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LORSHA HARRIS individually, and on behalf of other aggrieved employees.

SUPERIOR COURT OF THE STATE OF CALIFORNIA
SAN BERNARDINO COUNTY – CIVIL UNLIMITED

LORISHA HARRIS, individually, and on
behalf of other aggrieved employees.

Plaintiff,

vs.

HOBBY LOBBY STORES, INC.; and DOES
1 through 100, inclusive,

Defendants.

CASE NO. CIV SB 2121034
[Unlimited Civil Jurisdiction – Civil Complex]

COMPLAINT FOR ENFORCEMENT
UNDER THE PRIVATE ATTORNEYS
GENERAL ACT, CALIFORNIA LABOR
CODE § 2698, ET SEQ:

1. Private Attorney General's Act Violation
Cal. Lab. C. § 2698, *et seq.*

DEMAND FOR JURY TRIAL

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN BERNARDINO
SAN BERNARDINO CIVIL DIVISION

JUL 27 2021

BY 
VERONICA GONZALEZ, DEPUTY

COMES NOW, Plaintiff LORISHA HARRIS (hereinafter “Plaintiff”), individually, and on behalf of other aggrieved employees pursuant to the California Private Attorneys General Act, and alleges as follows:

JURISDICTION & VENUE

1. This action is brought pursuant to the California Private Attorneys General Act (“PAGA”), Cal. Labor Code sections 2698, et seq. The penalties and other remedies sought by Plaintiff exceeds the minimal jurisdiction limits of the Superior Court and will be established according to proof at trial. The amount in controversy for Plaintiff, including claims for compensatory damages and attorneys’ fees is less than \$75,000.00. It is believed that the total sum owed to Plaintiff and Aggrieved Employees (“Aggrieved Employees” is defined for all purposes herein as all current and/or former hourly paid or non-exempt employees of Defendant Hobby Lobby Stores, Inc.) alleged herein is less than \$5,000,000.00, based upon the anticipated size of the Aggrieved Employees and the amount in controversy for each member of the Aggrieved Employees.

2. This Court has jurisdiction over this action and the matters alleged herein pursuant to the grant of original jurisdiction set forth in Article VI, Section 10 of the California Constitution. The statutes under which this action is brought do not specify any other basis for jurisdiction.

3. This Court has jurisdiction over Defendant, because, upon information and belief, Defendant is either a citizen of California, has sufficient minimum contacts in California, or otherwise intentionally avails itself of the California market so as to render the exercise of jurisdiction over it by this Court consistent with traditional notions of fair play and substantial justice.

4. Venue is proper in this Court, because, upon information and belief, the named Defendant resides, transacts business, or has offices in this county and the acts or omissions alleged herein took place in this county.

THE PARTIES

5. At all times relevant herein, Plaintiff LORISHA HARRIS (“Plaintiff”) was, and is, an individual residing in the City of Oak Hills, County of San Bernardino, State of California.

6. Plaintiff is informed and believes, and based thereon alleges, that at all times relevant herein, Defendant HOBBY LOBBY STORES, INC. (“Defendant”) was, and is, an Oklahoma corporation doing businesses in California and this County.

7. Plaintiff is unaware of the true names and capacities of Defendants named herein as DOES 1 through 100, inclusive, and therefore sues these Defendants by such fictitious names. Plaintiffs will amend this Complaint to allege such names and capacities when the same has been ascertained.

8. Plaintiff is informed and believes, and based thereon alleges, that each of the fictitiously named Defendants stated herein bears a legal responsibility to Plaintiffs similar to that of the named Defendant herein.

9. At all times mentioned herein, Defendants DOES 1 through 100, inclusive, were the agents, servants, and employees of their Co-Defendants, and in doing the things herein alleged were acting in the scope of their authority as such agents, servants, and employees, and with the permission and consent of their Co-Defendants.

PAGA ALLEGATIONS

10. At all times herein set forth, PAGA was applicable to Plaintiff's employment with Defendants.

11. At all times herein set forth, PAGA provides that any provision of law under the California Labor Code that provides for a civil penalty to be assessed and collected by the California Labor & Workforce Development Agency (“LWDA”) for Labor Code violations may, as an alternative, be recovered through a civil action brought by an aggrieved employee on behalf of herself and other current or former employees pursuant to procedures outlined in California Labor Code section 2699.3.

12. Pursuant to PAGA, a civil action under PAGA may be brought by an “aggrieved employee,” who is any person that was employed by the alleged violator and against whom one or more of the alleged violations was committed.

