



Larry W. Lee (State Bar No. 228175)
DIVERSITY LAW GROUP, P.C.
515 S. Figueroa St., Suite 1250
Los Angeles, California 90071
(213) 488-6555
(213) 488-6554 facsimile
lwlee@diversitylaw.com

William L. Marder (SBN 170131)
bill@polarislawgroup.com
POLARIS LAW GROUP
501 San Benito Street, Suite 200
Hollister, CA 95023
Telephone: (831) 531-4214
Facsimile: (831) 634-0333

Attorneys for Plaintiff and the Class

*ADDITIONAL ATTORNEYS ON FOLLOWING PAGE

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF VENTURA**

MARIA ANAYA, individually and on behalf of all
others similarly situated,

Plaintiff,

vs.

BATH & BODY WORKS, LLC, a Delaware
limited liability company; and DOES 1 through 50,
inclusive,

Defendants.

Case No. 56-2021-00553769-CU-OE-VTA

[Assigned to the Hon. Matthew P. Guasco, Dept.
20]

**FIRST AMENDED CLASS ACTION
COMPLAINT FOR DAMAGES FOR:**

- (1) VIOLATION OF LABOR CODE § 226;**
- (2) VIOLATION OF LABOR CODE § 2698,
ET SEQ.**

DEMAND OVER \$25,000

ADDITIONAL COUNSEL

Edward W. Choi, Esq. SBN 211334
LAW OFFICES OF CHOI & ASSOCIATES
515 S. Figueroa St., Suite 1250
Los Angeles, CA 90071
Telephone: (213) 381-1515
Facsimile: (213) 465-4885
Email: edward.choi@choiandassociates.com

Dennis S. Hyun (State Bar No. 224240)
HYUN LEGAL, APC
515 S. Figueroa St., Suite 1250
Los Angeles, California 90071
(213) 488-6555
(213) 488-6554 facsimile
dhyun@hyunlegal.com

1 Plaintiff Maria Anaya (“Plaintiff”) hereby submits this First Amended Class Action Complaint
2 against Defendants Bath & Body Works, LLC, a Delaware limited liability company (“Defendant” or
3 the “Company”), and Does 1-50 (hereinafter collectively referred to as “Defendants”), individually
4 and on behalf of a class of all other similarly situated current and former employees of Defendants for
5 penalties and/or damages for failure to provide accurate itemized wage statements as follows:

6 **INTRODUCTION**

7 1. This class action is within the Court’s jurisdiction under California Labor Code § 226
8 and the applicable Wage Orders of the Industrial and Welfare Commission (the “IWC”).

9 2. This Complaint challenges systemic illegal employment practices resulting in
10 violations of the California Labor Code against Defendant’s employees.

11 3. Plaintiff is informed and believes and based thereon alleges that Defendants jointly and
12 severally have acted intentionally and with deliberate indifference and conscious disregard to the
13 rights of all employees by failing to provide accurate itemized wage statements to these employees.

14 **JURISDICTION AND VENUE**

15 4. The Court has jurisdiction over the violations of the California Labor Code § 226.

16 5. Venue is proper in Ventura County because Plaintiff worked for Defendant in the City
17 of Oxnard, California.

18 **PARTIES**

19 6. In or around November 2006, Plaintiff was hired by Defendant and worked as a non-
20 exempt Key Holder. Plaintiff’s employment ended on or about April 2, 2021.

21 7. Plaintiff is informed and believes and based thereon alleges that Defendant was and is a
22 limited liability company which operates retail stores throughout the United States, including in
23 Ventura County.

24 8. Plaintiff is informed and believes and based thereon alleges that at all times herein
25 mentioned Defendant and DOES 1 through 50 are and were business entities, individuals, and
26 partnerships, licensed to do business and actually doing business in the State of California.

27 9. As such, and based upon all the facts and circumstances incident to Defendants’
28 business in California, Defendants are subject to Labor Code § 226 and the applicable Wage Orders.

1 10. Plaintiff does not know the true names or capacities, whether individual, partner or
2 corporate, of the Defendants sued herein as DOES 1 through 50, inclusive, and for that reason, said
3 Defendants are sued under such fictitious names, and Plaintiff prays for leave to amend this complaint
4 when the true names and capacities are known. Plaintiff is informed and believes and based thereon
5 alleges that each of said fictitious Defendants was responsible in some way for the matters alleged
6 herein and proximately caused Plaintiff and members of the general public and class to be subject to
7 the illegal employment practices, wrongs and injuries complained of herein.

