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13 *California and Aggrieved Employees*

14 **SUPERIOR COURT OF CALIFORNIA**
15 **COUNTY OF ALAMEDA**

16 CARL HUDSON, on behalf of the State of
17 California and Aggrieved Employees,

18 Plaintiffs,

19 vs.

20 ROSS STORES, INC. d/b/a/ ROSS DRESS FOR
21 LESS; REAL TIME STAFFING SERVICES,
22 LLC; EMPLOYBRIDGE, LLC; and DOES 1-50.

23 Defendant.

FILED BY FAX

ALAMEDA COUNTY

June 25, 2021

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

CASE NUMBER:

RG21103230

Case No. _____

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

1 Plaintiff Carl Hudson (“Plaintiff”), on behalf of the State of California and Aggrieved
2 Employees, complains and alleges as follows:

3 **INTRODUCTION**

4 1. Plaintiff Carl Hudson, individually and on behalf of all others similarly situated, brings
5 this enforcement action against Defendant Ross Stores, Inc. d/b/a/ Ross Dress for Less (“Ross”), Real
6 Time Staffing Services, LLC, EmployBridge, LLC and DOES 1-50 on behalf of individuals who have
7 worked for Defendants as non-exempt hourly employees in Ross Distribution Centers in Moreno
8 Valley, CA; Perris, CA; Shafter, CA; and/or any other distribution center in California and have been
9 subject to Defendants’ security-check and health check policies and practices (the “Aggrieved
10 Employees”). Throughout the relevant time period, Plaintiff and similarly situated workers have been
11 denied payment for all hours worked, including overtime, and have been forced to wait in security-
12 check and health check lines while off-the-clock. This case implicates Defendants’ longstanding
13 policies and practices, which fails to properly compensate non-exempt employees for work performed
14 while “off-the-clock.”

15 2. Defendants’ conduct violates California law by knowingly and willfully requiring
16 Plaintiff and Aggrieved Employees to perform work and/or remain on duty for the benefit of
17 Defendants while off-the-clock. Plaintiff and Aggrieved Employees bring these claims to challenge
18 Defendants’ policies and practices of: (1) failing to pay Plaintiff and Aggrieved Employees all
19 minimum wages owed; (2) failing to pay Plaintiff and Aggrieved Employees overtime wages; (3)
20 failing to compensate Plaintiff and Aggrieved Employees for all hours worked; (4) failing to provide
21 Plaintiff and Aggrieved Employees accurate, itemized wage statements; and (5) and filing to timely
22 pay Plaintiff and Aggrieved Employees full wages upon termination or resignation.

23 3. Plaintiff files this action to recover all unpaid wages, compensation, penalties, and other
24 damages on behalf of himself and Aggrieved Employees. Plaintiff seeks to remedy the sweeping
25 practices Defendant has integrated into its time tracking, payroll, health and security policies across
26 their distribution centers throughout California that have deprived Plaintiff and Aggrieved Employees
27

1 of their lawfully-earned wages.

2 **PARTIES**

3 4. Plaintiff Carl Hudson is an individual over the age of eighteen, and at all times relevant
4 to this Complaint was a resident of the State of California, County of Kern. Plaintiff was employed
5 as a non-exempt operations associate by Defendants at the Ross Distribution Center in Shafter,
6 California from November 2020 through March 2021.

7 5. Plaintiff is informed, believes, and thereon alleges that Ross Stores, Inc. is a Delaware
8 corporation with its principal place of business located in Dublin, California, and is registered to do
9 business in California. Ross Stores, Inc. may be served with process by serving its registered agent, C
10 T Corporation System, 818 West Seventh Street, Suite 930, Los Angeles, California 90017.

11 6. Plaintiff is informed, believes, and thereon alleges that Real Time Staffing Services,
12 LLC is a California limited liability company with its principal place of business in Santa Barbara,
13 California, and is registered to do business in California. Real Time Staffing Services, LLC may be
14 served with process by serving its registered agent, Corporate Creations Network, Inc., 4649
15 Admiralty Way, 5th Floor, Marina del Rey, CA 90292.

16 7. Plaintiff is informed, believes, and thereon alleges that EmployBridge, LLC is a
17 Georgia limited liability company with its principal place of business in Atlanta, Georgia, and is
18 registered to do business in California. Employbridge, LLC may be served with process by serving its
19 registered agent, Corporate Creations Network, Inc., 4649 Admiralty Way, 5th Floor, Marina del Rey,
20 CA 90292.