13. Plaintiff was employed by Defendants and the alleged violation was committed against her during her time of employment and she is, therefore, an aggrieved employee. Plaintiff

1 and the other employees are “aggrieved employees” as defined by California Labor Code section
2 2699(c) in that they are all current or former employees of Defendants, and one or more of the
3 alleged violations were committed against them.

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

- 7 a. The aggrieved employee shall give written notice by online submission (hereinafter
8 “Employee’s Notice”) to the Labor & Workforce Development Agency (hereinafter
9 “LWDA”) and by U.S. Certified Mail to the employer of the specific provisions of
10 the California Labor Code alleged to have been violated, including the facts and
11 theories to support the alleged violations.
- 12 b. The LWDA shall provide notice (hereinafter “LWDA Notice”) to the employer and
13 the aggrieved employee by certified mail that it does not intend to investigate the
14 alleged violation within sixty (60) calendar days of the postmark date of the
15 Employee’s Notice. Upon receipt of the LWDA Notice, or if the LWDA Notice is
16 not provided within sixty-five (65) calendar days of the postmark date of the
17 Employee’s Notice, the aggrieved employee may commence a civil action pursuant
18 to California Labor Code section 2699 to recover civil penalties in addition to any
19 other penalties to which the employee may be entitled.

20 15. On February 19, 2021, Plaintiff provided written notice by online submission to the
21 LWDA and by U.S. Certified Mail to Defendant of the specific provisions of the California Labor
22 Code alleged to have been violated, including the facts and theories to support the alleged
23 violations. Plaintiff has not received an LWDA Notice within sixty-five (65) calendar days of the
24 date of Plaintiff’s notice.

25 16. Therefore, Plaintiff has satisfied the administrative prerequisites under California
26 Labor Code section 2699.3(a) to recover civil penalties against Defendants, in addition to other
27 remedies, for violations of California Labor Code sections 201, 202, 203, 204, 226(a), 226.7, 510,
28 512(a), 1174(d), 1194, 1197, 1197.1, 1198, 2800 and 2802.

PERTINENT FACTS

17. Plaintiff is informed and believes, and thereon alleges, that Defendant is engaged in retailing arts and crafts. At all relevant times set forth herein, Defendants employed Plaintiff and other aggrieved hourly-paid or non-exempt employees who worked for Defendant in the State of California, including but not limited to current and former hourly-paid or nonexempt employees who worked for any of the Defendants in the California.

18. Plaintiff worked for Defendant during the relevant time period as a sales associates requiring various retail duties and customer service interface. Plaintiff was classified by Defendant as a non-exempt employee and paid on an hourly basis. In the course of her duties, she became suspected of contracting COVID-19 and sent home unearthing a myriad of California wage and hour violations and unlawful procedures when an employee is suspected of having COVID-19 in the workplace.

19. Plaintiff is informed and believes, and based thereon alleges, that at all times relevant to this action, Defendant implemented a series of willful, systematic, and deliberate policies and practices that suppressed operating costs at the expense of employee rights set forth under the California Labor Code and the Industrial Welfare Commission (hereinafter "IWC") Wage Orders.

20. Plaintiff alleges that Defendant committed the following violations during the relevant time period:

- a. **Rounding:** Throughout the relevant time period, Defendants maintained a policy and practice of regularly rounding down employee work time to the nearest 5th minute every other pay period, to the overall detriment of employees, thereby unlawfully failing to pay employees for all hours worked.
- b. **Donning/Doffing Time:** Plaintiff, and other aggrieved employees, were required to wear a uniform that was provided by Defendants. Uniformed staff were not allowed to remove their uniforms from Defendants' premises. Plaintiff, and other aggrieved employees and the other uniformed staff were instructed by their managers to change into their uniforms before clocking in at the start of their shifts. As a result, Plaintiff,

1 and other aggrieved employees were not paid for time spent donning their uniforms at
2 the beginning of their shifts.

3 c. **Lack of Change Room/Rest Facilities:** Plaintiff, and other aggrieved employees,
4 were not provided changing room, all employees had to use store restroom to change
5 that was open to the public.

6 d. **Unpaid Wages:** that Defendants knew or should have known that Plaintiff and the
7 other aggrieved employees were entitled to receive all wages owed to them during
8 their employment. Plaintiff and the other aggrieved employees did not receive
9 payment of all wages, including overtime and minimum wages and meal and rest
10 period premiums, within any time permissible under, *inter alia*, California Labor Code
11 section 204.

12 e. **Waiting Time:** Defendants did not cure its failures to pay all wages due, regular,
13 overtime or double-time wages at the time of separation. Accordingly, Plaintiff, and
14 other aggrieved employees is entitled to recovery of “waiting time” penalties.

