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05/10/2021 2:52 PM

FILED BY FAX

ALAMEDA COUNTY

May 11, 2021

CLERK OF
THE SUPERIOR COURT
By Xian-xii Bowie, Deputy

CASE NUMBER:

RG21098559

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SUPERIOR COURT OF CALIFORNIA**COUNTY OF ALAMEDA**

13 MONIQUE TIRADO, on behalf of the State of
14 California,

15 *Plaintiff,*

16 v.

17 VICTORIA'S SECRET STORES, LLC;
18 L BRANDS, INC.; and DOES 1-100, inclusive,

19 *Defendants.*

Case No.: _____

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

DEMAND FOR JURY TRIAL

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

Monique Tirado v. Victoria's Secret Stores, LLC, et al.

1 Plaintiff Monique Tirado (“Plaintiff”), on behalf of the State of California and Aggrieved
2 Employees (defined below), complains and alleges as follows:

3 **INTRODUCTION**

4 1. Plaintiff brings this enforcement action against Defendant Victoria’s Secret Stores, LLC
5 (“Victoria’s Secret”), and Defendant L Brands, Inc. (“L Brands,” together with Victoria’s Secret,
6 “Defendants”) on behalf of the State of California to collect statutory penalties as a result of
7 Defendants’ systematic violations of California labor law with respect to all current and former non-
8 exempt, hourly workers employed by Defendants at any Victoria’s Secret store throughout California
9 (the “Aggrieved Employees”).¹

10 2. Upon information and belief, Victoria’s Secret is a specialty retailer of women’s
11 intimate apparel and beauty products. Victoria’s Secret operates about 1,200 mostly mall-based
12 Victoria’s Secret and Victoria’s Secret PINK stores across the United States, Canada, China, Ireland,
13 and the United Kingdoms, with extensive operations in California.

14 3. Upon information and belief, L Brands is part of the retail industry and focuses on
15 women’s intimate and other apparel, personal care, and beauty and home fragrance products. L Brands
16 operates over 2,900 specialty stores in North America, China, and the United Kingdom primarily
17 under the Victoria’s Secret PINK banner, with extensive operations in California.

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

24 5. Defendants maintain a longstanding policy and/or practice of failing to properly
25 compensate workers employed at any Victoria’s Secret store in California for work related tasks
26 performed while “off-the-clock,” including, but not limited to, waiting in line and going through

27
28 ¹ Although Plaintiff is a former employee, Aggrieved Employees include current and former
employees. For ease of discussion, the allegations herein are made in the present tense.

1 temperature checks before the beginning of each shift, *i.e.*, before clocking in. Plaintiff and Aggrieved
2 Employees are required to wait on average 5 minutes, and sometimes longer, before their shift begins.

3 6. Plaintiff and Aggrieved Employees routinely perform off-the-clock work before paid
4 shifts.

5 7. Throughout the relevant time period, Plaintiff and Aggrieved Employees have been
6 denied proper payment for all hours worked, including minimum wages, for the time spent off-the-
7 clock. Defendants fail to pay for any of this time worked off-the-clock in violation of the California
8 Labor Code.

9 8. As a result of the above violations, Defendants fail to provide Plaintiff and Aggrieved
10 Employees with accurate, itemized wage statements. Defendants have also failed to pay all wages due
11 during employment and upon separation, when Aggrieved Employees, like Plaintiff, voluntarily or
12 involuntarily terminated their employment with Defendants.

13 9. Plaintiff, on behalf of the State of California, seeks to recover penalties and reasonable
14 attorneys' fees for these violations pursuant to Sections 2699(a) and (f) of the California Labor Code
15 Private Attorneys General Act ("PAGA").

16 **PARTIES**

17 10. Plaintiff and Aggrieved Employees are current and former non-exempt, hourly workers
18 employed by Defendants at any Victoria's Secret store in California. Defendants employs and/or
19 employed Plaintiff and Aggrieved Employees.