8 11. At all times herein mentioned, each of said Defendants participated in the doing of the
9 acts hereinafter alleged to have been done by the named Defendants; and furthermore, the Defendants,
10 and each of them, were the agents, servants and employees of each of the other Defendants, as well as
11 the agents of all Defendants, and at all times herein mentioned, were acting within the course and
12 scope of said agency and employment.

13 12. Plaintiff is informed and believes and based thereon alleges that at all times material
14 hereto, each of the Defendants named herein was the agent, employee, alter ego and/or joint venturer
15 of, or working in concert with each of the other co-Defendants and was acting within the course and
16 scope of such agency, employment, joint venture, or concerted activity. To the extent said acts,
17 conduct, and omissions were perpetrated by certain Defendants, each of the remaining Defendants
18 confirmed and ratified said acts, conduct, and omissions of the acting Defendants.

19 13. At all times herein mentioned, Defendants, and each of them, were members of, and
20 engaged in, a joint venture, partnership and common enterprise, and acting within the course and
21 scope of, and in pursuance of, said joint venture, partnership and common enterprise.

22 14. At all times herein mentioned, the acts and omissions of various Defendants, and each
23 of them, concurred and contributed to the various acts and omissions of each and all of the other
24 Defendants in proximately causing the injuries and damages as herein alleged. At all times herein
25 mentioned, Defendants, and each of them, ratified each and every act or omission complained of
26 herein. At all times herein mentioned, the Defendants, and each of them, aided and abetted the acts
27 and omissions of each and all of the other Defendants in proximately causing the damages as herein
28 alleged.

CLASS ACTION ALLEGATIONS

15. **Definition:** The named individual Plaintiff seeks class certification, pursuant to California Code of Civil Procedure § 382, of the following classes and subclass:

a. All of Defendant's current and former California non-exempt employees who have been paid "Retro" wages, including without limitation, OVT Premium Retro and HLW Premium Retro wages, at any time from April 29, 2020, through the present (the "Class").

16. **Numerosity and Ascertainability:** The members of the Class are so numerous that joinder of all members would be impractical, if not impossible. The identity of the members of the Class is readily ascertainable by review of Defendants' records, including payroll records. Plaintiff is informed and believes and based thereon alleges that Defendants failed to provide accurate itemized wage statements in violation of Labor Code § 226.

17. **Adequacy of Representation:** The named Plaintiff is fully prepared to take all necessary steps to represent fairly and adequately the interests of the class defined above. Plaintiff's attorneys are ready, willing and able to fully and adequately represent the class and individual Plaintiff. Plaintiff's attorneys have prosecuted and settled wage-and-hour class actions in the past and currently have a number of wage-and-hour class actions pending in California courts.

18. Defendants uniformly administered a corporate policy, practice of failing to provide accurate itemized wage statements in violation of Labor Code § 226.

19. **Common Question of Law and Fact:** There are predominant common questions of law and fact and a community of interest amongst Plaintiff and the claims of the Class concerning Defendants failing to provide accurate itemized wage statements in violation of Labor Code § 226.

20. **Typicality:** The claims of Plaintiff are typical of the claims of all members of the Class in that Plaintiff has suffered the harm alleged in this Complaint in a similar and typical manner as the Class members. Plaintiff is a victim of Defendant's violation Labor Code § 226. Specifically, whenever "Retro" wages were paid to Plaintiff and Class Members, including without limitation, OVT Premium Retro, HLW Premium Retro, etc., the wage statements failed to identify the correct rates of pay and applicable number of hours for such wages as the wage statements do not identify what applicable rates and hours were applied to such payments. As such, Plaintiff is a member of the Class

and has suffered the alleged violations of California Labor Code § 226 and the applicable Wage Orders.

21. The California Labor Code and upon which Plaintiff bases these claims is broadly remedial in nature. These laws and labor standards serve an important public interest in establishing minimum working conditions and standards in California. These laws and labor standards protect the average working employee from exploitation by employers who may seek to take advantage of superior economic and bargaining power in setting onerous terms and conditions of employment.

22. The nature of this action and the format of laws available to Plaintiff and members of the Class identified herein make the class action format a particularly efficient and appropriate procedure to redress the wrongs alleged herein. If each employee were required to file an individual lawsuit, the corporate Defendants would necessarily gain an unconscionable advantage since it would be able to exploit and overwhelm the limited resources of each individual plaintiff with their vastly superior financial and legal resources. Requiring each Class member to pursue an individual remedy would also discourage the assertion of lawful claims by employees who would be disinclined to file an action against their former and/or current employer for real and justifiable fear of retaliation and permanent damage to their careers at subsequent employment.

