

1 Orlando Villalba (SBN 232165)
Orlando.Villalba@capstonelawyers.com
2 Helga Hakimi (SBN 257381)
Helga.Hakimi@capstonelawyers.com
3 Roxanna Tabatabaee pour (SBN 260187)
Roxanna.Taba@capstonelawyers.com
4 Capstone Law APC
1875 Century Park East, Suite 1000
5 Los Angeles, California 90067
Telephone: (310) 556-4811
6 Facsimile: (310) 943-0396

7 Attorneys for Plaintiff Perla Chavez

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN BERNARDINO
SAN BERNARDINO DISTRICT

JUL 30 2021

BY Anne Perry
ANNE PERRY, DEPUTY

8
9 SUPERIOR COURT OF THE STATE OF CALIFORNIA
10 FOR THE COUNTY OF SAN BERNARDINO
11

12 PERLA CHAVEZ, as an aggrieved
employee pursuant to the Private Attorneys
13 General Act ("PAGA"), on behalf of the
State of California and other aggrieved
14 employees,

15 Plaintiff,

16 vs.

17 ROSS DRESS FOR LESS, INC. dba dd's
Discounts, a Virginia corporation; ROSS
18 STORES, INC., a Delaware corporation;
and DOES 1 through 10, inclusive,
19

20 Defendants.
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Case No.: **CIV SB 2121720**

**COMPLAINT – PAGA ENFORCEMENT
ACTION**

- (1) Claim for Civil Penalties for Violations
of California Labor Code, Pursuant to
PAGA, §§ 2698, *et seq.*

Jury Trial Demanded

1 Plaintiff Perla Chavez, as an aggrieved employee and on behalf of the State of
2 California and all other aggrieved employees, alleges as follows:

3 JURISDICTION AND VENUE

4 1. This is an enforcement action under the Labor Code Private Attorneys General
5 Act of 2004, California Labor Code sections 2698, *et seq.* (“PAGA”) to recover civil penalties
6 and any other available relief on behalf of Plaintiff, the State of California, and other current
7 and former employees who worked for Defendants at “dd’s Discounts” retail locations in
8 California as a non-exempt, hourly paid employee and received at least one wage statement
9 and against whom one or more violations of any provision in Division 2 Part 2 Chapter 1 of
10 the Labor Code or any provision regulating hours and days of work in the applicable Industrial
11 Welfare Commission (“IWC”) Wage Order were committed, as set forth in this complaint, at
12 any time between one year prior to the filing of the pre-filing written notice to the Labor and
13 Workforce Development Agency (“LWDA”) in this case on May 25, 2021, until judgment
14 (“non-party Aggrieved Employees”). Plaintiff’s share of civil penalties sought in this action
15 does not exceed \$75,000.

16 2. This Court has jurisdiction over this action pursuant to the California
17 Constitution, Article VI, section 10. The statute under which this action is brought does not
18 specify any other basis for jurisdiction.

19 3. This Court has jurisdiction over all Defendants because, on information and
20 belief, Defendants are either citizens of California, have sufficient minimum contacts in
21 California, or otherwise intentionally avail themselves of the California market so as to render
22 the exercise of jurisdiction over them by the California courts consistent with traditional
23 notions of fair play and substantial justice. There is no basis for federal diversity jurisdiction
24 in this action given that the State of California, as the real party in interest in this action, is not
25 a “citizen” for purposes of satisfying diversity jurisdiction. *Urbino v. Orkin Servs. of Cal.*,
26 726 F.3d 1118, 1123 (9th Cir. Cal. 2013). *Urbino* also holds that civil penalties cannot be
27 aggregated to satisfy the amount in controversy requirement for federal diversity jurisdiction
28 in this action, and that diversity jurisdiction cannot be established when Plaintiff’s share of the

1 civil penalties attributable to violations personally suffered are less than \$75,000. *Id.* at 1122.

2 4. Venue is proper in this Court because Defendants employ or employed persons
3 within the County of San Bernardino and have violated the requirements of the California
4 Labor Code and applicable IWC Wage Order in this county which give rise to the penalties
5 sought in this action. Cal. Code Civ. P. § 393. Specifically, Defendants have violated the
6 requirements of the California Labor Code and applicable IWC Wage Order in at least 6
7 locations within the County of San Bernardino, including Defendants' stores located in San
8 Bernardino (781 W 2nd St, San Bernardino, California 92410-3246; 1617 E Highland Ave,
9 San Bernardino, California 92404-4677); Rialto (210 West Baseline Rd, Rialto, California
10 92376-3306; 1610 S Riverside Avenue, Rialto, California 92376-7739); and Victorville
11 (12220 Hesperia Rd, Victorville, California 92395-5823; 14598 7th St, Victorville, California
12 92395-4214). Pursuant to California Civil Code of Procedure section 393, venue is proper for
13 the recovery of a penalty imposed by statute in the county in which the cause, or some part of
14 the cause, arose. Because Defendants have employees in San Bernardino County, and
15 Plaintiff could bring an action filed under PAGA in any county in which an aggrieved
16 employee worked and Labor Code violations occurred, venue is proper. *Crestwood*
17 *Behavioral Health, Inc. v. Superior Court of Alameda County*, 60 Cal. App. 5th 1069 (2021).

18 5. California Labor Code sections 2698, *et seq.*, the "Labor Code Private
19 Attorneys General Act of 2004" ("PAGA"), authorize aggrieved employees to sue as private
20 attorneys general their current or former employers for various civil penalties for violations of
21 various provisions in the California Labor Code.

22 THE PARTIES

23 6. Plaintiff Perla Chavez is a resident of city of Madera in Madera County,
24 California. Defendants employed Plaintiff as an hourly paid, non-exempt Store Protection
25 Specialist (Loss Prevention) from approximately January 2020 to October 2020. Plaintiff
26 worked for Defendants at their dd's Discount retail location in Madera, California. Plaintiff
27 typically worked four (4) to eight (8) hours or more per day, two (2) to five (5) days per week.
28 Plaintiff was compensated approximately \$13.50 per hour. Her job duties included, without

1 limitation, surveilling the store premises, reviewing store cameras for suspicious activity, and
2 greeting customers.

3 7. On information and belief, Defendants required some employees, including
4 Plaintiff, to execute a dispute resolution policy and/or arbitration agreement at the time of
5 their hire or during their employment. On further information and belief, Defendants' dispute
6 resolution policy and/or arbitration agreement was and is both procedurally and substantively
7 unconscionable. Specifically, Defendants presented new hires with a Dispute Resolution
8 Agreement ("Arbitration Agreement") during the onboarding process, which had to be
9 reviewed and signed immediately. In fact, upon information and belief, the Arbitration
10 Agreement was one of several documents presented to new employees for signature during the
11 orientation process, including the Ross Non-Harassment Policy, Electronic Disclosure &
12 Consent agreement, 2020 HR Policy Handbook, 2020 Store Associate Welcome Book, 2020
13 Ross Stores, Inc. Policy Acknowledgement, Safety Handbook and Associate Safety Rule
14 Agreement, among other documents. Also, employees did not have a meaningful opportunity
15 to negotiate the terms of the Arbitration Agreement. Rather, it was provided to Defendants'
16 employees for them to sign on a take-it or leave-it basis at the time they were hired, along
17 with all of the other on-boarding documents.

18 8. ROSS DRESS FOR LESS, INC. was and is, upon information and belief, a
19 Virginia corporation, and at all times hereinafter mentioned, an employer whose employees
20 are engaged throughout this county and the State of California.

21 9. ROSS STORES, INC. was and is, upon information and belief, a Delaware
22 corporation, and at all times hereinafter mentioned, an employer whose employees are
23 engaged throughout this county and the State of California.

24 10. Plaintiff is unaware of the true names or capacities of the Defendants sued
25 herein under the fictitious names DOES 1 through 10, but will seek leave of this Court to
26 amend the complaint and serve such fictitiously named Defendants once their names and
27 capacities become known.

28 11. Plaintiff is informed and believes, and thereon alleges, that DOES 1 through 10

1 were the partners, agents, owners, or managers of ROSS DRESS FOR LESS, INC.; and ROSS
2 STORES, INC. (collectively, “ROSS”) at all relevant times.

3 12. Plaintiff is informed and believes, and thereon alleges, that each and all of the
4 acts and omissions alleged herein was performed by, or is attributable to, ROSS DRESS FOR
5 LESS, INC.; ROSS STORES, INC.; and/or DOES 1 through 10, each acting as the agent,
6 employee, alter ego, and/or joint venturer of, or working in concert with, each of the other co-
7 Defendants and was acting within the course and scope of such agency, employment, joint
8 venture, or concerted activity with legal authority to act on the others’ behalf. The acts of any
9 and all Defendants were in accordance with, and represent, the official policy of Defendants.

10 13. At all relevant times, Defendants, and each of them, ratified each and every act
11 or omission complained of herein. At all relevant times, Defendants, and each of them, aided
12 and abetted the acts and omissions of each and all the other Defendants in proximately causing
13 the damages herein alleged.

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

17 15. Under California law, Defendants are jointly and severally liable as employers
18 for the violations alleged herein because they have each exercised sufficient control over the
19 wages, hours, working conditions, and employment status of Plaintiff and other non-party
20 Aggrieved Employees. Each Defendant had the power to hire and fire Plaintiff and other non-
21 party Aggrieved Employees, supervised and controlled their work schedule and/or conditions
22 of employment, determined their rate of pay, and maintained their employment records.
23 Defendants suffered or permitted Plaintiff and other non-party Aggrieved Employees to work
24 and/or “engaged” Plaintiff and other non-party Aggrieved Employees so as to create a
25 common-law employment relationship. As joint employers of Plaintiff and other non-party
26 Aggrieved Employees, Defendants are jointly and severally liable for the civil penalties
27 available to Plaintiff and other non-party Aggrieved Employees under the law.

28 16. Plaintiff is informed and believes, and thereon alleges, that at all relevant times,

Defendants, and each of them, have acted as joint employers with respect to Plaintiff and other non-party Aggrieved Employees because Defendants have:

- (a) jointly exercised meaningful control over the work performed by Plaintiff and other non-party Aggrieved Employees;
- (b) jointly exercised meaningful control over Plaintiff's and other non-party Aggrieved Employees' wages, hours, and working conditions, including the quantity, quality standards, speed, scheduling, and operative details of the tasks performed by Plaintiff and other non-party Aggrieved Employees;
- (c) jointly required that Plaintiff and other non-party Aggrieved Employees perform work which is an integral part of Defendants' businesses; and
- (d) jointly exercised control over Plaintiff and other non-party Aggrieved Employees as a matter of economic reality in that Plaintiff and other non-party Aggrieved Employees were dependent on Defendants, who shared the power to set the wages of Plaintiff and other non-party Aggrieved Employees and determined their working conditions, and who jointly reaped the benefits from the underpayment of their wages and noncompliance with other statutory provisions governing their employment.

17. Plaintiff is informed and believes, and thereon alleges, that at all relevant times there has existed a unity of interest and ownership between Defendants such that any individuality and separateness between the entities has ceased.

18. ROSS DRESS FOR LESS, INC.; ROSS STORES, INC.; and DOES 1 through 10 are therefore alter egos of each other.

19. Adherence to the fiction of the separate existence of Defendants would permit an abuse of the corporate privilege, and would promote injustice by protecting Defendants from liability for the wrongful acts committed by them under the name ROSS.

20. Plaintiff further alleges, upon information and belief, that Defendants ROSS

DRESS FOR LESS, INC.; and ROSS STORES, INC. are alter egos of each other for the following reasons:

- (a) On ROSS STORES, INC.'s SEC Form 10-K filing for 2020¹, ROSS DRESS FOR LESS, INC. is listed as a direct subsidiary of ROSS STORES, INC.;
- (b) On the California Secretary of State's website ROSS DRESS FOR LESS, INC. and ROSS STORES, INC. share the same entity address and mailing address, "5130 Hacienda Drive, Dublin, CA 94568;"
- (c) On the California Secretary of State's website, ROSS DRESS FOR LESS, INC. and ROSS STORES, INC. share the same agent for service of process, "C T Corporation System (C0168406);" and
- (d) On information and belief, ROSS DRESS FOR LESS, INC. and ROSS STORES, INC. utilize the same standardized employment forms and issue the same employment policies.

PAGA REPRESENTATIVE ALLEGATIONS

21. Defendants own and operate a chain of retail stores named "dd's Discounts" selling clothing, toys, and home décor, with approximately 109 store locations in California. Upon information and belief, Defendants maintain a centralized Human Resources ("HR") department at their corporate headquarters in Dublin, California, which is responsible for the recruiting and hiring of new employees, and communicating and implementing Defendants' company-wide policies, including timekeeping policies and meal and rest period policies, to employees throughout California.

22. In particular, Plaintiff and other non-party Aggrieved Employees, on information and belief, received the same standardized documents and/or written policies. Upon information and belief, the usage of standardized documents and/or written policies, including new-hire documents, indicate that Defendants dictated policies at the corporate level

¹ 10-K Annual Report 03/30/2021, "Financial Information | Ross Stores, Inc." <https://investors.rossstores.com/financial-information/sec-filings> (last accessed July 29, 2021).

1 and implemented them company-wide, regardless of their employees' assigned locations or
2 positions. Upon information and belief, Defendants set forth uniform policies and procedures
3 in several documents provided at an employee's time of hire.

4 23. Upon information and belief, Defendants maintain a centralized Payroll
5 department at their corporate headquarters in Dublin, California, which processes payroll for
6 all non-exempt, hourly paid employees working for Defendants at their various locations and
7 jobsites in California, including Plaintiff and other non-party Aggrieved Employees. Based
8 upon information and belief, Defendants issue the same formatted wage statements to all non-
9 exempt, hourly paid employees in California, irrespective of their work locations. Upon
10 information and belief, Defendants process payroll for departing employees in the same
11 manner throughout the State of California, regardless of the manner in which each employee's
12 employment ends.

13 24. Defendants continue to employ non-exempt or hourly paid employees in
14 California.

15 25. Plaintiff is informed and believes, and thereon alleges, that at all times herein
16 mentioned, Defendants were advised by skilled lawyers and other professionals, employees
17 and advisors knowledgeable about California labor and wage law, employment and personnel
18 practices, and about the requirements of California law.

19 26. Plaintiff is informed and believes, and thereon alleges, that Plaintiff and other
20 non-party Aggrieved Employees were not paid for all hours worked because all hours worked
21 were not recorded.

22 27. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
23 should have known that Plaintiff and other non-party Aggrieved Employees were entitled to
24 receive certain wages for overtime compensation and that they were not receiving certain
25 wages for overtime compensation.

26 28. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
27 should have known that other non-party Aggrieved Employees were entitled to be paid at a
28 regular rate of pay, and corresponding overtime rates of pay, that included as eligible income

1 all income derived from incentive pay, nondiscretionary bonuses, and/or other forms of
2 compensation, but failed to do so.

3 29. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
4 should have known that Plaintiff and other non-party Aggrieved Employees were entitled to
5 receive at least minimum wages for compensation and that they were not receiving at least
6 minimum wages for work that was required to be done off-the-clock. In violation of the
7 California Labor Code, Plaintiff and other non-party Aggrieved Employees were not paid at
8 least minimum wages for work done off-the-clock.

9 30. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
10 should have known that Plaintiff and other non-party Aggrieved Employees were entitled to
11 meal periods in accordance with the California Labor Code and applicable IWC Wage Order
12 or payment of one (1) additional hour of pay at their regular rates of pay when they were not
13 provided with timely, uninterrupted, thirty (30) minute meal periods and that Plaintiff and
14 other non-party Aggrieved Employees were not provided with all meal periods or payment of
15 one (1) additional hour of pay at their regular rates of pay when they did not receive a timely,
16 uninterrupted, thirty (30) minute meal period.

17 31. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
18 should have known that Plaintiff and other non-party Aggrieved Employees were entitled to
19 rest periods in accordance with the California Labor Code and applicable IWC Wage Order or
20 payment of one (1) additional hour of pay at their regular rates of pay when they were not
21 authorized and permitted to take a compliant rest period. In violation of the California Labor
22 Code, Plaintiff and other non-party Aggrieved Employees were not authorized and permitted
23 to take compliant rest periods, nor did Defendants provide Plaintiff and other non-party
24 Aggrieved Employees with payment of one (1) additional hour of pay at their regular rates of
25 pay when they were not authorized and permitted to take a compliant rest period.

26 32. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
27 should have known that Plaintiff and other non-party Aggrieved Employees were entitled to
28 receive complete and accurate wage statements in accordance with California law. In

1 violation of the California Labor Code, Plaintiff and other non-party Aggrieved Employees
2 were not provided complete and accurate wage statements.