21 8. Plaintiff is informed, believes, and thereon alleges that Defendants own, operate, and/or
22 manage distribution centers throughout the state commonly referred to as Ross Distribution Centers.
23 Plaintiff is informed, believes, and thereon alleges that Defendants employ Aggrieved Employees,
24 among other hourly employees, throughout the state of California.

25 9. Plaintiff is informed, believes, and thereon alleges that Defendants directly control the
26 operations of its agents, managers, and employees throughout all of its stores in California.

10. At all material times, Defendants have done business under the laws of California, have had places of business in California, including in this County, and have employed Aggrieved Employees in this County and elsewhere in California. Defendants are “person[s]” as defined in Labor Code § 18 and California Business and Professions Code § 17201, and “employer[s]” as that term is used in the Labor Code and the IWC Wage Orders regulating wages, hours, and working conditions.

11. Defendants own, operate, and/or manage distribution centers throughout California and the United States.

12. Upon information and belief, Defendants employ Aggrieved Employees, because Defendants, directly or indirectly, control the employment terms, pay practices, timekeeping practices, and daily work of Plaintiff and Aggrieved Employees.

SUBJECT MATTER JURISDICTION AND VENUE

13. This Court has jurisdiction over Plaintiff's claims for penalties pursuant to the PAGA. The Court also has jurisdiction over Defendants because Defendants do business in the State of California, are authorized to do business in California, and are registered with the California Secretary of State.

14. Venue is proper in this judicial district pursuant to Code of Civil Procedure §§ 395.5. Defendant Ross Stores, Inc. is headquartered and has its principal place of business in this County.

FACTUAL ALLEGATIONS

15. Defendants operate distribution centers throughout California. Defendants employs hundreds of hourly non-exempt workers similarly situated to Plaintiff across these facilities.

16. Plaintiff worked at the Ross Distribution Center in Shafter, California as a non-exempt employee as from November 2020 through March 2021. Plaintiff was paid at an hourly rate of approximately \$17. On average, Plaintiff worked 25 to 33 hours per week.

17. As a matter of course, Defendants routinely makes Plaintiff and Aggrieved Employees wait in health screening and security-check lines at the beginning of their shifts while they are off-the-clock – before they have clocked in. Plaintiff and Aggrieved Employees are required to wait on

1 average 5-to-15 minutes, and sometimes even longer, before their shift begins. Plaintiff and Aggrieved
2 Employees are required to undergo the same process upon re-entry when returning from meal periods
3 if they leave the facility. This time spent waiting in the security check lines is compensable, but
4 nevertheless goes unpaid.

5 18. As a result of these policies, Defendants deny Plaintiff and Aggrieved Employees
6 compensation which they are lawfully owed from the additional off-the-clock, pre-shift work.

7 19. Plaintiff is informed, believes, and thereon alleges that this same health screening and
8 security-check system is used across all Defendants' distribution centers throughout California.

9 20. Defendants' common course of wage-and-hour abuse includes routinely failing to
10 maintain true and accurate records of the hours worked by Aggrieved Employees. In particular,
11 Defendants have failed to record hours that Plaintiff and Aggrieved Employees worked while off the
12 clock.

13 21. Aggrieved Employees report to a facility owned, operated, or managed by Defendants
14 to perform their jobs.

15 22. Aggrieved Employees perform their jobs under Defendants' supervision and using
16 materials and technology approved and supplied by Defendants.

17 23. Aggrieved Employees are required to follow and abide by common work, time, pay,
18 and overtime policies and procedures in the performance of their jobs.

19 24. At the end of each pay period, Aggrieved Employees receive wages from Defendants
20 that are determined by common systems and methods that Defendants selects and controls.

21 25. Defendants pay Aggrieved Employees on an hourly rate basis.

22 26. Upon information and belief, Aggrieved Employees worked more than 8 hours a day,
23 and more than forty hours in at least one workweek during the year before this Complaint was filed.

24 27. Defendants' conduct is willful, is carried out in bad faith, and causes significant
25 damages to non-exempt hourly employees in an amount to be determined at trial.

26 ///

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

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

29. Labor Code § 2699(a) provides:

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

30. Labor Code §§ 201 and 202 require employers to immediately pay wages earned and 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.

