14 suffered injury in fact and has lost money or property" to prosecute a civil action for violation
15 of the UCL.

16 27. During the Class Period, Defendants have committed unlawful, unfair, and/or
17 fraudulent business acts and practices as defined by Business & Professions Code § 17200 by
18 causing Plaintiff and similarly situated employees to not be reimbursed for reasonable and
19 necessary business expenses in violation of Labor Code § 2802.

20 28. As a direct and proximate result of Defendants' unlawful business practices,
21 Plaintiff and similarly situated employees have suffered economic injuries including, but not
22 limited to, unreimbursed business expenses and interest accrued thereon.

23 29. Injunctive relief is necessary and appropriate to prevent Defendants from
24 continuing and repeating their unlawful, unfair and fraudulent business acts and practices
25 alleged above.

26 30. Plaintiff's success in this action will enforce important rights affecting the
27 public interest. Plaintiff will incur a financial burden in pursuing this action in the public
28 interest. Therefore, an award of reasonable attorneys' fees to Plaintiff is appropriate pursuant

1 to Code of Civil Procedure § 1021.5.

2 **PRAYER FOR RELIEF**

3 WHEREFORE, Plaintiff prays for judgment against Defendants, as follows:

- 4 1. For an order certifying the proposed Class and designating this action as a class
5 action pursuant to Code Civ. Proc. § 382;
- 6 2. For an order appointing Plaintiff and her counsel to represent the proposed
7 Class as defined herein;
- 8 3. For compensatory damages according to proof;
- 9 4. For an Order requiring Defendants to make restitution of all unreimbursed
10 business-related expenses that Plaintiff and the Class incurred;
- 11 5. For interest according to proof;
- 12 6. For reasonable attorneys' fees and costs; and,
- 13 7. For such other relief the Court deems just and proper.
- 14

15 Dated: February 25, 2021

CLAPP & LAINGER LLP
WYNNE LAW FIRM

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18 _____
19 JAMES F. CLAPP
20 MARITA MURPHY LAINGER
21 Attorneys for Plaintiff
22 ALYSON SCORBY

23 **DEMAND FOR JURY TRIAL**

24 Plaintiff hereby demands a jury trial.

25 Dated: February 25, 2021

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28 JAMES F. CLAPP
MARITA MURPHY LAINGER
Attorneys for Plaintiff
ALYSON SCORBY