3 33. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
4 should have known that they had a duty to maintain accurate and complete payroll records in
5 accordance with the California Labor Code and applicable IWC Wage Order, but willfully,
6 knowingly, and intentionally failed to do so.

7 34. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
8 should have known that Plaintiff and other non-party Aggrieved Employees were entitled to
9 timely payment of wages during their employment. In violation of the California Labor Code,
10 Plaintiff and other non-party Aggrieved Employees did not receive payment of all wages,
11 including, but not limited to, overtime wages, minimum wages, and/or meal and rest period
12 premiums, within permissible time periods.

13 35. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
14 should have known that Plaintiff and other non-party Aggrieved Employees were entitled to
15 timely payment of all wages earned upon termination of employment. In violation of the
16 California Labor Code, Plaintiff and other non-party Aggrieved Employees did not receive
17 payment of all wages due, including, but not limited to, overtime wages, minimum wages,
18 and/or meal and rest period premiums, within permissible time periods.

19 36. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
20 should have known that Plaintiff and other non-party Aggrieved Employees were entitled to
21 receive itemized wage statements or separate written statements showing the amount of paid
22 sick leave available, or paid time off provided in lieu of sick leave. In violation of the
23 California Labor Code, Defendants failed to provide Plaintiff and other non-party Aggrieved
24 Employees with written itemized wage statements or separate written statements showing this
25 information.

26 37. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
27 should have known that Plaintiff and other non-party Aggrieved Employees were entitled to
28 one day's rest in seven. In violation of the California Labor Code, Defendants required

1 Plaintiff and other non-party Aggrieved Employees to work more than six consecutive days
2 without a day of rest, where the total hours worked exceeded 30 hours in any week or six
3 hours in any one day thereof.

4 38. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
5 should have known that Plaintiff and other non-party Aggrieved Employees were entitled to
6 suitable seating and/or were entitled to sit when it did not interfere with the performance of
7 their duties and have seats nearby to use during a lull in tasks that do require moving about or
8 standing. In violation of the California Labor Code and applicable IWC Wage Order,
9 Defendants failed to provide Plaintiff and other non-party Aggrieved Employees suitable
10 seating.

11 39. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
12 should have known that Plaintiff and other non-party Aggrieved Employees were entitled to
13 be paid reporting time pay when they reported to work for their scheduled shift but were put to
14 work for less than half of the regular schedule. In violation of the California Labor Code,
15 Defendants did not pay Plaintiff and other non-party Aggrieved Employees all reporting time
16 pay due.

17 40. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
18 should have known that Plaintiff and other non-party Aggrieved Employees were entitled to
19 receive reimbursement for all business-related expenses and costs they incurred during the
20 course and scope of their employment and that they did not receive reimbursement of
21 applicable business-related expenses and costs incurred.

22 41. Plaintiff is informed and believes, and thereon alleges, that at all times herein
23 mentioned, Defendants knew or should have known that they had a duty to compensate
24 Plaintiff and other non-party Aggrieved Employees for all hours worked, and that Defendants
25 had the financial ability to pay such compensation, but willfully, knowingly, and intentionally
26 failed to do so, and falsely represented to Plaintiff and other non-party Aggrieved Employees
27 that they were properly denied wages, all in order to increase Defendants' profits.

28 42. At all times herein set forth, PAGA provides that any provision of law under

1 the Labor Code and applicable IWC Wage Order that provides for a civil penalty to be
2 assessed and collected by the LWDA for violations of the California Labor Code and
3 applicable IWC Wage Order may, as an alternative, be recovered by aggrieved employees in a
4 civil action brought on behalf of themselves and other current or former employees pursuant
5 to procedures outlined in California Labor Code section 2699.3.

6 43. PAGA defines an “aggrieved employee” in Labor Code section 2699(c) as “any
7 person who was employed by the alleged violator and against whom one or more of the
8 alleged violations was committed.”

9 44. Plaintiff and other current and former employees of Defendants are “aggrieved
10 employees” as defined by Labor Code section 2699(c) in that they are all Defendants’ current
11 or former employees and one or more of the alleged violations were committed against them.

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

- 15 (a) The aggrieved employee shall give written notice by online filing
16 (hereinafter “Employee’s Notice”) to the LWDA and by certified mail
17 to the employer of the specific provisions of the California Labor Code
18 alleged to have been violated, including the facts and theories to support
19 the alleged violations.
- 20 (b) An aggrieved employee’s notice filed with the LWDA pursuant to
21 2699.3(a) and any employer response to that notice shall be
22 accompanied by a filing fee of seventy-five dollars (\$75).
- 23 (c) The LWDA shall provide notice (hereinafter “LWDA Notice”) to the
24 employer and the aggrieved employee by certified mail that it does not
25 intend to investigate the alleged violation within sixty (60) calendar
26 days of the postmark date of the Employee’s Notice. Upon receipt of
27 the LWDA Notice, or if the LWDA Notice is not provided within sixty-
28 five (65) calendar days of the postmark date of the Employee’s Notice,

1 the aggrieved employee may commence a civil action pursuant to
2 California Labor Code section 2699 to recover civil penalties in addition
3 to any other penalties to which the employee may be entitled.

4 46. Pursuant to California Labor Code sections 2699.3(c), aggrieved employees,
5 through Plaintiff, may pursue a civil action arising under PAGA for violations of any
6 provision other than those listed in Section 2699.5 after the following requirements have been
7 met:

- 8 (a) The aggrieved employee or representative shall give written notice by
9 online filing to the LWDA and by certified mail to the employer of the
10 specific provisions of the California Labor Code alleged to have been
11 violated (other than those listed in Section 2699.5), including the facts
12 and theories to support the alleged violation.
- 13 (b) An aggrieved employee's notice filed with the LWDA pursuant to
14 2699.3(c) and any employer response to that notice shall be
15 accompanied by a filing fee of seventy-five dollars (\$75).
- 16 (c) The employer may cure the alleged violation within thirty-three (33)
17 calendar days of the postmark date of the notice. The employer shall
18 give written notice by certified mail within that period of time to the
19 aggrieved employee or representative and the agency if the alleged
20 violation is cured, including a description of actions taken, and no civil
21 action pursuant to Section 2699 may commence. If the alleged violation
22 is not cured within the 33-day period, the employee may commence a
23 civil action pursuant to Section 2699.

24 47. On May 25, 2021, Plaintiff provided written notice by online filing to the
25 LWDA and by certified mail to Defendants of the specific provisions of the California Labor
26 Code alleged to have been violated, including facts and theories to support the alleged
27 violations, in accordance with California Labor Code section 2699.3. Plaintiff's written
28 notice was accompanied with the applicable filing fee of seventy-five dollars (\$75). The

1 LWDA PAGA Administrator has confirmed receipt of Plaintiff's written notice and assigned
2 Plaintiff PAGA Case Number LWDA-CM-833192-21. A true and correct copy of Plaintiff's
3 written notice to the LWDA and Defendants dated May 25, 2021 is attached hereto as
4 "Exhibit 1."

5 48. As of the filing date of this complaint, over 65 days have passed since Plaintiff
6 sent the LWDA Notice described above, and the LWDA has not responded that it intends to
7 investigate Plaintiff's claims, and Defendants have not cured the violations.

8 49. Thus, Plaintiff has satisfied the administrative prerequisites under California
9 Labor Code sections 2699.3(a) and 2699.3(c) to recover civil penalties against Defendants for
10 violations of California Labor Code sections 201, 202, 203, 204, 226(a), 226.7, 246, 510,
11 512(a), 516, 551, 552, 1174(d), 1182.12, 1194, 1197, 1198, and 2802.

12 50. Labor Code section 558(a) provides "[a]ny employer or other person acting on
13 behalf of an employer who violates, or causes to be violated, a section of this chapter or any
14 provision regulating hours and days of work in any order of the Industrial Welfare
15 Commission shall be subject to a civil penalty as follows: (1) For any initial violation, fifty
16 dollars (\$50) for each underpaid employee for each pay period for which the employee was
17 underpaid. . . . (2) For each subsequent violation, one hundred dollars (\$100) for each
18 underpaid employee for each pay period for which the employee was underpaid. . . ." Labor
19 Code section 558(c) provides "[t]he civil penalties provided for in this section are in addition
20 to any other civil or criminal penalty provided by law." Plaintiff, acting in the public interest
21 as a private attorney general, seeks assessment and collection of civil penalties under Labor
22 Code section 558 for herself, all other non-party Aggrieved Employees, and the State of
23 California against Defendants for violations of Labor Code sections 510, 512(a), 516, 1198,
24 and the applicable IWC wage order. Plaintiff, acting in the public interest as a private
25 attorney general, does not seek the recovery of unpaid wages under Labor Code section 558
26 from Defendants for violations of Labor Code sections 510, 512(a), 516, 1198, and the
27 applicable IWC wage order.

28 51. Defendants, at all times relevant to this complaint, were employers or persons

1 acting on behalf of an employer(s) who violated Plaintiff's and other non-party Aggrieved
2 Employees' rights by violating various sections of the California Labor Code as set forth
3 above.

4 52. As set forth below, Defendants have violated numerous provisions of both the
5 Labor Code sections regulating hours and days of work as well as the applicable IWC Wage
6 Order.

7 53. Pursuant to PAGA, and in particular, California Labor Code sections 2699(a),
8 2699.3(a), 2699.3(c), 2699.5, and section 558, Plaintiff, acting in the public interest as a
9 private attorney general, seeks assessment and collection of civil penalties for herself, all other
10 non-party Aggrieved Employees, and the State of California against Defendants for violations
11 of California Labor Code sections 201, 202, 203, 204, 226(a), 226.7, 246, 510, 512(a), 516,
12 551, 552, 1174(d), 1182.12, 1194, 1197, 1198 and 2802.

13 **FIRST CAUSE OF ACTION**

14 **For Civil Penalties, Pursuant to California Labor Code §§ 2698, *et seq.***

15 **(Against all Defendants)**

16 54. Plaintiff incorporates by reference and re-alleges as if fully stated herein each
17 and every allegation set forth above.

18 55. California Labor Code §§ 2698, *et seq.* ("PAGA") permits Plaintiff to recover
19 civil penalties for the violation(s) of the Labor Code sections enumerated in Labor Code
20 section 2699.5. Section 2699.5 enumerates Labor Code sections 201, 202, 203, 204, 226(a),
21 226.7, 510, 512(a), 551, 552, 1174(d), 1194, 1197, 1198, and 2802. Labor Code section
22 2699.3(c) permits aggrieved employees, including Plaintiff, to recover civil penalties for
23 violations of those Labor Code sections not found in section 2699.5, including sections 246,
24 516, and 1182.12.

25 56. Defendants' conduct, as alleged herein, violates numerous sections of the
26 California Labor Code, including, but not limited to, the following:

- 27 (a) Violation of Labor Code sections 510 and 1198, and the applicable IWC
28 Wage Order for Defendants' failure to compensate Plaintiff and other

1 non-party Aggrieved Employees with all required overtime pay and
2 failure to properly calculate the overtime rates paid to other non-party
3 Aggrieved Employees, as set forth below;

4 (b) Violation of Labor Code sections 1182.12, 1194, 1197, and 1198, and
5 the applicable IWC Wage Order for Defendants' failure to compensate
6 Plaintiff and other non-party Aggrieved Employees with at least
7 minimum wages for all hours worked, as set forth below;

8 (c) Violation of Labor Code sections 226.7, 512(a), 516, and 1198, and the
9 applicable IWC Wage Order for Defendants' failure to provide Plaintiff
10 and other non-party Aggrieved Employees with meal periods, as set
11 forth below;

12 (d) Violation of Labor Code sections 226.7, 516, and 1198, and the
13 applicable IWC Wage Order for Defendants' failure to authorize and
14 permit Plaintiff and other non-party Aggrieved Employees to take rest
15 periods, as set forth below;

16 (e) Violation of Labor Code sections 226(a) and 1198, and the applicable
17 IWC Wage Order for failure to provide accurate and complete wage
18 statements to Plaintiff and other non-party Aggrieved Employees, as set
19 forth below;

20 (f) Violation of Labor Code sections 1174(d) and 1198, and the applicable
21 IWC Wage Order for failure to maintain payroll records, as set forth
22 below;

23 (g) Violation of Labor Code section 204 for failure to pay all earned wages
24 during employment, as set forth below;

25 (h) Violation of Labor Code sections 201, 202, and 203 for failure to pay all
26 earned wages upon termination, as set forth below;

27 (i) Violation of Labor Code section 246 for failure to provide written notice
28 of paid sick leave available, or paid time off, as set forth below;

- 1 (j) Violation of Labor Code sections 551 and 552 for failure to provide one
2 day's rest in seven to Plaintiff and other non-party Aggrieved
3 Employees, as set forth below;
- 4 (k) Violation of Labor Code section 1198 and the applicable IWC Wage
5 Order for failing to provide suitable seating to Plaintiff and other
6 non-party Aggrieved Employees, as set forth below;
- 7 (l) Violation of Labor Code section 1198 and the applicable IWC wage
8 order for failure to pay reporting time pay when Plaintiff and other non-
9 party Aggrieved Employees were put to work for less than half of their
10 regular scheduled shifts, as set forth below; and
- 11 (m) Violation of Labor Code section 2802 for failure to reimburse Plaintiff
12 and other non-party Aggrieved Employees for all business expenses
13 necessarily incurred, as set forth below.

14 **FAILURE TO PAY OVERTIME**

15 **VIOLATION OF LABOR CODE SECTIONS 510 AND 1198**

16 57. Labor Code section 1198 makes it illegal to employ an employee under
17 conditions of labor that are prohibited by the applicable IWC Wage Order. California Labor
18 Code section 1198 requires that “. . . the standard conditions of labor fixed by the commission
19 shall be the . . . standard conditions of labor for employees. The employment of any employee
20 . . . under conditions of labor prohibited by the order is unlawful.”

21 58. California Labor Code section 1198 and the applicable IWC Wage Order
22 provide that it is unlawful to employ persons without compensating them at a rate of pay
23 either time-and-one-half or two-times that person's regular rate of pay, depending on the
24 number of hours worked by the person on a daily or weekly basis.

25 59. Specifically, the applicable IWC Wage Order provides that Defendants are and
26 were required to pay Plaintiff and other non-party Aggrieved Employees working more than
27 eight (8) hours in a day or more than forty (40) hours in a workweek, at the rate of time and
28 one-half (1 ½) for all hours worked in excess of eight (8) hours in a day or more than forty

1 (40) hours in a workweek.

2 60. The applicable IWC Wage Order further provides that Defendants are and were
3 required to pay Plaintiff and other non-party Aggrieved Employees working more than twelve
4 (12) hours in a day, overtime compensation at a rate of two (2) times their regular rate of pay.
5 An employee's regular rate of pay includes all remuneration for employment paid to, or on
6 behalf of, the employee, including nondiscretionary bonuses and incentive pay.

7 61. California Labor Code section 510 codifies the right to overtime compensation
8 at one and one-half (1 ½) times the regular rate of pay for hours worked in excess of eight (8)
9 hours in a day or forty (40) hours in a week or for the first eight (8) hours worked on the
10 seventh (7th) day of work, and to overtime compensation at twice the employee's regular rate
11 of pay for hours worked in excess of twelve (12) hours in a day or in excess of eight (8) hours
12 in a day on the seventh (7th) day of work.

13 62. Defendants willfully failed to pay all overtime wages owed to Plaintiff and
14 other non-party Aggrieved Employees. During the relevant time period, Plaintiff and other
15 non-party Aggrieved Employees were not paid overtime premiums for all of the hours they
16 worked in excess of eight (8) hours in a day, in excess of twelve (12) hours in a day, and/or in
17 excess of forty (40) hours in a week, because all hours that they worked were not recorded.

18 63. First, Defendants had, and continue to have, a company-wide policy and/or
19 practice of strictly staffing their retail locations based on the labor hours allocated by each
20 location's labor or payroll budget set by corporate. This practice of labor budgeting,
21 combined with the assignment of heavy workloads, has resulted in, and continues to result in,
22 chronic understaffing and a lack of adequate meal period coverage, because there were too
23 few employees on duty to handle the workload. In conjunction with Defendants' policy of
24 understaffing their retail locations, on information and belief, and as an additional example of
25 the impediments posed to employees preventing compliant meal periods, Defendants had a
26 requirement that a loss prevention employee be always present on the floor. At the same time,
27 on information and belief, the labor budgets and limited payroll hours that Defendants
28 implemented did not always allow for more than one loss prevention employee to always be

1 on the schedule. Because there were no other loss prevention employees to cover Plaintiff's
2 shift during her meal period, Plaintiff and other non-party Aggrieved Employees were often
3 prevented from taking uninterrupted 30-minute meal periods. Defendants' chronic
4 understaffing of their retail locations, coupled with labor budgeting and/or limited payroll
5 allocation, further resulted in a lack of meal period coverage for their employees. Moreover,
6 Defendants has a practice of failing to adhere to a schedule of meal periods, which further
7 caused Plaintiff and other non-party Aggrieved Employees to not be relieved of their duties
8 for compliant meal periods. As a result of this inadequate meal period coverage, Plaintiff
9 other non-party Aggrieved Employees were not always afforded uninterrupted 30-minute meal
10 periods during shifts when they were entitled to receive a meal period.

