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ALAMEDA COUNTY

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

Ola Kamel, on behalf of herself and all other
aggrieved employees,

Plaintiff,

vs.

Macy's Retail Holdings, LLC Dba Macy's;
And Does 1-10, Inclusive,

Defendants.

Case No.: 2621104047

**REPRESENTATIVE ACTION
COMPLAINT FOR VIOLATION OF
THE CALIFORNIA LABOR CODE
PRIVATE ATTORNEYS GENERAL
ACT OF 2004 (CAL. LABOR CODE §§
2698, ET SEQ.)**

DEMAND FOR JURY TRIAL

1 Plaintiff Ola Kamel (“Plaintiff”), on behalf of herself and all others similarly aggrieved
2 alleges as follows:

3 **INTRODUCTION**

4 1. Plaintiff is an individual who worked as a Sales Associate for Defendants Macy’s
5 Retail Holdings, LLC dba Macy’s and Does 1 through 10, inclusive (“Defendants”). Plaintiff
6 seeks to recover civil penalties for all California-based “aggrieved employees” during the
7 “Relevant Time Period” (defined as one year and 179 days before Plaintiff gave notice of these
8 claims to the California Labor and Workforce Development Agency (“LWDA”) on April 23, 2021,
9 up to and including the date of commencement of trial) who incurred wage and hour violations
10 and losses as hereinafter described.

11 2. Defendant Macy’s Retail Holdings, LLC dba Macy’s is a retail department store
12 company doing business in California.

13 3. Through this action, Plaintiff alleges that Defendants have engaged in a systematic
14 pattern of wage and hour violations under the California Labor Code (“Labor Code”).

15 4. Plaintiffs are informed and believe, and thereon allege, during the relevant time
16 period, Defendants had a consistent policy of violating state wage and hour laws
17 by, among other things:

- 18 a. failing to pay minimum wages for all hours worked;
- 19 b. failing to pay overtime wages for all hours worked;
- 20 c. failing to timely pay all wages due during employment; and
- 21 d. failing to provide adequate seating.

22 5. Plaintiffs bring this representative action seeking monetary relief against
23 Defendants on behalf of themselves and other aggrieved employees to recover, among other
24 things, penalties, attorney’s fees, costs and expenses pursuant to the Private Attorneys General
25 Act of 2004, Labor Code §§ 2698, *et seq.* (“PAGA”).

26 **JURISDICTION AND VENUE**

27 6. The relief sought by Plaintiff on behalf of herself and the aggrieved employees
28 below exceeds the minimal jurisdictional limits of the Superior Court and will be established

1 according to proof at trial. The Court has personal jurisdiction over each of the parties because
2 they are either citizens of this State, doing business in this State or otherwise have minimum
3 contacts with this State.

4 7. Based on information and belief, Plaintiff alleges that this entire action arises solely
5 under the laws of the State of California and applicable regulations of the health, safety and wages
6 of the employees residing in the State of California. Plaintiff alleges, on information and belief,
7 that no federal question is raised. Moreover, PAGA civil penalty actions are not subject to federal
8 jurisdiction.

9 8. Venue is proper in this Court because, upon information and belief, Plaintiff
10 worked for Defendants in this county, Defendants transact business or have offices in this county,
11 and the acts and omissions alleged herein took place in this county.

12 **PARTIES**

13 **Plaintiff**

14 9. Plaintiff Ola Kamel is a citizen of California who worked for Defendants within
15 the past year. Details regarding Plaintiff's precise hours, pay, and revenue generated for Defendant
16 are available by reference to Defendant's records. Throughout Plaintiff's employment, she and
17 her co-workers were subjected to wage theft.

18 **Defendants**

19 10. Defendant Macy's Retail Holdings, LLC dba Macy's is an Ohio corporation doing
20 business in the state of California.

21 11. Plaintiff is unaware of the true names or capacities of the Defendants sued herein
22 under the fictitious names DOES 1 through 10 but will seek leave of this Court to amend this
23 Complaint and serve such fictitiously named Defendants once their names and capacities become
24 known.

25 12. Plaintiff is informed and believes, and thereon alleges, that each Defendant acted
26 in all respects pertinent to this action as the agent of the other Defendant, carried out a joint scheme,
27 business plan or policy in all respects pertinent hereto, and the acts of each defendant are legally
28 attributable to the other defendant. Furthermore, Defendants in all respects acted as the employer

1 and/or joint employer of Plaintiff and the aggrieved employees.

2 13. Plaintiff is informed and believes, and thereon alleges, that each and all of the acts
3 and omissions alleged herein were performed by, or are attributable to, Defendants and/or DOES
4 1 through 10, acting as the agent or alter ego for the other, with legal authority to act on the other's
5 behalf. The acts of any and all Defendants were in accordance with, and represent, the official
6 policy of Defendants.

7 14. At all relevant times, Defendants, and each of them, acted within the scope of such
8 agency or employment, or ratified each and every act or omission complained of herein. At all
9 relevant times, Defendants, and each of them, aided and abetted the acts and omissions of each
10 and all the other Defendants in proximately causing the damages herein alleged.

11 15. Plaintiff is informed and believes, and thereon alleges, that each of said Defendants
12 is in some manner intentionally, negligently or otherwise responsible for the acts, omissions,
13 occurrences and transactions alleged herein.

14 **GENERAL ALLEGATIONS**

15 16. At all relevant times mentioned herein, Defendants employed Plaintiff and other
16 persons as non-exempt employees.

17 17. Defendants employed Plaintiff during the relevant time period.