31. 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.

32. 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.”

33. 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.

34. 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

1 separately when wages are paid by personal check or cash, an accurate
2 itemized statement in writing showing (1) gross wages earned, (2) total
3 hours worked by the employee, except for any employee whose
4 compensation is solely based on a salary and who is exempt from
5 payment of overtime under subdivision (a) of Section 515 or any
6 applicable order of the Industrial Welfare Commission, (3) the number
7 of piece-rate units earned and any applicable piece rate if the employee
8 is paid on a piece-rate basis, (4) all deductions, provided that all
9 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.

10 35. Labor Code § 226.3 provides:

11 Any employer who violates subdivision (a) of Section 226 shall be
12 subject to a civil penalty in the amount of two hundred fifty dollars
13 (\$250) per employee per violation in an initial citation and one thousand
14 dollars (\$1,000) per employee for each violation in a subsequent
15 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.

16 36. Plaintiff seeks civil penalties pursuant to Labor Code § 2699(a) for each failure by
17 Defendants, alleged above, to provide Plaintiff and the Aggrieved Employees an accurate, itemized
18 wage statement in compliance with Labor Code § 226(a) in the amounts established by Labor Code
19 § 226(e). Plaintiff seeks such penalties as an alternative to the penalties available under Labor Code
20 § 226(e), as prayed for herein.

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

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

27 39. Defendants are liable to Plaintiff, the Aggrieved Employees, and the State of California

1 for the civil penalties set forth in this Complaint, with interest thereon. Plaintiff is also entitled to an
2 award of attorneys' fees and costs as set forth below.

3 40. Wherefore, Plaintiff requests relief as hereinafter provided.

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

7 41. Plaintiff re-alleges and incorporates the foregoing paragraphs as though fully set forth
8 herein.

9 42. Labor Code § 2699(f) provides:

10 For all provisions of this code except those for which a civil penalty is
11 specifically provided, there is established a civil penalty for a violation
12 of these provisions, as follows: . . . (2) If, at the time of the alleged
13 violation, the person employs one or more employees, the civil penalty
14 is one hundred dollars (\$100) for each aggrieved employee per pay
15 period for the initial violation and two hundred dollars (\$200) for each
16 aggrieved employee per pay period for each subsequent violation.

17 43. To the extent than any violation alleged herein does not carry penalties under Labor
18 Code § 2699(a), Plaintiff seeks civil penalties pursuant to Labor Code § 2699(f) for Plaintiff and the
19 Aggrieved Employees each pay period in which he or she was aggrieved, in the amounts established
20 by Labor Code § 2699(f). Plaintiff seeks penalties pursuant to Labor Code § 2699(f) for Plaintiff and
21 the Aggrieved Employees for violations of Labor Code provisions including, but not limited, to,
22 Labor Code § 204, 510, and 1194.

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

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

46. 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

1 award of attorneys' fees and costs as set forth below.

2 47. Wherefore, Plaintiff requests relief as hereinafter provided.

3 **PRAYER FOR RELIEF**

4 WHEREFORE, Plaintiff, on behalf of the State of California and Aggrieved Employees,
5 requests the following relief:

- 6 1. For an order awarding civil penalties to the full extent provided for by the PAGA;
7 2. For an award of reasonable attorneys' fees as provided by the California Labor Code,
8 including Labor Code § 2699(g)(1); California Code of Civil Procedure §1021.5;
9 and/or any other applicable law;
10 3. For all costs of suit;
11 4. For interest as provided by applicable law; and
12 5. For such other and further relief as this Court deems just and proper.

13
14 Respectfully submitted,

15 Date: June 25, 2021



16 Carolyn H. Cottrell
17 Ori Edelstein
18 Andrew Weaver
19 SCHNEIDER WALLACE
20 COTTRELL KONECKY LLP

21 *Attorneys for Plaintiff, on behalf of the State of*
22 *California and Aggrieved Employees*

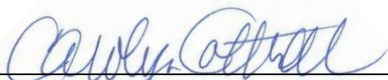
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DEMAND FOR JURY TRIAL

Plaintiff hereby demands a jury trial on all claims and issues for which Plaintiff is entitled to a jury.

Respectfully submitted,

Date: June 25, 2021



Carolyn H. Cottrell
Ori Edelstein
Andrew Weaver
SCHNEIDER WALLACE
COTTRELL KONECKY LLP

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