11 64. Further, because Defendants frowned upon Plaintiff and other non-party
12 Aggrieved Employees accruing meal period penalties, Defendants' management pressured
13 Plaintiff and other non-party Aggrieved Employees to clock out for meal periods but continue
14 working through their meal period, in order to reflect compliant meal periods and strictly limit
15 the meal penalties that Defendants would otherwise owe. For example, at least once per week
16 for about 3-10 minutes per each instance, Plaintiff would clock out for her meal period and
17 continue completing work-related tasks. As a further example, at least once a week, for about
18 three (3) minutes per each instance, Plaintiff's managers would ask her work-related questions
19 or would call her on her walkie-talkie about loss prevention emergencies while she was
20 clocked out for her meal period. Additionally, the timekeeping system further prevented
21 Plaintiff and other non-party Aggrieved Employees from clocking back in early from their
22 meal periods until 30 minutes had elapsed, further hampering Plaintiff and other non-party
23 Aggrieved Employees from being able to record any off-the-clock work that they performed
24 during their meal periods. Consequently, Plaintiff and other non-party Aggrieved Employees
25 performed work during meal periods for which they were not paid.

26 65. Second, during the relevant period, Defendants discouraged and impeded
27 Plaintiff and other non-party Aggrieved Employees from recording hours worked that were
28 outside of their scheduled shifts pursuant to Defendants' written timekeeping policy which

1 states, in pertinent part: “Promptly clock in when your shift is scheduled to start. Do not clock
2 in beforehand.” Defendants’ policy of requiring employees to only clock in at the start of
3 their scheduled shift in order to limit the amount of overtime employees could accrue, coupled
4 with Defendants’ use of labor budgets and assignment of heavy workloads, led Plaintiff and
5 other non-party Aggrieved Employees to work off-the-clock before and after their scheduled
6 shift times. For example, prior to the start of each shift and before clocking in, Plaintiff and
7 other non-party Aggrieved Employees would have to wait for and undergo mandatory
8 COVID-19 screenings, including temperature checks, conducted by managers which could
9 take up to 10 minutes. In addition, about twice per month, Plaintiff would arrive to work early
10 but was required to wait at the registers and respond to questions from her manager for about
11 five (5) minutes until the start of her scheduled shift before she was able to clock in.
12 Moreover, at least once a week for about 5-10 minutes each instance, after clocking out,
13 Plaintiff and other non-party Aggrieved Employees would have to wait for their managers to
14 unlock the door before they could leave the store. During this time, Plaintiff would continue
15 completing her work-related tasks off-the-clock, because she had been instructed by her
16 supervisors to avoid accruing overtime. Further, Plaintiff’s managers would call her on her
17 personal cellular phone on her off-days to discuss scheduling issues. Thus, Defendants failed
18 to track all of this time spent working before clocking in or after clocking out, and Plaintiff
19 and other non-party Aggrieved Employees received no compensation for this time.

20 66. Third, during the relevant time period, Defendants had a company-wide loss
21 prevention policy requiring employees to undergo mandatory security checks by a managerial
22 employee, or other employees, before leaving the store premises after clocking out at the end
23 of a shift and/or after clocking out for a meal period. For example, after clocking out at the
24 end of their shifts, at least once a week, Plaintiff and other non-party Aggrieved Employees
25 were required to wait for a manager to check their belongings because employees were
26 required to log out at their scheduled shift end-times to avoid accruing overtime. Although
27 Defendants’ requirement that Plaintiff and other non-party Aggrieved Employees undergo
28 security checks was mandatory, Defendants did not compensate them for the time it took them

1 to wait and undergo these checks.

2 67. Fourth, during the relevant time period, Defendants had a company-wide “on-
3 call” policy, whereby they scheduled Plaintiff and other non-party Aggrieved Employees to
4 work on-call, or on standby. These “on-call” shifts worked to Defendants’ benefit and to the
5 detriment of Plaintiff and other non-party Aggrieved Employees. By utilizing “on-call” shifts,
6 Defendants received the benefit of being able to maximize revenue by having a standby
7 workforce they could choose to utilize or not, depending on store traffic, without incurring the
8 cost of compensating employees who show up to work and work a full or partial scheduled
9 day’s work. When scheduled for an “on-call” or standby shift, Plaintiff and other non-party
10 Aggrieved Employees were required to call in to work the night before their scheduled
11 standby shift, or 1-2 hours prior to the start of their scheduled standby shift, to confirm
12 whether they were required to report to work. Plaintiff and other non-party Aggrieved
13 Employees were controlled by Defendants when scheduled to be “on-call” for a standby shift
14 because they were forced to wait and could not use that time freely for their own purposes as
15 they were required to be ready to travel to their respective store locations on short notice and
16 work their standby shift. For example, Plaintiff refrained from making plans altogether on
17 days she was scheduled for a standby shift because she knew that she had to drop whatever
18 she was doing at a moment’s notice if she was instructed to work her standby shift. However,
19 Defendants did not pay Plaintiff and other non-party Aggrieved Employees for the time during
20 which they were waiting on standby to be notified by Defendants that they were required to
21 report to work and unable to use their time for their own purposes.

22 68. Defendants knew or should have known that, as a result of these company-wide
23 practices and/or policies, Plaintiff and other non-party Aggrieved Employees were performing
24 their assigned duties off-the-clock clock before and after their shifts and during meal periods,
25 and were suffered or permitted to perform work for which they were not paid. Because
26 Plaintiff and other non-party Aggrieved Employees worked shifts of eight (8) hours a day or
27 more or forty (40) hours a week or more, some of this off-the-clock work qualified for
28 overtime premium pay. Therefore, Plaintiff and other non-party Aggrieved Employees were

1 not paid overtime wages for all of the overtime hours they actually worked.

2 69. Furthermore, Defendants did not pay other non-party Aggrieved Employees the
3 correct overtime rate for the recorded overtime hours that they generated. In addition to an
4 hourly wage, Defendants paid other non-party Aggrieved Employees incentive pay,
5 nondiscretionary bonuses, and/or other forms of remuneration. However, in violation of the
6 California Labor Code, Defendants failed to incorporate all compensation, including but not
7 limited to, all incentive pay, nondiscretionary bonuses, and/or other forms of remuneration,
8 into the calculation of the regular rate of pay for purposes of calculating the overtime wage
9 rate. Therefore, during times when other non-party Aggrieved Employees worked overtime
10 and received these other forms of pay, Defendants failed to pay all overtime wages by paying
11 a lower overtime rate than required.

12 70. Defendants' failure to pay Plaintiff and other non-party Aggrieved Employees
13 the balance of overtime compensation as required by California law, violates the provisions of
14 California Labor Code sections 510 and 1198. Plaintiff and other non-party Aggrieved
15 Employees are therefore entitled to recover civil penalties pursuant to Labor Code sections
16 558 and/or 2699(a), (f), and (g).

17 **FAILURE TO PAY MINIMUM WAGES**

18 **VIOLATION OF LABOR CODE SECTIONS 1182.12, 1194, 1197, AND 1198**

19 71. At all relevant times, California Labor Code sections 1182.12, 1194, 1197, and
20 1198 provide that the minimum wage for employees fixed by the IWC is the minimum wage
21 to be paid to employees, and the payment of a wage less than the minimum so fixed is
22 unlawful. Compensable work time is defined in IWC Wage Order No. 7-2001 order as "the
23 time during which an employee is subject to the control of an employer, and includes all the
24 time the employee is suffered or permitted to work, whether or not required to do so." Cal.
25 Code. Regs. tit. 8, § 11070(2)(G) (defining "Hours Worked").

26 72. First, as set forth above, due to Defendants' company-wide practice of utilizing
27 labor budgets, assignment of heavy workloads, subsequent lack of meal period coverage, and
28 policy requiring loss prevention employees to be on duty at all times, Plaintiff and other non-

1 party Aggrieved Employees were impeded from taking all uninterrupted meal periods to
2 which they were entitled and were required to work off-the-clock. Moreover, as set forth
3 above, in order to prevent employees from accruing meal period penalties, Defendants'
4 management pressured employees to clock out for meal periods to reflect compliant meal
5 periods, but required them to continue working, time for which they were not paid. Also, as
6 set forth above, Defendants systematically failed to pay Plaintiff and other non-party
7 Aggrieved Employees for actual hours worked during unpaid meal periods, because
8 Defendants' timekeeping system locked out Plaintiff and other non-party Aggrieved
9 Employees for 30 minutes when they clocked out for a meal period.

10 73. Second, as stated above, during the relevant time period, as a result of
11 Defendants' written policy of requiring employees to only clock-in at the start of their
12 scheduled shifts and limiting the amount of overtime employees could accrue, Plaintiff and
13 other non-party Aggrieved Employees were forced to work off-the-clock before and after their
14 scheduled shift start and end times to complete their work-related tasks. As stated,
15 Defendants required Plaintiff and other non-party Aggrieved Employees to perform work off-
16 the-clock, including performing pre- and post-shift work; submitting to off-the-clock
17 mandatory COVID-19 screenings, temperature checks, and security checks; waiting for
18 managers off-the-clock to unlock the store before they could leave; and responding to phone
19 calls and/or voicemails from managers off-the-clock regarding scheduling matters. Moreover,
20 as set forth above, Defendants had a company-wide "on-call" policy, whereby they required
21 Plaintiff and other non-party Aggrieved Employees to call in when scheduled for "on-call" or
22 standby shifts. However, Defendants did not pay Plaintiff and other non-party Aggrieved
23 Employees at least minimum wages for the time they spent calling in or waiting to see if they
24 were needed at the store.

25 74. Thus, Defendants did not pay at least minimum wages for all hours worked by
26 Plaintiff and other non-party Aggrieved Employees. To the extent that these off-the-clock
27 hours did not qualify for overtime premium payment, Defendants did not pay at least
28 minimum wages for those hours worked off-the-clock in violation of California Labor Code

sections 1182.12, 1194, 1197, and 1198.

75. Defendants' failure to pay Plaintiff and other non-party Aggrieved Employees minimum wages violates California Labor Code sections 1182.12, 1194, 1197, and 1198. Plaintiff and other non-party Aggrieved Employees are therefore entitled to recover civil penalties pursuant to Labor Code sections 2699(a), (f), and (g).

FAILURE TO PROVIDE AND RECORD MEAL PERIODS
VIOLATION OF LABOR CODE SECTIONS 226.7, 512(a), 516, AND 1198

76. At all relevant times herein set forth, the applicable IWC Wage Order and California Labor Code sections 226.7, 512(a), 516, and 1198 were applicable to Plaintiff's and non-party Aggrieved Employees' employment by Defendants.

77. At all relevant times herein set forth, California Labor Code section 512(a) provides that an employer may not require, cause, or permit an employee to work for a period of more than five (5) hours per day without providing the employee with a meal period of not less than thirty (30) minutes, except that if the total work period per day of the employee is not more than six (6) hours, the meal period may be waived by mutual consent of both the employer and the employee. Under California law, first meal periods must start after no more than five hours. *Brinker Rest. Corp. v. Superior Court*, 53 Cal. 4th 1004, 1041-1042 (2012).

78. At all relevant times herein set forth, California Labor Code sections 226.7, 512(a), 516, and 1198 provide that no employer shall require an employee to work during any meal period mandated by an applicable order of the IWC.

79. At all relevant times herein set forth, Labor Code sections 226.7, 512(a), and 1198, and the applicable IWC Wage Order also require employers to provide a second meal period of not less than thirty (30) minutes if an employee works over ten (10) hours per day or to pay an employee one (1) additional hour of pay at the employee's regular rate, except that if the total hours worked is no more than twelve (12) hours, the second meal period may be waived by mutual consent of the employer and the employee only if the first meal period was not waived.

80. First, as stated above, during the relevant time period, Defendants had, and

continues to have, a company-wide policy and/or practice of understaffing locations due to labor budgeting and/or limited payroll allocation, which, combined with the assignment heavy workloads and failure to adhere to a schedule of meal periods, resulted in a lack of meal period coverage and prevented Plaintiff and other non-party Aggrieved Employees from taking all timely, uninterrupted meal periods to which they were entitled. As stated, Plaintiff and other non-party Aggrieved Employees would have their meal periods interrupted or cut short due to a lack of coverage and to attend to their managers' work-related inquiries. Because Plaintiff and other non-party Aggrieved Employees were often the only loss prevention employee on duty during their shifts, and there were no other loss prevention employees to cover Plaintiff's and other non-party Aggrieved Employees' posts during their meal periods, they were prevented from taking timely, uninterrupted 30-minute meal periods since they were required to keep their walkie-talkies on during meal periods and attend to emergencies or security situations as needed. In addition, as stated, Plaintiff and other non-party Aggrieved Employees had their meal periods cut short due to mandatory security checks of their personal belongings when they exited the store during their meal periods.

81. Second, as stated, because Defendants frowned upon Plaintiff and other non-party Aggrieved Employees accruing meal period penalties, Defendants' management pressured Plaintiff and other non-party Aggrieved Employees to clock out for meal periods, regardless of whether they had received a compliant meal period, in order to reflect compliant meal periods and strictly limit meal penalties that Defendants would otherwise owe. As stated, at least once per week for about 3-10 minutes per each instance, Plaintiff would complete her work-related tasks off the clock during her meal period because her supervisors had instructed her to clock out to avoid meal period penalties.

82. Defendants' practices and policies prevented Plaintiff and other non-party Aggrieved Employees from taking all compliant meal periods to which they were entitled. As a result, Plaintiff and other non-party Aggrieved Employees were forced to work in excess of five (5) hours before taking a meal period, had their meal periods interrupted or cut short, and/or had to forgo their meal periods altogether.

1 83. Furthermore, as stated, Defendants company-wide timekeeping system
2 prevented Plaintiff and other non-party Aggrieved Employees from recording all hours
3 worked when their meal periods were shortened or interrupted, because the system locked out
4 Plaintiff and other non-party Aggrieved Employees once they clocked out for a meal period
5 and would not permit them to clock back in from a meal period until 30 minutes had elapsed.
6 Additionally, on information and belief, Defendants' timekeeping system also automatically
7 clocked out Plaintiff and other non-party Aggrieved Employees at the fifth hour of their shift
8 in order to reflect compliant meal periods, regardless of whether employees received
9 compliant meal periods, and to further prevent Plaintiff and other non-party Aggrieved
10 Employees from incurring meal period penalties.

11 84. Moreover, Defendants did not provide other non-party Aggrieved Employees
12 with second 30-minute meal periods on days that they worked in excess of ten (10) hours in
13 one day. Plaintiff and other non-party Aggrieved Employees did not sign valid meal period
14 waivers on days that they were entitled to meal periods and were not relieved of all duties.

15 85. Defendants knew or should have known that as a result of their policies,
16 Plaintiff and other non-party Aggrieved Employees were not actually relieved of all duties to
17 take timely, uninterrupted meal periods. Defendants further knew or should have known that
18 they did not pay Plaintiff and other non-party Aggrieved Employees meal period premiums
19 when they were missed, late, short, and/or interrupted.

20 86. Furthermore, Defendants engaged in a company-wide practice and/or policy of
21 not paying meal period premiums owed when compliant meal periods were not provided.
22 Because of this practice and/or policy, Plaintiff and other non-party Aggrieved Employees
23 have not received premium pay for missed, late, and interrupted meal periods. Alternatively,
24 to the extent that Defendants did pay other non-party Aggrieved Employees meal period
25 premium pay for missed, late, and interrupted meal periods, Defendants did not pay other non-
26 party Aggrieved Employees at the correct rate of pay for premiums because Defendants
27 systematically failed to include all forms of compensation, such as, incentive pay,
28 nondiscretionary bonuses, and/or other forms of remuneration, into the calculation of the

1 regular rate of pay.

2 87. Thus, Defendants failed to provide Plaintiff and other non-party Aggrieved
3 Employees compliant meal periods and failed to pay the full meal period premiums due.
4 Defendants' conduct violates the applicable IWC Wage Order, and California Labor Code
5 sections 226.7, 512(a), 516, and 1198. Plaintiff and other non-party Aggrieved Employees are
6 therefore entitled to recover civil penalties pursuant to California Labor Code sections 558
7 and/or 2699(a), (f), and (g).