20 11. Plaintiff is an individual over the age of eighteen, and at all times mentioned in this
21 Complaint was a resident of the State of California.

22 12. Plaintiff was employed as a non-exempt sales associate by Defendants from
23 approximately November 1, 2020 until December 6, 2020 and was compensated at an hourly rate of
24 \$14.00. Plaintiff worked at a Victoria's Secret stores located in Visalia, California.

25 13. Defendant Victoria's Secret Stores, LLC is a Delaware corporation with its principal
26 place of business located in Columbus, Ohio. Victoria's Secret does business in the State of California
27 and employs workers, including Plaintiff and Aggrieved Employees, in California. Victoria's Secret
28 may be served with process by serving its registered agent, CT Corporation System, 818 West Seventh

1 Street, Suite 930, Los Angeles, California 90017.

2 14. Defendant L Brands, Inc. is a Delaware corporation with its principal place of business
3 located in Columbus, Ohio. L Brands does business in the State of California and employs workers,
4 including Plaintiff and Aggrieved Employees, in California. L Brands may be served with process by
5 serving its registered agent, the Corporation Trust Company, Corporation Trust Center, 1209 Orange
6 Street, Wilmington, Delaware 19801.

7 15. Plaintiff is informed, believes, and thereon alleges that Defendants operate facility
8 locations throughout California, including in Alameda County. Plaintiff is informed, believes, and
9 thereon alleges that Defendants employ non-exempt employees, including non-exempt workers
10 employed at Victoria's Secret stores, throughout California, including in Alameda County.

11 16. Plaintiff is informed, believes, and thereon alleges that Defendants jointly exercise
12 control over Plaintiff and Aggrieved Employees with respect to their employment.

13 17. The true names and capacities, whether individual, corporate, associate, or otherwise,
14 of Does 1-100, inclusive, are unknown to Plaintiff, who therefore sues the Doe Defendants by
15 fictitious names. Plaintiff is informed, believes, and thereon alleges that each of these fictitiously
16 named Defendants is responsible in some manner for the occurrences and violations as herein alleged.
17 Plaintiff will amend this Complaint to show their true names and capacities when they have been
18 ascertained. Defendants are jointly and severally liable for the civil penalties asserted.

19 18. At all relevant times, Defendants have done business under the laws of California, have
20 had places of business in California, including in this judicial district, and have employed Aggrieved
21 Employees in this judicial district. Defendants are "persons" as defined in California Labor Code §
22 18 and California Business and Professions Code § 17201. Defendants are also "employers" as that
23 term is used in the California Labor Code and the Industrial Welfare Commission ("IWC") Wage
24 Orders.

25 19. Defendants employ Plaintiff and Aggrieved Employees, because Defendants, directly
26 or indirectly, control the employment terms, pay practices, timekeeping practices, and daily work of
27 Plaintiff and Aggrieved Employees.

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1 27. Aggrieved Employees are required to follow and abide by common work, time, and pay
2 policies and procedures in the performance of their jobs and duties.

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

5 29. As a matter of policy and/or practice, Defendants routinely fail to compensate Plaintiff
6 and Aggrieved Employees for all hours worked. Plaintiff and Aggrieved Employees are not permitted
7 to log the actual number of hours they work each week and therefore are not compensated for all time
8 worked and spent under the control and supervision of Defendants, *i.e.*, time spent for the benefit of
9 Defendants.

10 30. For instance, since approximately March 4, 2020 and in response to the Covid-19
11 pandemic, Defendants have required all employees to undergo a temperature screening prior to
12 clocking in for the start of their scheduled shifts. Defendants routinely make Plaintiff and Aggrieved
13 Employees wait for these health screenings at the beginning of their shifts while they are off-the-clock
14 – *i.e.*, before they have clocked in. Plaintiff and Aggrieved Employees are required to wait on average
15 5 minutes, and sometimes even longer, before their shift begins. This time spent waiting for and
16 undergoing these health checks is compensable, but nevertheless goes unpaid.