15 f. **Inaccurate Wage Statements:** At all times relevant to this action, Defendants knew
16 or should have known that Plaintiff and the other aggrieved employees were entitled
17 to receive complete and accurate wage statements in accordance with California law,
18 but, in fact, they did not receive complete and accurate wage statements from
19 Defendants. The deficiencies included, *inter alia*, the failure to include the total
20 number of hours worked by Plaintiff and the other aggrieved employees.

21 g. **Unpaid Business Expenses:** Plaintiff, and other aggrieved employees, who were
22 suspected of having COVID-19 whilst on duty were sent to get medical testing and
23 ordered to obtain COVID-19 testing at worker’s expense to enable return to work.
24 Plaintiff, and other aggrieved employees, would be instructed by a supervisor to get
25 tested for COVID-19 as a condition employment. Plaintiff, and other aggrieved
26 employees, were not allowed back to work without a negative test. Travel to and from
27 the testing location therefore became a necessary expenditures Plaintiffs and other
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aggrieved employees incurred in direct consequence of “obedience to the directions of the employer.” Plaintiff is informed and believes, and based thereon alleges, that Defendants knew or should have known that they had a duty to reimburse Plaintiff and the other aggrieved employees pursuant to California law, and that Defendants had the financial ability to pay such reimbursement, but willfully, knowingly, and intentionally failed to do so.

- h. **Supplemental Paid Sick Leave** Hobby Lobby prohibited Plaintiff and other workers from working over health concerns related to the potential transmission of COVID-19 but did not receive COVID-19 supplemental paid sick leave.

26. Based on the facts alleged above and such other facts that Plaintiff, and other aggrieved employees might determine through the discovery process, Plaintiff, and other aggrieved employees allege that Defendants’ uniform and consistent policies and practices have resulted in the systematic violation of the California Labor Code sections as alleged:

- a. **California Labor Code §§ 510, 1194, 1197, 1197.1, and 1198:** Plaintiff, and other aggrieved employees, allege that Defendants failed to pay legally mandated regular, minimum, and/or overtime wages for hours worked in excess of 8 hours in a work day and/or 40 hours in a work week.
- b. **California Labor Code Section § 248.1** An employer must provide COVID-19 supplemental paid sick leave to an employee who cannot work because she is: (i) subject to a federal, state, or local quarantine or isolation order related to COVID-19; (ii) advised by a health care provider to self-quarantine or self-isolate over concerns related to COVID-19; or (iii) prohibited from working by the employer based on health concerns related to the potential transmission of COVID-19. Lab. Code, § 248.1(a)(1), (b)(1).
- c. **California Labor Code §§ 204, 510, 1194, and 1198:** Failure to pay regular, overtime and minimum wages - donning and doffing. As alleged above, when Plaintiff, and other aggrieved employees’ duties required dress uniform. The Ontario

1 store did not have a change room and Plaintiff, and other aggrieved employees,
2 instructed to change in the bathroom open to the public. Plaintiff and other aggregated
3 employees were required by Defendants to change uniforms before clocking in and
4 after clocking out. As a result of this policy and practice, Plaintiff, and other aggrieved
5 employees, were not paid for all working time, resulting in failure to pay regular,
6 overtime and minimum wages.

7 d. **California Industrial Wage Order 7:** Section 13 of Wage Order Number Nine (7)
8 provides, in pertinent part, “When the occupation requires a change of clothing,
9 change rooms or equivalent space shall be provided in order that employees may
10 change their clothing in reasonable privacy and comfort. These rooms or spaces may
11 be adjacent to but shall be separate from toilet rooms and shall be kept clean.” During
12 the relevant time period, Plaintiff, and other aggrieved employees, were regularly
13 assigned to work that required uniform that could only be changed in the store’s
14 general rest room facilities afforded to the public at large.

15 e. **California Labor Code §§ 201-203 and 204:** Plaintiff, and other aggrieved
16 employees allege that Defendants violated these sections of the California Labor Code
17 by willfully failing to pay Defendants for all time worked and for the time sent to
18 medical professionals to obtain COVID-19 testing whilst under Defendants’ control
19 for both productive and unproductive time. Violations of these statutes occurred both
20 at the time the wages in question were earned and payable and at the termination of
21 employment.

22 f. **California Labor Code § 226(a):** Plaintiff, and other aggrieved employees allege
23 that, to her detriment, Defendants knowingly and intentionally failed to provide
24 employees with accurate itemized wage statements in accordance with California law.

25 g. **California Labor Code § 2802:** Plaintiff, and other aggrieved employees allege that,
26 to the detriment and injury of its employees, Defendants knowingly and intentionally
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1 failed to reimburse business expenses, namely COVID-19 testing of suspected
2 personnel who were believed to be infected.