8 **FAILURE TO AUTHORIZE AND PERMIT REST PERIODS**

9 **VIOLATION OF LABOR CODE SECTIONS 226.7, 516, AND 1198**

10 88. At all relevant times herein set forth, the applicable IWC Wage Order and
11 California Labor Code sections 226.7, 516, and 1198 were applicable to Plaintiff's and other
12 non-party Aggrieved Employees' employment by Defendants.

13 89. At all relevant times, the applicable IWC Wage Order provides that "[e]very
14 employer shall authorize and permit all employees to take rest periods, which insofar as
15 practicable shall be in the middle of each work period" and that the "rest period time shall be
16 based on the total hours worked daily at the rate of ten (10) minutes net rest time per four (4)
17 hours or major fraction thereof" unless the total daily work time is less than three and one-half
18 (3 ½) hours.

19 90. At all relevant times, California Labor Code section 226.7 provides that no
20 employer shall require an employee to work during any rest period mandated by an applicable
21 order of the California IWC. To comply with its obligation to authorize and permit rest
22 periods under California Labor Code section 226.7 and the applicable IWC Wage Order, an
23 employer must "relinquish any control over how employees spend their break time, and
24 relieve their employees of all duties—including the obligation that an employee remain on
25 call. A rest period, in short, must be a period of rest." *Augustus v. ABM Security Services,*
26 *Inc.*, 2 Cal. 5th 257, 269-270 (2016).

27 91. Pursuant to the applicable IWC Wage Order and California Labor Code section
28 226.7(c), Plaintiff and other non-party Aggrieved Employees are entitled to recover from

1 Defendants one (1) additional hour of pay at their regular rates of pay for each work day that a
2 required rest period was not authorized and permitted.

3 92. During the relevant time period, Defendants regularly failed to authorize and
4 permit Plaintiff and other non-party Aggrieved Employees to take a ten (10) minute rest
5 period per each four (4) hour period worked or major fraction thereof. As with meal periods,
6 Defendants' company-wide practices, including implementing labor budgets, understaffing,
7 and assigning heavy workloads, resulted in a lack of coverage and prevented Plaintiff and
8 other non-party Aggrieved Employees from being relieved of all duty to take their rest
9 periods. Moreover, Defendants failed to adhere to a schedule of rest periods, which, coupled
10 with Defendants' failure to provide adequate rest period coverage, further led to Plaintiff and
11 other non-party Aggrieved Employees not being authorized and permitted to take compliant
12 rest periods.

13 93. As a result of Defendants' practices and policies, Plaintiff and other non-party
14 Aggrieved Employees would work shifts in excess of 3.5 hours, in excess of 6 hours, and/or in
15 excess of 10 hours without receiving all uninterrupted 10-minute rest periods to which they
16 were entitled. For example, at least once during her employment, Plaintiff was unable to take
17 a rest period during her shift because the store was busy and she did not have coverage.
18 Further, Plaintiff's rest periods were cut short and/or interrupted at least twice per month by
19 her supervisors asking her work-related inquiries or calling her on her walkie-talkie.

20 94. Defendants also have engaged in a company-wide practice and/or policy of not
21 paying all rest period premiums owed when compliant rest periods are not authorized or
22 permitted. Thus, because of this practice and/or policy, Plaintiff and other non-party
23 Aggrieved Employees have not received premium pay for all missed rest periods.
24 Alternatively, to the extent that Defendants did pay other non-party Aggrieved Employees one
25 (1) additional hour of premium pay for missed rest periods, Defendants did not pay other non-
26 party Aggrieved Employees at the correct rate of pay for premiums because Defendants failed
27 to include all forms of compensation, such as incentive pay, nondiscretionary bonuses, and/or
28 other forms of remuneration, in the regular rate of pay.

1 95. Defendants' conduct violates the applicable IWC Wage Order and California
2 Labor Code sections 226.7, 516, and 1198. Plaintiff and other non-party Aggrieved
3 Employees are therefore entitled to recover civil penalties pursuant to Labor Code sections
4 558 and/or 2699(a), (f), and (g).

5 **FAILURE TO PROVIDE AND MAINTAIN COMPLIANT WAGE STATEMENTS**
6 **VIOLATION OF LABOR CODE SECTIONS 226(a), 1174(d), AND 1198**

7 96. At all relevant times herein, California Labor Code section 226(a) provides that
8 every employer shall furnish each of his or her employees an accurate and complete itemized
9 wage statement in writing, including, but not limited to, the name and address of the legal
10 entity that is the employer, the inclusive dates of the pay period, total hours worked, and all
11 applicable rates of pay.

12 97. During the relevant time period, Defendants have knowingly and intentionally
13 provided Plaintiff and other non-party Aggrieved Employees with uniform, incomplete, and
14 inaccurate wage statements. For example, Defendants issued uniform wage statements to
15 Plaintiff and other non-party Aggrieved Employees that fail to correctly list: gross wages
16 earned; total hours worked; net wages earned; and all applicable hourly rates in effect during
17 the pay period, including rates of pay for overtime and/or meal and rest period premiums, and
18 the corresponding number of hours worked at each hourly rate. Specifically, Defendants
19 violated sections 226(a)(1), 226(a)(2), 226(a)(5), and 226(a)(9).

20 98. First, because Defendants did not record the time Plaintiff and other non-party
21 Aggrieved Employees spent working off-the-clock and deducted time from their records for
22 meal periods that were interrupted and/or missed (and therefore time for which they should
23 have been paid), Defendants did not list the correct amount of gross wages and net wages
24 earned by Plaintiff and other non-party Aggrieved Employees, in compliance with section
25 226(a)(1) and 226(a)(5). For the same reason, Defendants failed to accurately list the total
26 number of hours worked by Plaintiff and other non-party Aggrieved Employees in violation of
27 section 226(a)(2), and failed to list the applicable hourly rates of pay in effect during the pay
28 period and the corresponding accurate number of hours worked at each hourly rate, in

1 violation of section 226(a)(9).

2 99. Second, because Defendants did not calculate other non-party Aggrieved
3 Employees' regular rate of pay correctly for purposes of paying overtime wages and/or meal
4 and rest period premiums, Defendants did not list the correct amount of gross wages earned by
5 other non-party Aggrieved Employees in compliance with section 226(a)(1) and did not list
6 the correct amount of net wages earned by other non-party Aggrieved Employees in violation
7 of section 226(a)(5). Defendants also failed to correctly list all applicable hourly rates in
8 effect during the pay period, namely, correct rates of pay for overtime and/or meal and rest
9 period premiums, in violation of section 226(a)(9).

10 100. The wage statement deficiencies also include, without limitation, failing to list
11 the number of piece-rate units earned and any applicable piece rate if the employee is paid on
12 a piece-rate basis; failing to list all deductions; failing to list the inclusive dates of the period
13 for which aggrieved employees were paid; failing to list the name of the employee and only
14 the last four digits of his or her social security number or an employee identification number
15 other than a social security number; failing to list the name and address of the legal entity that
16 is the employer; and/or failing to state all hours worked as a result of not recording or stating
17 hours worked off-the-clock.

18 101. California Labor Code section 1198 provides that the maximum hours of work
19 and the standard conditions of labor shall be those fixed by the Labor Commissioner and as
20 set forth in the applicable IWC Wage Order. Section 1198 further provides that "[t]he
21 employment of any employees for longer hours than those fixed by the order or under
22 conditions of labor prohibited by the order is unlawful." Pursuant to the applicable IWC
23 Wage Order, employers are required to keep accurate time records showing when the
24 employee begins and ends each work period and meal period. During the relevant time
25 period, Defendants engaged in company-wide practices and/or policies of failing to record
26 actual hours worked and thereby failed to keep accurate records of work period and meal
27 period start and end times for Plaintiff and other non-party Aggrieved Employees in violation
28 of section 1198. As stated, Defendants engaged in a company-wide practice and/or policy of

1 falsifying Plaintiff's and other non-party Aggrieved Employees' time records by recording
2 that compliant meal periods were taken regardless of if or when meal periods were actually
3 taken, and thereby failed to keep accurate records of meal start and end times for Plaintiff and
4 other non-party Aggrieved Employees. Furthermore, in light of Defendants' failure to provide
5 other non-party Aggrieved Employees with second 30-minute meal periods to which they
6 were entitled, Defendants kept no records of meal start and end times for second meal periods.

7 102. California Labor Code section 1174(d) provides that "[e]very person employing
8 labor in this state shall . . . [k]eep a record showing the names and addresses of all employees
9 employed and the ages of all minors" and "[k]eep, at a central location in the state or at the
10 plants or establishments at which employees are employed, payroll records showing the hours
11 worked daily by and the wages paid to, and the number of piece-rate units earned by and any
12 applicable piece rate paid to, employees employed at the respective plants or establishments.
13 . . ." At all relevant times, and in violation of Labor Code section 1174(d), Defendants
14 willfully failed to maintain accurate payroll records for Plaintiff and other non-party
15 Aggrieved Employees showing the daily hours they worked and the wages paid thereto as a
16 result of failing to record the off-the-clock hours that they worked.

17 103. Defendants' conduct violates California Labor Code sections 226(a), 1174(d),
18 and 1198. Plaintiff and other non-party Aggrieved Employees are therefore entitled to recover
19 civil penalties pursuant to Labor Code sections 226.3, 1174.5, and/or 2699(a), (f), and (g).

20 **FAILURE TO PAY WAGES DURING EMPLOYMENT**

21 **VIOLATION OF LABOR CODE SECTION 204**

22 104. At all relevant times herein set forth, California Labor Code section 204
23 requires that all wages earned by any person in any employment between the 1st and the 15th
24 days, inclusive, of any calendar month, other than those wages due upon termination of an
25 employee, are due and payable between the 16th and the 26th day of the month during which
26 the labor was performed. Labor Code section 204 further provides that all wages earned by
27 any person in any employment between the 16th and the last day, inclusive, of any calendar
28 month, other than those wages due upon termination of an employee, are due and payable

1 between the 1st and the 10th day of the following month.

2 105. At all relevant times herein, California Labor Code section 204 also requires
3 that all wages earned for labor in excess of the normal work period shall be paid no later than
4 the payday for the next regular payroll period. Alternatively, at all relevant times herein,
5 Labor Code section 204 provides that the requirements of this section are deemed satisfied by
6 the payment of wages for weekly, biweekly, or semimonthly payroll if the wages are paid not
7 more than seven (7) calendar days following the close of the payroll period.

8 106. During the relevant time period, Defendants willfully failed to pay Plaintiff and
9 other non-party Aggrieved Employees all wages due to them within any time period specified
10 by California Labor Code section 204 including, but not limited to, overtime wages, minimum
11 wages, meal and rest period premiums, and/or reporting time pay, within the time periods
12 specified by California Labor Code section 204.

13 107. Plaintiff and other non-party Aggrieved Employees are therefore entitled to
14 recover civil penalties pursuant to Labor Code sections 210 and/or 2699(a), (f), and (g).

15 **FAILURE TO PAY WAGES UPON TERMINATION**

16 **VIOLATION OF LABOR CODE SECTIONS 201 AND 202**

17 108. At all times relevant herein set forth, Labor Code sections 201 and 202 provide
18 that if an employer discharges an employee, the wages earned and unpaid at the time of
19 discharge are due and payable immediately, and that if an employee voluntarily leaves his or
20 her employment, his or her wages shall become due and payable not later than seventy-two
21 (72) hours thereafter, unless the employee has given seventy-two (72) hours previous notice of
22 his or her intention to quit, in which case the employee is entitled to his or her wages at the
23 time of quitting.

24 109. Defendants willfully failed to pay Plaintiff and other non-party Aggrieved
25 Employees who are no longer employed by Defendants their earned and unpaid wages set
26 forth above, including but not limited to, overtime wages, minimum wages, meal and rest
27 period premiums, and/or reporting time pay, either at the time of discharge or within seventy-
28 two (72) hours of their leaving Defendants' employ.

110. Defendants' failure to pay Plaintiff and those non-party Aggrieved Employees who are no longer employed by Defendants their wages earned and unpaid at the time of discharge, or within seventy-two (72) hours of their leaving Defendants' employ, violates California Labor Code sections 201 and 202. Plaintiff and other non-party Aggrieved Employees are therefore entitled to recover civil penalties pursuant to Labor Code sections 256 and/or 2699(a), (f), and (g).

FAILURE TO PROVIDE WRITTEN NOTICE OF PAID SICK LEAVE BENEFITS
VIOLATION OF LABOR CODE SECTION 246

111. California's Healthy Workplaces, Healthy Families Act of 2014 was enacted to provide employees who have worked in California for 30 or more days from the commencement of employment with paid sick days, to be accrued at least one hour for every 30 hours worked. Pursuant to California Labor Code section 246(b)(4), employers must provide no less than 24 hours or three (3) days of paid sick leave (or equivalent paid leave or paid time off) in each year of the employee's employment. Codified at California Labor Code sections 245.5, 246, 246.5, 247, 247.5, 248.5, and 249, section 246(i) provides that an employer must provide an employee with written notice that sets forth the amount of paid sick leave available, or paid time off that an employer provides in lieu of sick leave, for use on either the employee's itemized wage statement or in a separate written statement provided on the designated pay date with the employee's wages. The penalties described in this article for a violation of this subdivision shall be in lieu of the penalties for a violation of Section 226.

112. During the relevant time period, Defendants failed, on a company-wide basis, to provide Plaintiff and other non-party Aggrieved Employees written notice on wage statements and/or other separate written statements that listed the requisite information set forth in Labor Code section 246(i). Defendants' ongoing and systematic failure to provide written notice of sick leave benefits to Plaintiff and other non-party Aggrieved Employees violates California Labor Code section 246(i).

113. Plaintiffs and other non-party Aggrieved Employees are therefore entitled to recover civil penalties pursuant to Labor Code sections 248.5 and/or 2699(a), (f), and (g).

**FAILURE TO PROVIDE ONE DAY'S REST IN SEVEN
VIOLATION OF LABOR CODE SECTIONS 551, 552, AND 558**

114. At all relevant times herein, California Labor Code section 551 provides that every person employed in any occupation of labor is entitled to one day's rest in seven. Additionally, California Labor Code section 552 prohibits employers from requiring employees to work more than six consecutive days without a day of rest.

115. At all relevant times herein set forth, California Labor Code section 556 exempts an employer from the day-of-rest requirement when the total hours worked by an employee do not exceed 30 hours in any week or six hours in any one day thereof.

116. Labor Code section 558(a) provides "[a]ny employer or other person acting on behalf of an employer who violates, or causes to be violated, a section of this chapter or any provision regulating hours and days of work in any order of the Industrial Welfare Commission shall be subject to a civil penalty as follows: (1) For any initial violation, fifty dollars (\$50) for each underpaid employee for each pay period for which the employee was underpaid. . . . (2) For each subsequent violation, one hundred dollars (\$100) for each underpaid employee for each pay period for which the employee was underpaid. . . ." Labor Code section 558(c) provides "[t]he civil penalties provided for in this section are in addition to any other civil or criminal penalty provided by law."

117. During the relevant time period, on information and belief, Defendants scheduled Plaintiff and/or other non-party Aggrieved Employees to work eight (8) or more hours per day and more than six (6) consecutive days in a workweek. For example, Defendants' management required Plaintiff to work ten (10) consecutive days during her employment. Because Plaintiff and/or other non-party Aggrieved Employees worked over 30 hours per week and over six (6) hours per day in a workweek, they were not exempt from the day-of-rest requirement. To the extent that Plaintiff and/or other non-party Aggrieved Employees may have signed purported waivers of their right to a day's rest in seven, such waivers are invalid.

118. Thus, in violation of Labor Code sections 551 and 552, Defendants caused

1 Plaintiff and/or other non-party Aggrieved Employees to work more than six days in seven.
2 Plaintiff and/or other non-party Aggrieved Employees are therefore entitled to recover civil
3 penalties pursuant to Labor Code sections 558 and/or 2699(a), (f), and (g).

4 **FAILURE TO PROVIDE SUITABLE SEATING**

5 **VIOLATION OF LABOR CODE SECTION 1198 AND CALIFORNIA CODE OF**
6 **REGULATIONS, TITLE 8, SECTION 11070 SUBDIVISION 14(A)**

7 119. At all relevant times herein, California Labor Code section 1198 makes it
8 illegal to employ an employee under conditions of labor that are prohibited by the applicable
9 wage order. California Labor Code section 1198 requires that “. . . the standard conditions of
10 labor fixed by the commission shall be the . . . standard conditions of labor for employees.
11 The employment of any employee . . . under conditions of labor prohibited by the order is
12 unlawful.”

13 120. California Code of Regulations, Title 8, section 11070(14)(A) (“Section 14A”) provides that “[a]ll working employees shall be provided with suitable seats when the nature
14 of the work reasonably permits the use of seats.”