17 31. As a result of these practices, Defendants deny Plaintiff and Aggrieved Employees
18 compensation for all hours worked, including minimum wage and overtime compensation for which
19 they are lawfully owed, resulting from the additional off-the-clock, pre-shift work.

20 32. Plaintiff is informed, believes, and thereon alleges that this same temperature screening
21 protocol is used across all Defendants' Victoria's Secret facilities throughout California.

22 33. By failing to record hours that Plaintiff and Aggrieved Employees worked off-the-clock,
23 Defendants' common course of wage-and-hour abuse also includes routinely failing to maintain true
24 and accurate records of the hours worked by Plaintiff and Aggrieved Employees.

25 34. Defendants also do not provide Plaintiff and Aggrieved Employees with accurate wage
26 statements as required by California law because the wage statements do not reflect all hours worked.

27 35. Defendants do not provide Plaintiff and Aggrieved Employees with full payment of all
28 wages owed upon separation from employment. At the time their employment ends, Plaintiff and

1 Aggrieved Employees are owed wages for all time worked, whether their termination was voluntary
2 or involuntary; yet Defendants have failed to provide Plaintiff and Aggrieved Employees with such
3 payments. As a result, and pursuant to the California Labor Code, Defendants are subject to waiting
4 time penalties.

5 36. Plaintiff is informed, believes, and thereon alleges that Defendants are well aware that
6 their policies and practices deprive Plaintiff and Aggrieved Employees of substantial pay for all time
7 worked. Thus, Defendants' denial of wages to Plaintiff and Aggrieved Employees is and/or was
8 deliberate and willful.

9 37. Plaintiff is informed, believes, and thereon alleges that Defendant's unlawful conduct
10 has been widespread, repeated, and consistent as to Aggrieved Employees and throughout
11 Defendants' operations in California.

12 38. Defendants' conduct was willful, carried out in bad faith, and triggers significant civil
13 penalties in an amount to be determined at trial.

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

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

19 40. Labor Code § 2699(a) provides:

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

27 41. Labor Code §§ 201 and 202 require employers to immediately pay wages earned and
28 unpaid to an employee that is discharged, and to pay an employee who quits within 72 hours after he
or she quits, at the latest.

42. Labor Code § 203 provides, in relevant part:

If an employer willfully fails to pay, without abatement or reduction, in
accordance with Sections 201, 201.5, 202, and 205.5, any wages of an

employee who is discharged or who quits, the wages of the employees shall continue as a penalty from the due date thereof at the same rate paid or until an action therefor is commenced; but the wages shall not continue for more than 30 days.

43. Labor Code § 256 provides: “The Labor Commissioner shall impose a civil penalty in an amount not exceeding 30 days’ pay as waiting time under the terms of Section 203.”

44. Labor Code § 226(a) provides:

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

45. Labor Code § 226.3 provides:

Any employer who violates subdivision (a) of Section 226 shall be subject to a civil penalty in the amount of two hundred fifty dollars (\$250) per employee per violation in an initial citation and one thousand dollars (\$1,000) per employee for each violation in a subsequent citation, for which the employer fails to provide the employee a wage deduction statement or fails to keep the records required in subdivision (a) of Section 226. The civil penalties provided for in this section are in addition to any other penalty provided by law.

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

1 47. Plaintiff also seeks civil penalties pursuant to Labor Code § 2699(a) for each failure by
2 Defendants, alleged above, to provide Plaintiff and the Aggrieved Employees an accurate, itemized
3 wage statement in compliance with Labor Code § 226(a) in the amounts established by Labor Code
4 § 226(e). Plaintiff seeks such penalties as an alternative to the penalties available under Labor Code
5 § 226(e), as prayed for herein

6 48. Plaintiff also seeks civil penalties pursuant to Labor Code §§ 225.5, 226.3, 256, and
7 558.