18 18. Plaintiff is informed and believe, and thereon alleges, that at all times mentioned
19 herein, Defendants were advised by skilled lawyers, employees, and other professionals who
20 were knowledgeable about California's wage and hour laws, employment and personnel
21 practices, and the requirements of California law.

22 19. Through this action, Plaintiff alleges that Defendants have engaged in a
23 systematic pattern of wage and hour violations under the California Labor Code and IWC Wage
24 Orders.

25 20. Plaintiff is informed and believe, and thereon alleges, that Defendants knew or
26 should have known that Plaintiff and other aggrieved employees were entitled to receive wages
27 for all time worked (including minimum wages and overtime wages) and that they were not
28 receiving all wages earned for work that was required to be performed. For example, Defendants

1 required Plaintiff and aggrieved employees to work off-the-clock during mandatory health
2 screenings/questionnaires when Plaintiff and aggrieved employees were under Defendants'
3 control. To the extent these hours do not qualify for the payment of overtime or doubletime,
4 Plaintiff and aggrieved employees were not being paid at least minimum wage for their work.
5 In violation of the Labor Code and IWC Wage Orders, Plaintiff and other aggrieved employees
6 were not paid all wages (including minimum wages and overtime wages) for all hours worked.

7 21. Plaintiff is informed and believe, and thereon allege, that Defendants knew or
8 should have known that Plaintiff and aggrieved employees were entitled to timely payment of
9 wages during their employment. In violation of the Labor Code, Plaintiff and aggrieved
10 employees did not receive payment of all wages within permissible time periods.

11 22. Plaintiff is informed and believe, and thereon alleges, that Defendants failed to
12 provide adequate seating for the aggrieved employees in violation of the Labor Code and the
13 applicable Wage Order. For example, Defendant violated the Labor Code and the applicable
14 Wage Order because the aggrieved employees were not allowed to sit, even when it would not
15 have interfered with the performance of their duties, nor were they provided with suitable seats.
16 Thus, in violation of the Labor Code and the applicable Wage Order, Defendants failed to
17 provide adequate seating to the aggrieved employees.

18 **FIRST CAUSE OF ACTION**

19 **ENFORCEMENT OF LABOR CODE § 2698 ET SEQ. ("PAGA")**

20 23. Plaintiff hereby re-alleges and incorporates by reference all paragraphs above as
21 though fully set forth herein.

22 24. Pursuant to Labor Code § 2699(a), any provision of the Labor Code that provides
23 for a civil penalty to be assessed and collected by the Labor and Workforce Development
24 Agency ("LWDA") or any of its departments, divisions, commissions, boards, agencies or
25 employees for violation of the code may, as an alternative, be recovered through a civil action
26 brought by an aggrieved employee on behalf of themselves or herself and other current or former
27 employees pursuant to the procedures specified in Labor Code § 2699.3.

1 25. For all provisions of the Labor Code except those for which a civil penalty is
2 specifically provided, Labor Code § 2699(f) imposes upon Defendants a penalty of one hundred
3 dollars (\$100.00) for each aggrieved employee per pay period for the initial violations and two
4 hundred dollars (\$200.000) for each aggrieved employee per pay period for each subsequent pay
5 period in which Defendants violated these provisions of the Labor Code.

6 26. Defendants' conduct with respect to Plaintiff and other aggrieved employees
7 violates numerous Labor Code sections including, but not limited to, the following:

8 a. Violation of Labor Code §§ 204, 210, 510, 1194, 1194.2, 1197, 1198, and
9 the IWC Wage Orders for failure to timely pay all earned wages (including
10 minimum and overtime wages) owed to Plaintiff and other aggrieved employees
11 during employment as herein alleged;

12 b. Violation of Labor Code §§ 1174 and 1174.5 for failure to maintain
13 accurate and complete records showing the hours worked daily by Plaintiff and
14 other aggrieved employees as herein alleged; and

15 c. Violation of Labor Code § 1198, and Code of Regulations, Title 8 §
16 11070(14).

17 27. Plaintiff is an "aggrieved employee" because she was employed by the alleged
18 violator and had one or more of the alleged violations committed against her, and therefore is
19 properly suited to represent the interests of all other aggrieved employees.

20 28. Plaintiff has exhausted the procedural requirements under Labor Code § 2699.3
21 as to Defendants and is therefore able to pursue a claim for penalties on behalf of herself and all
22 other aggrieved employees under PAGA.

23 29. Pursuant to Labor Code §§ 2699(a), 2699.3 and 2699.5, Plaintiff is entitled to
24 recover civil penalties for violations of the Labor Code sections cited above.

25 30. For bringing this action, Plaintiff is entitled to attorney's fees and costs incurred
26 herein.

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1 **PRAYER FOR RELIEF**

2 WHEREFORE, Plaintiffs, on behalf of all others similarly situated, pray for judgment
3 against Defendants as follows:

- 4 1. For civil penalties against Defendants on behalf of all aggrieved employees.
5 2. For reasonable attorney's fees and costs of suit to the extent permitted by law,
6 including pursuant to California Labor Code §§ 2699(g) and California Code of Civil Procedure
7 § 1021.5; and
8 3. For such other relief as the Court deems just and proper.
9

10 DATED: July 7, 2021

LEBE LAW, APLC

11
12 By: 
13 Jonathan M. Lebe

14 Attorney for Plaintiff Ola Kamel, individually and on
15 behalf of all others similarly situated

16 **DEMAND FOR JURY TRIAL**

17 Plaintiff demands a trial by jury on all claims so triable.
18

19 DATED: July 7, 2021

LEBE LAW, APLC

20
21 By: 
22 Jonathan M. Lebe

23 Attorney for Plaintiff Ola Kamel, individually and on
24 behalf of all others similarly situated
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