15
16 121. Plaintiff alleges that Defendants’ retail stores are generally similar in their
17 layout and design and there was, and continues to be, space near each entrance/exit and behind
18 each cash wrap to allow for the presence and use of a seat or stool by Plaintiff and other non-
19 party Aggrieved Employees (with reasonable or no modification to these work areas) during
20 the performance of their work duties. Defendants could have provided Plaintiff and other
21 non-party Aggrieved Employees with a seat or stool at their store entrances/exits and behind
22 cash wraps but instead denied them seating and forced Plaintiff and other non-party Aggrieved
23 Employees to stand throughout the day.

24 122. Plaintiff and other non-party Aggrieved Employees spent a substantial portion
25 of their day at these entrances/exits and behind cash wraps. The nature of the work of an
26 employee performing the duties of Plaintiff and other non-party Aggrieved Employees can
27 reasonably be accomplished from a seated position. However, Defendants systematically, and
28 on a company-wide basis, did not provide seats or stools at or near each entrance/exit or cash

1 wrap, forcing Plaintiff and other non-party Aggrieved Employees to stand throughout their
2 work shifts.

3 123. During the relevant time period, Defendants violated California Labor Code
4 section 1198 and California Code of Regulations, Title 8, section 11070(14)(A), because
5 Plaintiff and other non-party Aggrieved Employees were not provided with suitable seats and
6 were not allowed to sit, even when it would not have interfered with the performance of their
7 duties as set forth herein. Plaintiff and other non-party Aggrieved Employees could have
8 guarded the store entrances/exits, evaluated customer behavior, and monitored store security
9 and safety while seated, without interference in their ability to complete these duties. Other
10 non-party Aggrieved Employees similarly could have handled transactions at the cash
11 registers, provided customer service, and/or greeted customers, all while seated without
12 interference in their ability to complete those duties. Defendants' management did not inform
13 Plaintiff and other non-party Aggrieved Employees that they were allowed to sit down,
14 provide any means for them to sit down, or mention any policy regarding sitting.

15 124. As a result of Defendants' company-wide policy and/or practice of prohibiting
16 employees from sitting during their shifts and company-wide failure to provide suitable
17 seating, Plaintiff and other non-party Aggrieved Employees were forced to stand during shifts
18 and denied seats. Defendants' failure to provide suitable seating to Plaintiff and other non-
19 party Aggrieved Employees violated and continues to violate California Labor Code section
20 1198 and IWC Wage Order 7-2001, subdivision 14(A).

21 125. Plaintiff and other non-party Aggrieved Employees are therefore entitled to
22 recover civil penalties pursuant to Labor Code sections 2699(a), (f), and (g).

23 **FAILURE TO PROVIDE SUITABLE SEATING**

24 **VIOLATION OF LABOR CODE SECTION 1198 AND CALIFORNIA CODE OF**
25 **REGULATIONS, TITLE 8, SECTION 11070 SUBDIVISION 14(B)**

26 126. At all relevant times herein, California Labor Code section 1198 makes it
27 illegal to employ an employee under conditions of labor that are prohibited by the applicable
28 IWC Wage Order. California Labor Code section 1198 requires that “. . . the standard

1 conditions of labor fixed by the commission shall be the . . . standard conditions of labor for
2 employees. The employment of any employee . . . under conditions of labor prohibited by the
3 order is unlawful.”

4 127. California Code of Regulations, Title 8, section 11070 subdivision 14(B)
5 (“Section 14(B)”) provides that “[w]hen employees are not engaged in the active duties of
6 their employment and the nature of the work requires standing, an adequate number of
7 suitable seats shall be placed in reasonable proximity to the work area and employees shall be
8 permitted to use such seats when it does not interfere with the performance of their duties.”

9 128. During the relevant time period, Defendants violated California Labor Code
10 section 1198 and California Code of Regulations, Title 8, section 11070(14)(B), because
11 Plaintiff and other non-party Aggrieved Employees were not allowed to sit, even during lulls
12 in their work duties, nor were they provided with suitable seats in reasonable proximity to
13 their work areas.

14 129. As stated, Plaintiff alleges that Defendants’ California retail stores are
15 generally similar in their layout and design and there was, and continues to be, space near
16 their work areas (with reasonable or no modification to these work areas) to allow for the
17 presence and use of a seat or stool by Plaintiff and other non-party Aggrieved Employees
18 during lulls in operation. Defendants could have provided Plaintiff and other non-party
19 Aggrieved Employees with a seat or stool in their work areas, but instead denied Plaintiff and
20 other non-party Aggrieved Employees suitable seating altogether and effectively forced
21 Plaintiff and other non-party Aggrieved Employees to stand throughout the day.

22 130. Defendants did not provide Plaintiff and other non-party Aggrieved Employees
23 with seats or stools in reasonable proximity to their work areas to allow them to use seats
24 when it would not interfere with the performance of their duties for times when they were not
25 engaged in active duties that require standing. In other words, to the extent Plaintiff and other
26 non-party Aggrieved Employees engaged in duties in which the nature of the work required
27 standing, Defendants denied them the use of seats nearby during lulls in their work duties.
28 Moreover, Defendants did not inform Plaintiff and other non-party Aggrieved Employees of

1 their rights to a seat or stool under California law.

2 131. As a result of Defendants' company-wide policy and/or practice of prohibiting
3 employees from sitting at any time, even when they were not engaged in active duties
4 requiring standing, and company-wide failure to provide seats in reasonable proximity to their
5 work areas, Plaintiff and other non-party Aggrieved Employees were forced to stand during
6 shifts and denied seats. Defendants' failure to provide suitable seating to Plaintiff and other
7 non-party Aggrieved Employees violated and continues to violate California Labor Code
8 section 1198 and IWC Wage Order No. 7-2001, subdivision 14(B).

9 132. Plaintiff and other non-party Aggrieved Employees are therefore entitled to
10 recover civil penalties pursuant to Labor Code sections 2699(a), (f), and (g).

11 **FAILURE TO PAY REPORTING TIME PAY**
12 **VIOLATION OF LABOR CODE SECTION 1198 CALIFORNIA CODE OF**
13 **REGULATIONS, TITLE 8, SECTION 11070 SUBDIVISION 5(A)**

14 133. California Labor Code section 1198 makes it illegal to employ an employee
15 under conditions of labor that are prohibited by the applicable wage order. California Labor
16 Code section 1198 requires that "... the standard conditions of labor fixed by the commission
17 shall be the ... standard conditions of labor for employees. The employment of any employee
18 ... under conditions of labor prohibited by the order is unlawful."

19 134. California Code of Regulations, Title 8, section 11070, subdivision 5(A)
20 ("Section 5(A)") provides that "[e]ach workday an employee is required to report for work
21 and does report, but is not put to work or is furnished less than half said employee's usual or
22 scheduled day's work, the employee shall be paid for half the usual or scheduled day's work,
23 but in no event for less than two (2) hours nor more than four (4) hours, at the employee's
24 regular rate of pay, which shall not be less than the minimum wage." The "primary purpose
25 of the reporting time regulation" is "to guarantee at least partial compensation for employees
26 who report to work expecting to work a specified number of hours, and who are deprived of
27 that amount because of inadequate scheduling or lack of proper notice by the employer."
28 *Aleman v. AirTouch Cellular*, 209 Cal. App. 4th 556 (2012).

1 135. During the relevant time period, Defendants violated Section 5(A) because
2 Defendants failed to pay Plaintiff and other non-party Aggrieved Employees reporting time
3 pay when they reported to work for their scheduled shift but were put to work for less than
4 half of the regular schedule.

5 136. As described above, Defendants had a company-wide “on-call” policy, whereby
6 they scheduled Plaintiff and other non-party Aggrieved Employees to work “on-call,” or on
7 standby. When scheduled for an “on-call” or standby shift, Plaintiff and other non-party
8 Aggrieved Employees regularly presented themselves as ready for work by calling into the
9 store the night prior to their scheduled shift and/or 1-2 hours prior to their scheduled standby
10 shift and would await instructions on whether to report to the store for a shift, but were
11 ultimately not told to come in. When this occurred, Defendants did not pay Plaintiff and other
12 non-party Aggrieved Employees for at least half of their scheduled day’s work or the
13 minimum reporting time pay when they were subject to Defendants’ “on-call” policy and were
14 ultimately not called. Accordingly, Plaintiff and other non-party Aggrieved Employees were
15 not properly compensated with reporting time pay in violation of California Labor Code
16 section 1198.

17 137. Plaintiff and other non-party Aggrieved Employees are therefore entitled to
18 recover civil penalties pursuant to Labor Code sections 2699(a), (f), and (g).

19 **FAILURE TO REIMBURSE NECESSARY BUSINESS EXPENSES**

20 **VIOLATION OF LABOR CODE SECTION 2802**

21 138. At all times herein set forth, California Labor Code section 2802 provides that
22 an employer must reimburse employees for all necessary expenditures and losses incurred by
23 the employee in the performance of his or her job. The purpose of Labor Code section 2802 is
24 to prevent employers from passing off their cost of doing business and operating expenses on
25 to their employees. *Cochran v. Schwan’s Home Service, Inc.*, 228 Cal. App. 4th 1137, 1144
26 (2014). The applicable wage order, IWC Wage Order No. 7-2001, provides that: “[w]hen the
27 employer requires the use of tools or equipment or they are necessary to the performance of a
28 job, such tools and equipment shall be provided and maintained by the employer, except that

an employee whose wages are at least two (2) times the minimum wage may provide and maintain hand tools and equipment customarily required by the particular trade or craft.”

139. During the relevant time period, Defendants, on a company-wide basis, required that Plaintiff and other non-party Aggrieved Employees use their own personal cellular phones and/or cellular data to carry out their job duties but failed to reimburse them for the costs of their work-related cellular phone expenses. For example, Plaintiff and other non-party Aggrieved Employees would be contacted on their off-days on their personal cellular phones by their supervisors regarding scheduling issues. Plaintiff spent at least 30 minutes during her employment responding and/or reviewing voicemails that her supervisors had left for her on her cellular phone. In addition, Defendants required that Plaintiff download a mobile application on her personal cellular phone to track the number of customers in the store at one time. Although Defendants required Plaintiff and other non-party Aggrieved Employees to utilize their personal cellular phones to carry out their work-related responsibilities, Defendants failed to fully reimburse them for this cost.

140. Defendants could have provided Plaintiff and other non-party Aggrieved Employees with the actual tools for use on the job, such as company phones. Or, Defendants could have reimbursed employees for the costs of their cellular phone usage. Instead, Defendants passed these operating costs off onto Plaintiff and other non-party Aggrieved Employees. At all relevant times, Plaintiff did not earn at least two (2) times the minimum wage.

141. Defendants’ company-wide policy and/or practice of passing on their operating costs to Plaintiff and other non-party Aggrieved Employees violates California Labor Code section 2802. Plaintiff and other non-party Aggrieved Employees are therefore entitled to recover civil penalties pursuant to Labor Code sections 2699(a), (f), and (g).

REQUEST FOR JURY TRIAL

Plaintiff requests a trial by jury.

PRAYER FOR RELIEF

Plaintiff, on behalf of all other non-party Aggrieved Employees, prays for relief and

judgment against Defendants, jointly and severally, as follows:

1. For civil penalties and attorneys' fees in excess of twenty-five thousand dollars (\$25,000). Plaintiff reserves the right to amend his prayer for relief to seek a different amount.

As to the First Cause of Action

2. That the Court declare, adjudge and decree that Defendants violated the following California Labor Code provisions as to Plaintiff and/or other non-party Aggrieved Employees: 510 and 1198 (by failing to pay all overtime compensation); 1182.12, 1194, 1197, and 1198 (by failing to pay at least minimum wages for all hours worked); 226.7, 512(a), 516, and 1198 (by failing to provide all meal periods); 226.7, 516, and 1198 (by failing to authorize and permit all rest periods); 226(a), 1174(d), and 1198 (by failing to provide accurate wage statements and maintain accurate payroll records); 201, 202, and 203 (by failing timely to pay all earned wages upon termination); 204 (by failing timely to pay all earned wages during employment); 246 (by failing to provide written notice of paid sick leave or paid time off available); 551 and 552 (by failing to provide one day's rest in seven); 1198 and the applicable IWC Wage Order (by failing to provide suitable resting); 1198 and the applicable IWC Wage Order (by failing to provide reporting time pay); and 2802 (by failing to reimburse business expenses).

3. For civil penalties, pursuant to California Labor Code sections 210, 226.3, 248.5, 256, 558, 1174.5, 2699(a), (f), and (g), for violations of California Labor Code sections 201, 202, 203, 204, 226(a), 226.7, 246, 510, 512(a), 516, 551, 552, 1174(d), 1182.12, 1194, 1197, 1198, and 2802.

4. For attorneys' fees and costs pursuant to California Labor Code section 2699(g)(1), and any and all other relevant statutes, for Defendants' violations of California Labor Code sections 201, 202, 203, 204, 226(a), 226.7, 246, 510, 512(a), 516, 551, 552, 1174(d), 1182.12, 1194, 1197, 1198, and 2802.

5. For pre-judgment and post-judgment interest as provided by law; and

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///

1 6. For such other and further relief as the Court may deem equitable and
2 appropriate.

3
4 Dated: July 30, 2021

Respectfully submitted,

5 Capstone Law APC

6
7 By: 

8 Orlando Villalba

Helga Hakimi

9 Roxanna Tabatabaeepour

10 Attorneys for Plaintiff Perla Chavez
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EXHIBIT “1”



1875 Century Park East, Suite 1000
Los Angeles, California 90067
310.556.4811 Main | 310.943.0396 Fax

MAO SHIOKURA
310.712.8030 Direct
Mao.Shiokura@capstonelawyers.com

May 25, 2021

VIA ONLINE SUBMISSION

California Labor & Workforce Development Agency
ATTN: PAGA Administrator
(<https://dir.tfaforms.net/308>)

Subject: *Perla Chavez v. Ross Dress for Less, Inc., et al.*

Dear PAGA Administrator:

This office represents Perla Chavez in connection with her claims under the California Labor Code. Ms. Chavez was an employee of ROSS DRESS FOR LESS, INC.; ROSS STORES, INC.; RETAIL ASSURANCE GROUP, INC.; ROSS MERCHANDISING, INC.; ROSS DISTRIBUTION COMPANY LLC; and/or ROSS PROCUREMENT, INC. For the purpose of this letter, Ms. Chavez collectively refers to these entities as "DD'S DISCOUNTS."

The employers may be contacted directly at the addresses below:

ROSS DRESS FOR LESS, INC.
5130 HACIENDA DRIVE
DUBLIN CA 94568

ROSS DISTRIBUTION COMPANY LLC
5130 HACIENDA DRIVE
DUBLIN CA 94568

ROSS STORES, INC.
5130 HACIENDA DRIVE
DUBLIN CA 94568

ROSS MERCHANDISING, INC.
5130 HACIENDA DRIVE
DUBLIN CA 94568

RETAIL ASSURANCE GROUP, INC.
C/O MARSH MANAGEMENT SERVICES, INC.
745 FORT ST STE 1100
HONOLULU, HAWAII 96813

ROSS PROCUREMENT, INC.
5130 HACIENDA DRIVE
DUBLIN CA 94568

Ms. Chavez intends to seek civil penalties, attorney's fees, costs, and other available relief for violations of the California Labor Code, which are recoverable under sections 2698, *et seq.*, the Labor Code Private Attorneys General Act of 2004 ("PAGA"). Ms. Chavez seeks relief on behalf of herself, the State of California, and other persons who are or were employed by DD'S DISCOUNTS as a non-exempt, hourly paid employee in California and who received at least one wage statement ("aggrieved employees"). This letter is sent in compliance with the notice and reporting requirements of California Labor Code section 2699.3.

DD'S DISCOUNTS employed Ms. Chavez as an hourly paid, non-exempt employee from approximately January 2020 to October 2020. Ms. Chavez worked for DD'S DISCOUNTS as a Store Protection Specialist (Loss Prevention) at its retail location in Madera, California. During her employment, Ms. Chavez typically worked four (4) to eight (8) hours or more per day, two (2) to five (5) days per week. Ms. Chavez was compensated approximately \$13.50 per hour. Her job duties included, without limitation, surveilling the store premises, reviewing store cameras for suspicious activity, and greeting customers.