23. The prosecution of separate actions by the individual class members, even if possible, would create a substantial risk of (a) inconsistent or varying adjudications with respect to individual Class members against the Defendants and which would establish potentially incompatible standards of conduct for the Defendants, and/or (b) adjudications with respect to individual Class members which would, as a practical matter, be dispositive of the interest of the other Class members not parties to the adjudications or which would substantially impair or impede the ability of the Class members to protect their interests. Further, the claims of the individual members of the Class are not sufficiently large to warrant vigorous individual prosecution considering all of the concomitant costs and expenses.

24. Such a pattern, practice and uniform administration of corporate policy regarding illegal employee compensation described herein is unlawful and creates an entitlement to recovery by the Plaintiff and the Class identified herein of a common fund, including interest thereon, applicable

penalties, reasonable attorneys' fees, and costs of suit according to the mandate of California Labor Code § 226 and Code of Civil Procedure § 1021.5.

25. Proof of a common business practice or factual pattern, which the named Plaintiff experienced and are representative of, will establish the right of each of the members of the Class to recovery on the causes of action alleged herein.

FIRST CAUSE OF ACTION

VIOLATION OF LABOR CODE § 226

(AGAINST ALL DEFENDANTS BY PLAINTIFF AND THE CLASS)

26. Plaintiff re-alleges and incorporates by reference the preceding paragraphs as though fully set forth herein.

27. Defendants failed in their affirmative obligation to provide accurate itemized wage statements. Labor Code § 226 requires that an employer provide an itemized wage statement every time wages are paid to an employee. Specifically, whenever "Retro" wages were paid to Plaintiff and Class Members, including without limitation, OVT Premium Retro, HLW Premium Retro, etc., the wage statements failed to identify the correct rates of pay and applicable number of hours for such wages as the wage statements do not identify what applicable rates and hours were applied to such payments.

28. Such a pattern, practice and uniform administration of corporate policy as described herein is unlawful and creates an entitlement to recovery by the Plaintiff and the Class identified herein, in a civil action, for all damages or penalties pursuant to Labor Code § 226, including interest thereon, attorneys' fees, and costs of suit according to the mandate of California Labor Code § 226.

SECOND CAUSE OF ACTION

VIOLATION OF LABOR CODE § 2698, *ET SEQ.*

(BY PLAINTIFF AS A PROXY FOR THE STATE OF CALIFORNIA AGAINST ALL DEFENDANTS)

29. Plaintiff re-alleges and incorporates by reference the preceding paragraphs as though fully set forth herein.

30. Plaintiff brings this cause of action for violation of the PAGA as a proxy for the State of California and in this capacity, seeks penalties on behalf of all Aggrieved Employees from April 27, 2020, through the present, for Defendant's violations of Labor Code § 226 arising from Defendant's practice and policy of failing to provide accurate, itemized wage statements, as alleged herein.

31. Based on the above-stated Labor Code violations, Plaintiff is an "aggrieved employee" as defined in Labor Code section 2699(a). As such, Plaintiff brings this cause of action on behalf of the State of California for violations committed against all similarly situated Aggrieved Employees of Defendants.

32. On or about April 27, 2021, Plaintiff sent written notice to the California Labor & Workforce Development Agency ("LWDA") of Defendant's violations of Labor Code § 226, pursuant to PAGA. As of the date of the filing of this Complaint, the LWDA has yet to provide notice to Plaintiff as to whether it intends to investigate the violations provided for in the written notice. In addition to the LWDA, Plaintiff also sent written notice to Defendant via certified mail according to Labor Code section 2699.3.

33. As such, pursuant to Labor Code §§ 226.3 and 2699, Plaintiff seeks recovery of any and all applicable civil penalties, attorneys' fees and costs for Defendant's violation of Labor Code § 226, for the time period described above, on behalf of the State of California and other Aggrieved Employees.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for judgment individually and all others on whose behalf this suit is brought against Defendants, jointly and severally, as follows:

1. For an order certifying the proposed Class;
2. For an order appointing Plaintiff as the representative of the Class as described herein;
3. For an order appointing counsel for Plaintiff as Class counsel;
4. Upon the First Cause of Action, for damages and/or penalties pursuant to statute as set forth in Labor Code § 226, and for costs and attorneys' fees;
5. Upon the Second Cause of Action, for civil penalties, costs, and attorneys' fees pursuant to Labor Code §§ 226.3 and 2699;

1 6. On all causes of action, for attorneys' fees and costs as provided by California Labor
2 Code §§ 226 and 2699, and Code of Civil Procedure § 1021.5; and

3 7. For such other and further relief as the Court may deem just and proper.
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5 DATED: May 28, 2021

DIVERSITY LAW GROUP, P.C.

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7 By: 
8 Larry W. Lee
9 Attorneys for Plaintiff and the Class
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