8 49. Pursuant to Labor Code § 2699.3(a)(1) and (2), Plaintiff provided the Labor and
9 Workforce Development Agency (“LWDA”) with notice of her intention to file this claim. Sixty-
10 five calendar days have passed without notice from the LWDA. Plaintiff satisfied the administrative
11 prerequisites to commence this civil action in compliance with § 2699.3(a).

12 50. Plaintiff seeks the aforementioned penalties on behalf of the State, other Aggrieved
13 Employees, and herself as set forth in Labor Code § 2699.

14 51. Defendants are liable to Plaintiff, the Aggrieved Employees, and the State of California
15 for the civil penalties set forth in this Complaint, with interest thereon. Plaintiff is also entitled to an
16 award of attorneys’ fees and costs as set forth below.

17 52. Wherefore, Plaintiff requests relief as hereinafter provided.

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

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

23 54. Labor Code § 2699(f) provides:

24 For all provisions of this code except those for which a civil penalty is
25 specifically provided, there is established a civil penalty for a violation
26 of these provisions, as follows: . . . (2) If, at the time of the alleged
27 violation, the person employs one or more employees, the civil penalty
28 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.

55. 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 the Aggrieved Employees each pay period in which he or she was aggrieved, in the amounts established by Labor Code § 2699(f). Plaintiff seeks penalties pursuant to Labor Code § 2699(f) for Plaintiff and the Aggrieved Employees for violations of Labor Code provisions including, but not limited, to, Labor Code § 204.

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

57. Plaintiff seeks the aforementioned penalties on behalf of the State, Aggrieved Employees, and herself as set forth in Labor Code § 2699(g)(1).

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

59. Wherefore, Plaintiff requests relief as hereinafter provided.

PRAYER FOR RELIEF

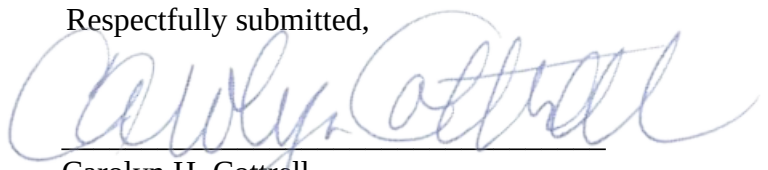
WHEREFORE, Plaintiff prays for relief as follows:

1. For the Court to declare, adjudge, and decree that Defendants have violated the California Labor Code as alleged herein;
2. For an order awarding the State of California, Plaintiff, and the Aggrieved Employees civil penalties provided under the PAGA;
3. For interest on penalties awarded as provided by applicable law;
4. For an award of reasonable attorneys' fees;
5. For all costs of suit; and
6. For such other and further relief as this Court deems just and proper.

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Date: May 10, 2021

Respectfully submitted,



Carolyn H. Cottrell
Ori Edelstein
Esther L. Bylsma
Philippe M. Gaudard
SCHNEIDER WALLACE
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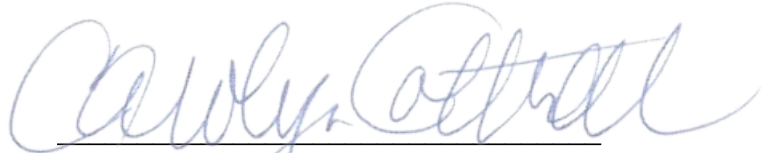
*Attorneys for Plaintiff, on behalf of the State of
California and Aggrieved Employees*

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: May 10, 2021

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7
8 Carolyn H. Cottrell
9 Ori Edelstein
10 Esther L. Bylsma
11 Philippe M. Gaudard
12 SCHNEIDER WALLACE
13 COTTRELL KONECKY LLP

14 *Attorneys for Plaintiff, on behalf of the State of*
15 *California and Aggrieved Employees*