DD'S DISCOUNTS committed one or more of the following Labor Code violations against Ms. Chavez, the facts and theories of which follow, making her an "aggrieved employee" pursuant to California Labor Code section 2699(c):¹

DD'S DISCOUNTS'S Company-Wide and Uniform Payroll and HR Practices

ROSS DRESS FOR LESS, INC.; ROSS STORES, INC.; ROSS MERCHANDISING, INC.; and ROSS PROCUREMENT, INC. are Delaware corporations while ROSS DISTRIBUTION COMPANY LLC is a Delaware limited liability company and RETAIL ASSURANCE GROUP, INC. is a Hawaii corporation. Together, they own and operate a chain of retail stores named "dd's DISCOUNTS" selling clothing, toys, and home decor, with approximately 105 store locations in California. Upon information and belief, DD'S DISCOUNTS maintains a single, centralized Human Resources (HR) department at its corporate headquarters in Dublin, California, for all non-exempt, hourly paid employees working for DD'S DISCOUNTS in California, including Ms. Chavez and other aggrieved employees. At all relevant times, DD'S DISCOUNTS issued and maintained uniform, standardized scheduling and timekeeping practices and procedures for all non-exempt, hourly paid employees in California, including Ms. Chavez and other aggrieved employees, regardless of its location or position.

Upon information and belief, DD'S DISCOUNTS maintains a centralized Payroll department at its corporate headquarters in Dublin, California, which processes payroll for all non-exempt, hourly paid employees working for DD'S DISCOUNTS in California, including Ms. Chavez and other aggrieved employees. Further, DD'S DISCOUNTS issues the same formatted wage statements in the same manner for all non-exempt, hourly paid employees working in California, including Ms. Chavez and other aggrieved employees, irrespective of their location, position, or manner in which each employee's employment ended. In other words, DD'S DISCOUNTS utilized the same methods and formulas when calculating wages due to Ms. Chavez and other aggrieved employees in California.

Violation of California Labor Code §§ 510 and 1198 – Unpaid Overtime

California Labor Code sections 510 and 1198 and the applicable Industrial Welfare Commission ("IWC") Wage Order require employers to pay employees working more than eight (8) hours in a day or more than forty (40) hours in a workweek at the rate of time-and-one-half (1 ½) times the

¹ These facts, theories, and claims are based on Ms. Chavez's experience and counsel's review of those records currently available relating to Ms. Chavez's employment. Discovery conducted in litigation of wage and hour claims such as these often reveals additional claims that the aggrieved employee was not initially aware of (because the aggrieved employee was not aware of the law's requirements, the employer misinformed its employee of the law's requirements, or because the employer effectively hid the violations). Thus, Ms. Chavez reserves the right to supplement this letter with additional facts, theories, and claims if she becomes aware of them subsequent to the submission of this letter.

regular rate of pay for all hours worked in excess of eight (8) hours in a day or more than forty (40) hours in a workweek. The applicable IWC Wage Order further provides that employers are required to pay employees working more than twelve (12) hours in a day overtime compensation at a rate of two (2) times their regular rate of pay. An employee's regular rate of pay includes all remuneration for employment paid to, or on behalf of, the employee, including nondiscretionary bonuses and incentive pay.

DD'S DISCOUNTS willfully failed to pay all overtime wages owed to Ms. Chavez and other aggrieved employees. During the relevant time period, Ms. Chavez and other aggrieved employees were not paid overtime premiums for all of the hours they worked in excess of eight (8) hours in a day, in excess of twelve (12) hours in a day, and/or in excess of forty (40) hours in a week, because all hours that they worked were not recorded.

First, DD'S DISCOUNTS had, and continues to have, a company-wide policy of strictly staffing its retail locations based on the labor hours allocated by each location's labor or payroll budget set by corporate. This practice of labor budgeting, combined with the assignment of heavy workloads, has resulted in, and continues to result in, chronic understaffing and a lack of adequate meal period coverage, because there were too few employees on duty to handle the workload. In conjunction with DD'S DISCOUNTS's policy of understaffing its retail locations, on information and belief, and as an additional example of the impediments posed to employees preventing compliant meal periods, DD'S DISCOUNTS had a requirement that a loss prevention employee be always present on the floor. At the same time, on information and belief, the labor budgets and limited payroll hours that DD'S DISCOUNTS implemented did not always allow for more than one loss prevention employee to always be on the schedule. Because there were no other loss prevention employees to cover Ms. Chavez's shift during her meal period, Ms. Chavez and other aggrieved employees were often prevented from taking uninterrupted 30-minute meal periods. DD'S DISCOUNTS's chronic understaffing of its retail locations, coupled with labor budgeting and/or limited payroll allocation, further resulted in a lack of meal period coverage for its employees. Moreover, DD'S DISCOUNTS has a practice of failing to adhere to a schedule of meal periods, which further caused Ms. Chavez and other aggrieved employees to not be relieved of their duties for compliant meal periods. As a result of this inadequate meal period coverage, Ms. Chavez and other aggrieved employees were not always afforded uninterrupted 30-minute meal periods during shifts when they were entitled to receive a meal period.

Further, because DD'S DISCOUNTS frowned upon Ms. Chavez and other aggrieved employees accruing meal period penalties, DD'S DISCOUNTS's management pressured Ms. Chavez and other aggrieved employees to clock out for meal periods but continue working through their meal period, in order to reflect compliant meal periods and strictly limit the meal penalties that DD'S DISCOUNTS would otherwise owe. For example, at least once per week for about 3-10 minutes per each instance, Ms. Chavez would clock out for her meal period and continue completing work-related tasks. As a further example, at least once a week, for about three (3) minutes per each instance, Ms. Chavez's managers would ask her work-related questions or would call her on her walkie-talkie about loss prevention emergencies while she was clocked out for their meal period. Additionally, the timekeeping system further prevented Ms. Chavez and other aggrieved employees from clocking back in early from their meal periods until 30 minutes had elapsed, further preventing Ms. Chavez and other aggrieved employees from being able to record any off-the-clock work that they performed during their meal periods. Consequently, Ms. Chavez and other aggrieved employees performed work during meal periods for which they were not paid.

Second, during the relevant period, upon information and belief, DD'S DISCOUNTS had, and continues to have, a company-wide policy of discouraging and impeding Ms. Chavez and other aggrieved employees from recording hours worked that were outside of their scheduled shifts in order to limit the amount of overtime employees could accrue. On information and belief, this policy of limiting overtime, coupled with DD'S DISCOUNTS's use of labor budgets and assignment of heavy workloads, led Ms. Chavez and other aggrieved employees to work off-the-clock before and after their scheduled shift times. For example, prior to the start of each shift and before clocking in, Ms. Chavez and other aggrieved employees would have to wait for and undergo mandatory COVID-19 screenings, including temperature checks, conducted by managers which could take up to 10 minutes. In addition, about twice per month, Ms. Chavez would arrive to work early but was required to wait at the registers and respond to questions from her manager for about five (5) minutes until the start of her scheduled shift, until she was able to clock in. Moreover, at least once a week for about 5-10 minutes each instance, after clocking out, Ms. Chavez and other aggrieved employees would have to wait for their managers to unlock the door before they could leave the store. During this time, Ms. Chavez would continue completing her work-related tasks off-the-clock, because she had been instructed by her supervisors to avoid accruing overtime. Further, Ms. Chavez's managers would call her on her personal cellular phone on her off-days to discuss scheduling issues. Thus, DD'S DISCOUNTS failed to track all of this time spent working before clocking in or after clocking out, and Ms. Chavez and other aggrieved employees received no compensation for this time.

Third, during the relevant time period, DD'S DISCOUNTS had a company-wide loss prevention policy requiring employees to undergo mandatory security checks by a managerial employee, or other employees, before leaving the store premises after clocking out at the end of a shift and/or after clocking out for a meal period. For example, after clocking out at the end of their shifts, at least once a week, Ms. Chavez and other aggrieved employees were required to wait for a manager to check their belongings because employees were required to log out at their scheduled shift end-times to avoid accruing overtime. Although DD'S DISCOUNTS's requirement that Ms. Chavez and other aggrieved employees undergo security checks was mandatory, DD'S DISCOUNTS did not compensate them for the time it took them to wait and undergo these checks.

Fourth, during the relevant time period, DD'S DISCOUNTS had a company-wide "on-call" policy, whereby it scheduled Ms. Chavez and other aggrieved employees to work on-call, or on standby. These "on-call" shifts worked to DD's DISCOUNTS's benefit and to the detriment of Ms. Chavez and other aggrieved employees. By utilizing "on-call" shifts, DD's DISCOUNTS received the benefit of being able to maximize revenue by having a standby workforce it could choose to utilize or not, depending on store traffic, without incurring the cost of compensating employees who show up to work and work a full or partial scheduled day's work.

When scheduled for an "on-call" or standby shift, Ms. Chavez and other aggrieved employees were required to call in to work the night before their scheduled standby shift, or 1-2 hours prior to the start of their scheduled standby shift, to confirm whether they were required to report to work. Ms. Chavez and other aggrieved employees were engaged to wait and could not engage in personal activities as they had to be ready to travel to their respective store locations on short notice and work their standby shift. When scheduled to be "on-call" for a standby shift, Ms. Chavez and other aggrieved employees were controlled by DD'S DISCOUNTS because they were forced to put their lives on hold and could not use that time freely for their own purposes. For example, Ms. Chavez refrained from making plans altogether on days she was scheduled for a standby shift because she knew that she had to drop whatever she was doing at a moment's notice if she was instructed to work her standby shift. However, DD'S DISCOUNTS did not pay Ms. Chavez and other aggrieved

employees for the time during which they were waiting or on standby to be notified by DD'S DISCOUNTS that they were required to report to work and unable to use their time for their own purposes.

DD'S DISCOUNTS knew or should have known that as a result of these company-wide practices and/or policies, Ms. Chavez and other aggrieved employees were performing assigned duties off-the-clock during meal periods and/or before and after their shifts, and were suffered or permitted to perform work for which they were not paid. Because Ms. Chavez and other aggrieved employees sometimes worked shifts of eight (8) hours a day or more, or forty (40) hours a week or more, some of this off-the-clock work qualified for overtime premium pay. Therefore, Ms. Chavez and other aggrieved employees were not paid overtime wages for all of the overtime hours they actually worked.

Furthermore, DD'S DISCOUNTS did not pay other aggrieved employees the correct overtime rate for the recorded overtime hours that they generated. In addition to an hourly wage, DD'S DISCOUNTS paid other aggrieved employees incentive pay, nondiscretionary bonuses, and/or other forms of remuneration. However, in violation of the California Labor Code, DD'S DISCOUNTS failed to incorporate all compensation, including incentive pay, nondiscretionary bonuses, and/or other forms of remuneration, into the calculation of the regular rate of pay for purposes of calculating the overtime wage rate. Therefore, during times when other aggrieved employees worked overtime and received these other forms of pay, DD'S DISCOUNTS failed to pay all overtime wages by paying a lower overtime rate than required.

DD'S DISCOUNTS's failure to pay Ms. Chavez and other aggrieved employees the balance of overtime compensation, as required by California law, violates the provisions of California Labor Code sections 510 and 1198. Ms. Chavez and other aggrieved employees are entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 558 and/or 2699(a), (f)-(g).

Violation of California Labor Code §§ 1182.12, 1194, 1197, 1197.1, and 1198 – Unpaid Minimum Wages

California Labor Code sections 1182.12, 1194, 1197, 1197.1, and 1198 require employers to pay employees the minimum wage fixed by the IWC. The payment of a lesser wage than the minimum so fixed is unlawful. Compensable work time is defined in Wage Order No. 7-2001 as "the time during which an employee is subject to the control of an employer, and includes all the time the employee is suffered or permitted to work, whether or not required to do so." Cal. Code. Regs. tit. 8, § 11070(2)(G) (defining "Hours Worked").

First, as set forth above, due to DD'S DISCOUNTS's company-wide practice of utilizing labor budgets, assignment of heavy workloads, subsequent lack of meal period coverage, and policy requiring loss prevention employees to be on duty at all times, Ms. Chavez and other aggrieved employees were impeded from taking all uninterrupted meal periods to which they were entitled and were required to work off-the-clock. Moreover, as set forth above, in order to prevent employees from accruing meal period penalties, DD'S DISCOUNTS's management pressured employees to clock out for meal periods to reflect compliant meal periods, but required them to continue working, time for which they were not paid. Also, as set forth above, DD'S DISCOUNTS systematically failed to pay Ms. Chavez and other aggrieved employees for actual hours worked during unpaid meal

periods, because DD'S DISCOUNTS's timekeeping system locked out Ms. Chavez and other aggrieved employees for 30 minutes when they clocked out for a meal period.

Second, as stated above, during the relevant time period, as a result of DD'S DISCOUNTS's policy of limiting the amount of overtime employees could accrue, Ms. Chavez and other aggrieved employees were forced to work off-the-clock before and after their scheduled shift start and end times to complete their work-related tasks. As stated, DD'S DISCOUNTS required Ms. Chavez and other aggrieved employees to perform work off-the-clock, including performing pre- and post-shift work; submitting to off-the-clock mandatory COVID-19 screenings, temperature checks, and security checks; waiting for managers to unlock the store before they could leave; and responding to phone calls and/or voicemails from managers regarding scheduling matters. Moreover, as set forth above, DD'S DISCOUNTS had a company-wide "on-call" policy, whereby it required Ms. Chavez and other aggrieved employees to call in when scheduled for "on-call" or standby shifts. However, DD'S DISCOUNTS did not pay Ms. Chavez and other aggrieved employees at least minimum wages for the time they spent calling in or waiting to see if they were needed at the store.

Thus, DD'S DISCOUNTS did not pay at least minimum wages for all hours worked by Ms. Chavez and other aggrieved employees. Also, to the extent that these off-the-clock hours did not qualify for overtime premium payment, DD'S DISCOUNTS did not pay at least minimum wages for those hours worked off-the-clock in violation of California Labor Code sections 1182.12, 1194, 1197, and 1197.1. Accordingly, DD'S DISCOUNTS regularly failed to pay at least minimum wages to Ms. Chavez and other aggrieved employees for all of the hours they worked in violation of California Labor Code sections 1182.12, 1194, 1197, 1197.1 and 1198.

Ms. Chavez and other aggrieved employees are entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 1197.1 and/or 2699(a), (f)-(g).

Violation of California Labor Code §§ 226.7, 512(a), 516, and 1198 – Failure to Provide Meal Periods

California Labor Code sections 226.7, 512(a), 516, 1198 and the applicable IWC Wage Order require employers to provide meal periods and to pay an employee one (1) additional hour of pay at the employee's regular rate for each work day that a meal or rest period is not provided. Pursuant to Labor Code sections 226.7 and 512(a) and the applicable IWC Wage Order, an employer may not require, cause or permit an employee to work for a period of more than five (5) hours per day without providing the employee with an uninterrupted meal period of not less than thirty (30) minutes, except that if the total work period per day of the employee is not more than six (6) hours, the meal period may be waived by mutual consent of both the employer and the employee. Under California law, first meal periods must start after no more than five hours. *Brinker Rest. Corp. v. Superior Court*, 53 Cal. 4th 1004, 1041-1042 (2012). Labor Code sections 226.7 and 512(a) and the applicable IWC Wage Order also require employers to provide a second meal period of not less than thirty (30) minutes if an employee works over ten (10) hours per day or to pay an employee one (1) additional hour of pay at the employee's regular rate, except that if the total hours worked is no more than twelve (12) hours, the second meal period may be waived by mutual consent of the employer and the employee only if the first meal period was not waived.

During the relevant time period, as stated, DD'S DISCOUNTS had, and continues to have, a company-wide policy and/or practice of understaffing locations due to labor budgeting and/or limited payroll allocation, which, combined with the assignment heavy workloads and failure to adhere to a

schedule of meal periods, has resulted in a lack of meal period coverage and prevented Ms. Chavez and other aggrieved employees from taking all timely, uninterrupted meal periods to which they were entitled. As stated, Ms. Chavez and other aggrieved employees would have their meal periods interrupted or cut short due to a lack of coverage and to attend to their managers' work-related inquiries. Because Ms. Chavez was often the only loss prevention employee on duty and because there were no other loss prevention employees to cover Ms. Chavez's shift during her meal period, she was prevented from taking timely, uninterrupted 30-minute meal periods because she was required to keep her walkie-talkie on during her meal periods and attend to emergencies or security situations as needed. In addition, as stated, Ms. Chavez and other aggrieved employees had their meal periods cut short due to mandatory security checks of their personal belongings when they exited the store during their meal periods.

Further, as stated, because DD'S DISCOUNTS frowned upon Ms. Chavez and other aggrieved employees accruing meal period penalties, DD'S DISCOUNTS's management pressured Ms. Chavez and other aggrieved employees to clock out for meal periods, in order to reflect compliant meal periods, regardless of whether they had received a compliant meal period, in order to strictly limit meal penalties that DD'S DISCOUNTS would otherwise owe. As stated, at least once per week for about 3-10 minutes per each instance, Ms. Chavez would complete her work-related tasks off the clock during her meal period because her supervisors had instructed her to clock out to avoid meal period penalties.