3 27. As a result of the above, Defendants is liable to Plaintiff and Aggrieved Employees
4 and other current and/or former employees for their full, unpaid balance of their wages, plus waiting
5 time penalties, plus interest thereon, attorneys' fees, and costs.

6 28. Furthermore, Defendants is liable for related civil penalties. As a result of Defendants'
7 violations related to its "donning and doffing" policies and practices, Plaintiff, and other aggrieved
8 employees, is entitled to recovery of penalties, including penalties for failure to provide accurate
9 wage statements (Cal. Lab. C. § 226); waiting time penalties (Cal. Lab. C. § 204); and civil penalties
10 pursuant to Cal. Labor Code § 2699(f)(2). Plaintiff, and other aggrieved employees, is informed and
11 believes, and based thereon alleges that, during the relevant period, Defendants' conduct resulted in
12 systematic violations of Cal. Lab. C. §§ 201-203, 204, 226, 248.1 510, 1194(a), 1197, and 1198,
13 2802.

14 **FIRST CAUSE OF ACTION**

15 **California Private Attorneys General Act, Labor Code § 2699, *et seq.***

16 **(Against HOBBY LOBBY STORES, INC. and DOES 1 through 100)**

17 26. Plaintiff refers to and incorporates herein by reference all of the above paragraphs as
18 though fully set forth herein.

19 27. Under the Private Attorneys General Act of 2004, Cal. Labor Code §§ 2698-2699.5,
20 an aggrieved employee, on behalf of himself or herself and other current or former employees, may
21 recover penalties under any provision of the Cal. Labor Code that provides for civil penalties. These
22 penalties are in addition to any other relief available under the Cal. Labor Code.

23 28. As set forth above, Defendant has committed numerous violations for which the Labor
24 Code provides for penalties, including violations of Cal. Labor Code §§ 201-203, 204, 226, 248.1
25 510, 1194(a), 1197, 1174, 1198, and 2802.

1 29. Plaintiff and the other hourly-paid or non-exempt employees are “aggrieved
2 employees” as defined by California Labor Code section 2699(c) in that they are all current or former
3 employees of Defendants, and one or more of the alleged violations was committed against them.

4 26. The Plaintiff has provided written notice by certified mail to the LWDA and to
5 Defendant of the legal claims and theories of this case. Sixty-five days have passed since the postmark
6 date of the written notice to the LWDA, and Plaintiff has not received notification from the LWDA
7 that it intends to investigate the alleged violations. Accordingly, Plaintiff has exhausted
8 administrative remedies as required by Cal. Labor Code § 2699.3.

9 27. As a direct result of Defendant’s conduct as described, Plaintiff is entitled to recover,
10 on her own behalf and on behalf of others similarly situated, the maximum civil penalties permitted
11 by the Private Attorneys General Act from Defendants for all violations of Labor Code §§ 200, 204,
12 226, 226.7, 510, 512, 1174, 1198 and 2802 as well as reasonable attorney’s fees and costs.

13 28. Defendant’s conduct of violating the California Labor Code constitutes violations of
14 the PAGA. Therefore, Plaintiff requests penalties against Defendant under the provisions of PAGA
15 section 2699(f).

16 29. The proper measure of damages and penalties under the PAGA is all aggrieved
17 employees, whether a party to this action or not. Further, this claim needs no certification to proceed
18 with class-wide recovery. See *Arias v. Superior Court* (2009) 46 Cal. 4th 969, 970-975.

19 30. Further, as a direct and proximate result of the conduct of Defendant, as set forth
20 above, Plaintiffs were forced to incur substantial attorney’s fees and costs which are recoverable
21 under California Labor Code Section 2699(g)(1).

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1 **PRAYER FOR RELIEF**

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

- 3 1. That Plaintiff and other current or former employees be awarded penalties under Labor
4 Code § 2699 for all of Defendant's violations of Labor Code §§ 201-203, 204, 226,
5 248.1 510, 1194(a), 1197, 1174, 1198, and 2802.
- 6 2. An award of such other and further equitable and legal relief as this Court may deem
7 appropriate;
- 8 3. For an award to Plaintiff of costs of suit incurred herein and reasonable attorneys' fees
9 pursuant to Labor Code § 2699(g)(1); and
- 10 4. For an award to Plaintiff of such other and further relief as the Court deems just and
11 proper.

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13 DATED: July 12, 2021

STARPOINT, LC

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15 By: Aidin D. Ghavimi
16 AIDIN GHAVIMI, ESQ.
17 JOHN VAFA, ESQ.
18 Attorneys for Plaintiff, LORISHA HARRIS on
19 behalf of all California aggrieved employees
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