DD'S DISCOUNTS's practices and policies prevented Ms. Chavez and other aggrieved employees from taking all compliant meal periods to which they were entitled. As a result, Ms. Chavez and other aggrieved employees would be forced to work in excess of five (5) hours before taking a meal period, had their meal periods interrupted or cut short, and/or had to forgo their meal periods altogether.

Furthermore, as stated, DD'S DISCOUNTS company-wide timekeeping system prevented Ms. Chavez and other aggrieved employees from recording all hours worked when their meal periods were shortened or interrupted, because the system locked out Ms. Chavez and other aggrieved employees once they clocked out for a meal period, and would not permit them to clock back in from a meal period until 30 minutes had elapsed. Additionally, on information and belief, DD'S DISCOUNTS's timekeeping system also automatically clocked out Ms. Chavez and other aggrieved employees at the fifth hour of their shift in order to reflect compliant meal periods, regardless of whether employees received compliant meal periods, and to further prevent Ms. Chavez and other aggrieved employees from incurring meal period penalties.

Moreover, DD'S DISCOUNTS did not provide other aggrieved employees with second 30-minute meal periods on days that they worked in excess of 10 hours in one day. Ms. Chavez and other aggrieved employees did not sign valid meal period waivers on days that they were entitled to meal periods and were not relieved of all duties.

DD'S DISCOUNTS knew or should have known that as a result of its company-wide policies and/or practices, Ms. Chavez and other aggrieved employees were not actually relieved of all duties to take timely, uninterrupted meal periods. DD'S DISCOUNTS further knew or should have known that it did not pay Ms. Chavez and other aggrieved employees meal period premiums when meal periods were missed, late, short, and/or interrupted.

Furthermore, DD'S DISCOUNTS engaged in a company-wide practice and/or policy of not paying all meal period premiums owed when compliant meal periods are not provided. Because of this practice and/or policy, Ms. Chavez and other aggrieved employees have not received premium pay for missed, interrupted, or late meal periods. Alternatively, to the extent that DD'S DISCOUNTS did pay other aggrieved employees premium pay for missed, late, and interrupted meal periods, DD'S DISCOUNTS did not pay other aggrieved employees at the correct rate of pay for premiums because DD'S DISCOUNTS systematically failed to include all forms of compensation, such as incentive pay, nondiscretionary bonuses, and/or other forms of remuneration, in the regular rate of pay.

Accordingly, DD'S DISCOUNTS failed to provide all meal periods in violation of California Labor Code sections 226.7, 512(a), 516, and 1198. Ms. Chavez and other aggrieved employees are entitled to civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 558 and/or 2699(a), (f)-(g).

Violation of California Labor Code §§ 226.7, 516, and 1198 – Failure to Authorize and Permit Rest Periods

California Labor Code sections 226.7, 516, 1198 and the applicable IWC Wage Order require employers to provide rest periods and to pay an employee one (1) additional hour of pay at the employee's regular rate for each work day that a meal or rest period is not provided. California Labor Code section 226.7 provides that no employer shall require an employee to work during any rest period mandated by an applicable order of the California IWC. The applicable IWC Wage Order provides that "[e]very employer shall authorize and permit all employees to take rest periods, which insofar as practicable shall be in the middle of each work period" and that the "rest period time shall be based on the total hours worked daily at the rate of ten (10) minutes net rest time per four (4) hours or major fraction thereof" unless the total daily work time is less than three and one-half (3 ½) hours.

To comply with its obligation to authorize and permit rest periods under California Labor Code section 226.7 and the applicable IWC Wage Order, an employer must "relinquish any control over how employees spend their break time, and relieve their employees of all duties—including the obligation that an employee remain on call. A rest period, in short, must be a period of rest." *Augustus, et al. v. ABM Security Services, Inc.*, 2 Cal. 5th 257, 269-270 (2016).

During the relevant time period, DD'S DISCOUNTS regularly failed to authorize and permit Ms. Chavez and other aggrieved employees to take a ten (10) minute rest period per each four (4) hour period worked or major fraction thereof. As with meal periods, DD'S DISCOUNTS's company-wide labor budget policies and resultant understaffing, heavy workload, and lack of coverage prevented Ms. Chavez and other aggrieved employees from being relieved of all duty in order to take compliant rest periods. DD'S DISCOUNTS also failed to adhere to a schedule of rest periods, which, coupled with DD'S DISCOUNTS's failure to provide adequate rest period coverage, further led to Ms. Chavez and other aggrieved employees not being authorized and permitted to take rest periods.

As a result of DD'S DISCOUNTS's practices and policies, Ms. Chavez and other aggrieved employees worked shifts in excess of 3.5 hours, in excess of 6 hours, and/or in excess of 10 hours without receiving all uninterrupted 10-minute rest periods to which they were entitled. For example, at least once during her employment, Ms. Chavez was unable to take a rest period during her shift because the store was busy and she did not have coverage. Further, Ms. Chavez's rest periods were

cut short and/or interrupted at least twice per month by her supervisors asking her work-related inquiries or calling her on her walkie-talkie.

DD'S DISCOUNTS also has engaged in a company-wide practice and/or policy of not paying all rest period premiums owed when compliant rest periods are not authorized and permitted. Because of this practice and/or policy, Ms. Chavez and other aggrieved employees have not received premium pay for all missed rest periods. Alternatively, to the extent that DD'S DISCOUNTS did pay other aggrieved employees one (1) additional hour of premium pay for missed rest periods, DD'S DISCOUNTS did not pay other aggrieved employees at the correct rate of pay for premiums because DD'S DISCOUNTS failed to include all forms of compensation, such as incentive pay, nondiscretionary bonuses, and/or other forms of remuneration, in the regular rate of pay.

Accordingly, DD'S DISCOUNTS failed to authorize and permit all rest periods in violation of California Labor Code sections 226.7, 516, and 1198. Ms. Chavez and other aggrieved employees are entitled to civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 558 and/or 2699(a), (f)-(g).

Violation of California Labor Code §§ 226(a), 1174(d), and 1198 – Non-Compliant Wage Statements and Failure to Maintain Accurate Payroll Records

California Labor Code section 226(a) requires employers to make, keep and provide true, accurate, and complete employment records. DD'S DISCOUNTS has not provided Ms. Chavez and other aggrieved employees with properly itemized wage statements. Labor Code section 226(e) provides that if an employer fails to comply with providing an employee with properly itemized wages statements as set forth in 226(a), then the employee is entitled to recover the greater of all actual damages or \$50 for the initial pay period in which a violation occurs and \$100 per employee for each violation in a subsequent pay period, not to exceed \$4,000. Further, Labor Code section 226.3 provides that any employer who violates section 226(a) shall be subject to a civil penalty in the amount of \$250 per employee per violation in an initial citation and \$1,000 per employee for each violation in a subsequent citation, for which the employer fails to provide the employee a wage statement or fails to keep the required records pursuant to Section 226(a).

During the relevant time period, DD'S DISCOUNTS has knowingly and intentionally provided Ms. Chavez and other aggrieved employees with uniform, incomplete, and inaccurate wage statements. For example, DD'S DISCOUNTS issued uniform wage statements to Ms. Chavez and other aggrieved employees that fail to correctly list: gross wages earned; total hours worked; net wages earned; the name of the legal entity that is the employer; and all applicable hourly rates in effect during the pay period, including overtime rates of pay, and the corresponding number of hours worked at each hourly rate. Specifically, DD'S DISCOUNTS violated sections 226(a)(1), 226(a)(2), 226(a)(5), 226(a)(8), and 226(a)(9).

First, because DD'S DISCOUNTS did not record the time Ms. Chavez and other aggrieved employees spent working off-the-clock and deducted time from their records for meal periods that were interrupted and/or missed (and therefore time for which they should have been paid), DD'S DISCOUNTS did not list the correct amount of gross wages and net wages earned by Ms. Chavez and other aggrieved employees in compliance with section 226(a)(1) and section 226(a)(5), respectively. For the same reason, DD'S DISCOUNTS failed to accurately list the total number of hours worked by Ms. Chavez and other aggrieved employees, in violation of section 226(a)(2), and

failed to list the applicable hourly rates of pay in effect during the pay period and the corresponding accurate number of hours worked at each hourly rate, in violation of section 226(a)(9).

Second, because DD'S DISCOUNTS did not calculate other aggrieved employees' regular rate of pay correctly for purposes of paying overtime wages, DD'S DISCOUNTS did not list the correct amount of gross wages earned by other aggrieved employees in compliance with section 226(a)(1) and did not list the correct amount of net wages earned by other aggrieved employees in violation of section 226(a)(5). DD'S DISCOUNTS also failed to correctly list all applicable hourly rates in effect during the pay period, namely, correct overtime rates of pay, in violation of section 226(a)(9).

The wage statement deficiencies also include, among other things, failing to list the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis; failing to list all deductions; failing to list the name of the employee and only the last four digits of his or her social security number or an employee identification number other than a social security number; failing to list the address of the legal entity that is the employer; failing to list the inclusive dates of the period for which aggrieved employees were paid; and/or failing to state all hours worked as a result of not recording or stating the hours they worked off-the-clock.

California Labor Code section 1174(d) provides that "[e]very person employing labor in this state shall . . . [k]eep a record showing the names and addresses of all employees employed and the ages of all minors" and "[k]eep, at a central location in the state or at the plants or establishments at which employees are employed, payroll records showing the hours worked daily by and the wages paid to, and the number of piece-rate units earned by and any applicable piece rate paid to, employees employed at the respective plants or establishments. . . ." Labor Code section 1174.5 provides that employers are subject to a \$500 civil penalty if they fail to maintain accurate and complete records as required by section 1174(d). During the relevant time period, and in violation of Labor Code section 1174(d), DD'S DISCOUNTS willfully failed to maintain accurate payroll records for Ms. Chavez and other aggrieved employees showing the daily hours they worked and the wages paid thereto as a result of failing to record the off-the-clock hours that they worked.

California Labor Code section 1198 provides that the maximum hours of work and the standard conditions of labor shall be those fixed by the Labor Commissioner and as set forth in the applicable IWC Wage Orders. Section 1198 further provides that "[t]he employment of any employees for longer hours than those fixed by the order or under conditions of labor prohibited by the order is unlawful." Pursuant to the applicable IWC Wage Order, employers are required to keep accurate time records showing when the employee begins and ends each work period and meal period. During the relevant time period, DD'S DISCOUNTS failed, on a company-wide basis, to keep accurate records of work period and meal period start and stop times for Ms. Chavez and other aggrieved employees, in violation of section 1198. As stated, DD'S DISCOUNTS engaged in a company-wide practice and/or policy of falsifying Ms. Chavez's and other aggrieved employees' time records by recording that compliant meal periods were taken regardless of if or when meal periods were actually taken, and thereby failed to keep accurate records of meal start and end times for Ms. Chavez and other aggrieved employees. Furthermore, in light of DD'S DISCOUNTS's failure to provide other aggrieved employees with second 30-minute meal periods to which they were entitled, DD'S DISCOUNTS kept no records of meal start and end times for second meal periods.

Because DD'S DISCOUNTS failed to provide the correct net and gross wages earned, applicable rates of pay, and number of total hours worked on wage statements, Ms. Chavez and other aggrieved employees have been prevented from verifying, solely from information on the wage statements

themselves, that they were paid correctly and in full. Instead, Ms. Chavez and other aggrieved employees have had to look to sources outside of the wage statements themselves and reconstruct time records to determine whether in fact they were paid correctly and the extent of underpayment, thereby causing them injury.

Ms. Chavez and other aggrieved employees are entitled to recover civil penalties, attorney's fees, costs, and interest thereon pursuant to Labor Code sections 226.3, 1174.5, and/or 2699(a), (f)-(g).

Violation of California Labor Code § 204 – Failure to Timely Pay Wages During Employment

California Labor Code section 204 requires that all wages earned by any person in any employment between the 1st and the 15th days, inclusive, of any calendar month, other than those wages due upon termination of an employee, are due and payable between the 16th and the 26th day of the month during which the labor was performed, and that all wages earned by any person in any employment between the 16th and the last day, inclusive, of any calendar month, other than those wages due upon termination of an employee, are due and payable between the 1st and the 10th day of the following month. California Labor Code section 204 also requires that all wages earned for labor in excess of the normal work period shall be paid no later than the payday for the next regular payroll period. Alternatively, California Labor Code section 204 provides that the requirements of this section are deemed satisfied by the payment of wages for weekly, biweekly, or semimonthly payroll if the wages are paid not more than seven (7) calendar days following the close of the payroll period.

During the relevant time period, DD'S DISCOUNTS failed to pay Ms. Chavez and other aggrieved employees all wages due to them, including, but not limited to, overtime wages, minimum wages, meal and rest period premiums, and/or reporting time pay, within any time period specified by California Labor Code section 204.

Ms. Chavez and other aggrieved employees are entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 210 and/or 2699(a), (f)-(g).

Violation of California Labor Code §§ 201, 202, and 203 – Failure to Timely Pay Final Wages Upon Termination

California Labor Code sections 201, 202, and 203 provide that if an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately, and that if an employee voluntarily leaves his or her employment, his or her wages shall become due and payable not later than seventy-two (72) hours thereafter, unless the employee has given seventy-two (72) hours previous notice of his or her intention to quit, in which case the employee is entitled to his or her wages at the time of quitting.

DD'S DISCOUNTS willfully failed to pay Ms. Chavez and other aggrieved employees who are no longer employed by DD'S DISCOUNTS all their earned wages, including, but not limited to, overtime wages, minimum wages, meal and rest period premiums, and/or reporting time pay, either at the time of discharge, or within seventy-two (72) hours of their leaving DD'S DISCOUNTS's employ.

Ms. Chavez and other aggrieved employees are entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 256 and/or 2699(a), (f)-(g).

Violation of California Labor Code §§ 551 and 552 – Failure to Provide One Day’s Rest in Seven

California Labor Code section 551 provides that every person employed in any occupation of labor is entitled to one day’s rest in seven. California Labor Code section 552 prohibits employers from requiring employees to work more than six consecutive days without a day of rest. California Labor Code section 556 exempts an employer from the day-of-rest requirement when the total hours worked by an employee do not exceed 30 hours in any week or six hours in any one day thereof.

During the relevant time period, on information and belief, DD’S DISCOUNTS scheduled Ms. Chavez and/or other aggrieved employees to work eight (8) or more hours per day and more than seven (7) consecutive days in a workweek. Because Ms. Chavez and/or other aggrieved employees worked over 30 hours per week and over six (6) hours per day in a workweek, they were not exempt from the day-of-rest requirement. To the extent that Ms. Chavez and/or other aggrieved employees may have signed purported waivers of their right to a day’s rest in seven, such waivers are invalid.

Thus, DD’S DISCOUNTS caused Ms. Chavez and/or other aggrieved employees to work more than six days in seven, in violation of Labor Code sections 551 and 552. Ms. Chavez and/or other aggrieved employees are entitled to recover civil penalties, attorney’s fees, costs, and interest thereon, pursuant to Labor Code sections 558 and/or 2699(a), (f)-(g).

Violation of California Labor Code § 1198 and California Code of Regulations Title 8, Section 11070 Subdivision 14(A) – Failure to Provide Suitable Seating

California Labor Code section 1198 makes it illegal to employ an employee under conditions of labor that are prohibited by the applicable wage order. California Labor Code section 1198 requires that “. . . the standard conditions of labor fixed by the commission shall be the . . . standard conditions of labor for employees. The employment of any employee . . . under conditions of labor prohibited by the order is unlawful.” California Code of Regulations, Title 8, section 11070(14)(A) provides that “[a]ll working employees shall be provided with suitable seats when the nature of the work reasonably permits the use of seats.”

“The ‘nature of the work’ refers to an employee’s tasks performed at a given location for which a right to a suitable seat is claimed, rather than a ‘holistic’ consideration of the entire range of an employee’s duties anywhere on the jobsite during a complete shift. If the tasks being performed at a given location reasonably permit sitting, and provision of a seat would not interfere with performance of any other tasks that may require standing, a seat is called for.” *Kilby v. CVS Pharmacy, Inc.*, 368 P.3d 554, 558 (Cal. 2016). “Whether the nature of the work reasonably permits sitting is a question to be determined objectively based on the totality of the circumstances. An employer’s business judgment and the physical layout of the workplace are relevant but not dispositive factors. The inquiry focuses on the nature of the work, not an individual employee’s characteristics.” *Id.* The burden of proof to show suitable seating is not available is on the employer. *Id.* at 568. In other words, the employer must show that compliance is “infeasible because no suitable seating exists.” *See id.*

DD’S DISCOUNTS’s California retail stores are generally similar in their layout and design and there was, and continues to be, space near each entrance/exit and behind each cash wrap to allow for the presence and use of a seat or stool by Ms. Chavez and other aggrieved employees (with reasonable or no modification to these work areas) during the performance of their work duties.

DD'S DISCOUNTS could provide Ms. Chavez and other aggrieved employees with a seat or stool at its store entrances/exits and cash wraps, but instead denies employees seating and forces Ms. Chavez and other aggrieved employees to stand throughout the day.

Ms. Chavez and other aggrieved employees spent a substantial portion of their day by the store entrances/exits and/or behind these cash wraps. The nature of the work of an employee performing the duties of Ms. Chavez and/or other aggrieved employees can reasonably be accomplished from a seated position. Ms. Chavez and other aggrieved employees could have guarded the store entrances/exits, evaluated customer behavior, and monitored store security and safety while seated, without interference in their ability to complete these duties. Other aggrieved employees similarly could have handled transactions at the cash registers, provided customer service, and/or greeted customers, all while seated without interference in their ability to complete those duties. However, as set forth herein, DD'S DISCOUNTS systematically, and on a company-wide basis, does not provide seats or stools at or near each entrance/exit or cash wrap, forcing Ms. Chavez and other aggrieved employees to stand throughout their work shifts.

DD'S DISCOUNTS violated California Labor Code section 1198 and California Code of Regulations, Title 8, section 11070(14)(A) because Ms. Chavez and other aggrieved employees were not allowed to sit, even when it would not have interfered with the performance of their duties, nor were they provided with suitable seats. DD'S DISCOUNTS's management did not inform Ms. Chavez and other aggrieved employees that they were allowed to sit down, provide any means for them to sit down, or mention any policy regarding sitting.

As a result of DD'S DISCOUNTS's company-wide policy and/or practice of prohibiting employees from sitting during their shifts and company-wide failure to provide suitable seating, Ms. Chavez and other aggrieved employees were forced to stand during shifts and denied seats. DD'S DISCOUNTS's failure to provide suitable seating to Ms. Chavez and other aggrieved employees violates California Labor Code section 1198 and IWC Wage Order 7-2001, subdivision 14(A).

Ms. Chavez and other aggrieved employees are entitled to recover civil penalties, attorney's fees, costs, and interest thereon, and seek injunctive relief to bring DD'S DISCOUNTS into compliance with California's seating requirements, pursuant to Labor Code sections 1194.5 and/or 2699(a), (f)-(g).

Violation of California Labor Code § 1198 and California Code of Regulations Title 8, Section 11070 Subdivision 14(B) – Failure to Provide Suitable Seating

California Labor Code section 1198 makes it illegal to employ an employee under conditions of labor that are prohibited by the applicable wage order. California Labor Code section 1198 requires that "... the standard conditions of labor fixed by the commission shall be the ... standard conditions of labor for employees. The employment of any employee ... under conditions of labor prohibited by the order is unlawful." California Code of Regulations, Title 8, section 11070(14)(B) provides that "[w]hen employees are not engaged in the active duties of their employment and the nature of the work requires standing, an adequate number of suitable seats shall be placed in reasonable proximity to the work area and employees shall be permitted to use such seats when it does not interfere with the performance of their duties."

The IWC states that subdivision 14(B) applies during "lulls in operation" when an employee, while still on the job, is not then actively engaged in any duties. *Kilby v. CVS Pharmacy, Inc.*, 368 P.3d

554, 565 (Cal. 2016), citing IWC, 1976 Wage Orders, Summary of Basic Provisions, Seats. When taken together, an employee is entitled to a seat under subdivision 14(A) if his or her actual tasks at a discrete location make seated work feasible, while working there. *Id.* However, if other job duties take the employee to a different location where he or she must perform tasks requiring standing, the employee would be entitled to a seat under subdivision 14(B) during “lulls in operation.” *Id.*

As stated, DD’S DISCOUNTS’s California retail stores are generally similar in their layout and design and there was, and continues to be, space near its work areas (with reasonable or no modification to these work areas) to allow for the presence and use of a seat or stool by Ms. Chavez and other aggrieved employees during lulls in operation. DD’S DISCOUNTS could provide Ms. Chavez and other aggrieved employees with a seat or stool in its work areas, but instead denies employees seating and forces Ms. Chavez and other aggrieved employees to stand throughout the day.

DD’S DISCOUNTS did not provide Ms. Chavez and other aggrieved employees with seats or stools in reasonable proximity to their work areas to allow them to use seats when it would not interfere with the performance of their duties for times when they were not engaged in active duties that require standing. In other words, to the extent Ms. Chavez and other aggrieved employees engaged in duties in which the nature of the work required standing, DD’S DISCOUNTS denied them the use of seats nearby during lulls in their work duties. Moreover, DD’S DISCOUNTS did not inform Ms. Chavez and other aggrieved employees of their rights to a seat or stool under California law.

As a result of DD’S DISCOUNTS’s company-wide policy and/or practice of prohibiting employees from sitting at any time, even when they were not engaged in active duties requiring standing, and company-wide failure to provide seats in reasonable proximity to their work areas, and Ms. Chavez and other aggrieved employees were forced to stand during shifts and denied seats. DD’S DISCOUNTS’s failure to provide suitable seating to Ms. Chavez and other aggrieved employees violates California Labor Code section 1198 and IWC Wage Order 7-2001, subdivision 14(B).

Ms. Chavez and other aggrieved employees are entitled to recover civil penalties, attorney’s fees, costs, and interest thereon, and seek injunctive relief to bring DD’S DISCOUNTS into compliance with California’s seating requirements, pursuant to Labor Code sections 1194.5 and/or 2699(a), (f)-(g).

Violation of California Labor Code § 1198 and California Code of Regulations Title 8, Section 11070 Subdivision 5(A) – Failure to Pay Reporting Time Pay

California Labor Code section 1198 dictates that no employer may employ an employee under conditions of labor that are prohibited by the applicable IWC wage order. California Labor Code section 1198 further requires that “. . . the standard conditions of labor fixed by the commission shall be the . . . standard conditions of labor for employees. The employment of any employee . . . under conditions of labor prohibited by the order is unlawful.”

California Code of Regulations, Title 8, section 11070(5)(A) provides that “[e]ach workday an employee is required to report for work and does report, but is not put to work or is furnished less than half said employee’s usual or scheduled day’s work, the employee shall be paid for half the usual or scheduled day’s work, but in no event for less than two (2) hours nor more than four (4) hours, at the employee’s regular rate of pay, which shall not be less than the minimum wage.” The “primary purpose of the reporting time regulation” is “to guarantee at least partial compensation for

employees who report to work expecting to work a specified number of hours, and who are deprived of that amount because of inadequate scheduling or lack of proper notice by the employer.” *Aleman v. AirTouch Cellular*, 209 Cal. App. 4th 556 (2012).

During the relevant time period, DD’S DISCOUNTS violated California Labor Code section 1198 and California Code of Regulations, Title 8, section 11070(5)(A), because DD’S DISCOUNTS failed to pay Ms. Chavez and other aggrieved employees reporting time pay when they reported to work for their scheduled shift but were put to work for less than half of the regularly scheduled day’s work.

As stated, DD’S DISCOUNTS had a company-wide “on-call” policy, whereby it scheduled Ms. Chavez and other aggrieved employees to work “on-call,” or on standby. When scheduled for a “on-call” or standby shift, Ms. Chavez and other aggrieved employees regularly presented themselves as ready for work by calling into the store the night prior to their scheduled shift and/or 1-2 hours prior to their scheduled standby shift and would await instructions on whether to report to the store, but were ultimately told not to come in. For example, at least twice during her employment, Ms. Chavez waited at home during her scheduled standby or on-call shifts as required by DD’S DISCOUNTS’s “on-call” policy. When this occurred, DD’S DISCOUNTS did not pay Ms. Chavez and other aggrieved employees for at least half of their scheduled day’s work or the minimum reporting time pay when they were subject to DD’S DISCOUNTS’s “on-call” policy and were ultimately not called. Accordingly, Ms. Chavez and other aggrieved employees were not properly compensated with reporting time pay in violation of California Labor Code section 1198.

Ms. Chavez and other aggrieved employees are entitled to recover civil penalties, attorney’s fees, costs, and interest thereon, pursuant to Labor Code sections 2699(a), (f)-(g).

Violation of California Labor Code § 246 – Failure to Provide Written Notice of Paid Sick Leave

California’s Healthy Workplaces, Healthy Families Act of 2014 was enacted to provide employees who have worked in California for 30 or more days from the commencement of employment with paid sick days, to be accrued at least one hour for every 30 hours worked. Employers must provide no less than 24 hours or three (3) days of paid sick leave (or equivalent paid leave or paid time off) in each year of the employee’s employment. Codified at California Labor Code sections 245.5, 246, 246.5, 247, 247.5, 248.5, and 249, section 246(h) provides that an employer must provide an employee with written notice that sets forth the amount of paid sick leave available, or paid time off that an employer provides in lieu of sick leave, for use on either the employee’s itemized wage statement or in a separate written statement provided on the designated pay date with the employee’s wages. The penalties described in this article for a violation of this subdivision shall be in lieu of the penalties for a violation of Section 226.

During the relevant time period, DD’S DISCOUNTS has failed to provide Ms. Chavez and other aggrieved employees written notice on wage statements and/or other separate written statements that listed the requisite information set forth in Labor Code section 246(h). DD’S DISCOUNTS’s ongoing and systematic failure to provide written notice of sick leave benefits to Ms. Chavez and other aggrieved employees violates California Labor Code section 246.

Ms. Chavez and other aggrieved employees are therefore entitled to recover penalties, attorney’s fees, costs, and interest thereon, pursuant to Labor Code sections 248.5 and/or 2699(f)-(g).

Violation of California Labor Code § 2802 – Unreimbursed Business Expenses

California Labor Code section 2802 requires employers to pay for all necessary expenditures and losses incurred by the employee in the performance of his or her job. The purpose of Labor Code section 2802 is to prevent employers from passing off their cost of doing business and operating expenses on to their employees. *Cochran v. Schwan's Home Service, Inc.*, 228 Cal. App. 4th 1137, 1144 (2014). The applicable wage order, IWC Wage Order 7-2001, provides that: “[w]hen tools or equipment are required by the employer or are necessary to the performance of a job, such tools and equipment shall be provided and maintained by the employer, except that an employee whose wages are at least two (2) times the minimum wage provided herein may be required to provide and maintain hand tools and equipment customarily required by the trade or craft.”

During the relevant time period, DD’S DISCOUNTS, on a company-wide basis, required that Ms. Chavez and other aggrieved employees use their own personal cellular phones and/or cellular data to carry out their job duties but failed to reimburse them for the costs of their work-related cellular phone expenses. For example, Ms. Chavez and other aggrieved employees would be contacted on their off-days on their personal cellular phones by their supervisors regarding scheduling issues. Ms. Chavez spent at least 30 minutes during her employment responding and/or reviewing voicemails that her supervisors had left for her on her cellular phone. In addition, DD’S DISCOUNTS required that Ms. Chavez download a mobile application on her personal cellular phone to track the number of customers in the store at one time. Although DD’S DISCOUNTS required Ms. Chavez and other aggrieved employees to utilize their personal cellular phones to carry out their work-related responsibilities, DD’S DISCOUNTS failed to fully reimburse them for this cost.

DD’S DISCOUNTS could have provided Ms. Chavez and other aggrieved employees with the actual tools for use on the job, such as company phones. Or, DD’S DISCOUNTS could have reimbursed employees for the costs of their cellular phone usage and their data. Instead, DD’S DISCOUNTS passed these operating costs off onto Ms. Chavez and other aggrieved employees. At all relevant times, Ms. Chavez did not earn at least two (2) times the minimum wage.

Thus, DD’S DISCOUNTS had, and continues to have, a company-wide policy and/or practice of not reimbursing employees for expenses necessarily incurred in violation of California Labor Code section 2802. Ms. Chavez and other aggrieved employees are entitled to recover civil penalties, attorney’s fees, costs, and interest thereon, pursuant to Labor Code sections 2699(a), (f)-(g).

California Labor Code § 558(a)

California Labor Code section 558(a) provides “[a]ny employer or other person acting on behalf of an employer who violates, or causes to be violated, a section of this chapter or any provision regulating hours and days of work in any order of the Industrial Welfare Commission shall be subject to a civil penalty as follows: (1) For any initial violation, fifty dollars (\$50) for each underpaid employee for each pay period for which the employee was underpaid. . . . (2) For each subsequent violation, one hundred dollars (\$100) for each underpaid employee for each pay period for which the employee was underpaid. . . .” Labor Code section 558(c) provides that “[t]he civil penalties provided for in this section are in addition to any other civil or criminal penalty provided by law.” DD’S DISCOUNTS, at all relevant times, was an employer or person acting on behalf of an employer(s) who violated Ms. Chavez’s and other aggrieved employees’ rights by violating various sections of the California Labor Code.

Accordingly, Ms. Chavez seeks the remedies set forth in Labor Code section 558 for herself, the State of California, and all other aggrieved employees. Specifically, pursuant to PAGA, and in particular California Labor Code sections 1194.5, 2699(a), 2699.3(a) and 2699.3(c), 2699.5, and 558, Ms. Chavez, acting in the public interest as a private attorney general, seeks assessment and collection of civil penalties and injunctive relief for herself, all other aggrieved employees, and the State of California against DD'S DISCOUNTS for violations of California Labor Code sections 201, 202, 203, 204, 226(a), 226.7, 246, 510, 512(a), 516, 551, 552, 1174(d), 1182.12, 1194, 1197, 1197.1, 1198, and 2802.

Therefore, on behalf of all aggrieved employees, Ms. Chavez seeks all applicable civil penalties related to these violations of the California Labor Code pursuant to PAGA.

Pre-Litigation Demand

This notice shall further serve as Ms. Chavez's reasonable attempt to settle her dispute with DD'S DISCOUNTS prior to litigation. Pursuant to *Graham v. DaimlerChrysler Corp.*, 34 Cal. 4th 553 (2004), this notice serves to inform DD'S DISCOUNTS of Ms. Chavez's aforementioned grievances and the proposed remedies as detailed below, while affording DD'S DISCOUNTS a reasonable opportunity to satisfy Ms. Chavez's demands.

Demand is hereby made that DD'S DISCOUNTS shall, within 30 calendar days of this notice, agree, in writing to the following corrective actions:

1. DD'S DISCOUNTS shall pay Ms. Chavez and all other aggrieved employees employed by DD'S DISCOUNTS at any time during the past three years from the date of this notice unpaid wages and compensation for the above-referenced violations.
2. DD'S DISCOUNTS shall comply with all California labor laws and ensure that its non-exempt employees are paid overtime wages and minimum wages for all hours worked, provided lawful meal and rest periods, and paid all reporting time pay.
3. DD'S DISCOUNTS shall conduct a survey or interview all current and former aggrieved employees in California who worked for DD'S DISCOUNTS in the past three years to obtain information from them regarding the above-referenced violations, including, but not limited to: the number of meal periods which were not provided; the number of rest periods which were not authorized and permitted; and the number of employees who were required to pay for cellular phone expenses or other expenditures in the discharge of their duties, with the investigation to be completed within 60 days.
4. DD'S DISCOUNTS shall pay each aggrieved employee one hour of pay at his or her regular rate of pay for each work day he or she was not provided one or more meal periods, as required by Labor Code sections 226.7, 512(a), 516, and 1198. DD'S DISCOUNTS also shall pay each aggrieved employee one hour of pay at his or her regular rate of pay for each work day he or she was not authorized and permitted one or more rest periods, as required by Labor Code sections 226.7, 516, and 1198.
5. DD'S DISCOUNTS shall reimburse those aggrieved employees who were required to pay for any business expenses incurred for DD'S DISCOUNTS's benefit, including, but not limited to, cellular phone expenses, or other expenditures, as required by Labor Code section 2802.

6. DD'S DISCOUNTS shall pay accrued legal interest to all aggrieved employees at the rate of 10% per annum for said unpaid wages.
7. DD'S DISCOUNTS shall provide Ms. Chavez and all aggrieved employees employed by DD'S DISCOUNTS at any time during the past three years from the date of this notice corrected wage statements that include the requisite information set forth in Labor Code section 226(a).
8. DD'S DISCOUNTS shall provide all aggrieved employees with written notice of sick leave benefits, as set forth in Labor Code section 246(i).
9. DD'S DISCOUNTS shall provide all aggrieved employees who worked over thirty (30) hours per week and over six (6) hours per day in a workweek with one day's rest in seven, as required by Labor Code sections 551 and 552.
10. DD'S DISCOUNTS shall implement and provide suitable seating to all aggrieved employees.
11. DD'S DISCOUNTS shall pay waiting time penalties, equal to 30 days of pay, to each former aggrieved employee who was not paid all wages due as described herein.
12. DD'S DISCOUNTS shall pay all penalties arising from the violations of the Labor Code and IWC Wage Order sections referenced above and pursuant to PAGA, Labor Code sections 2698, *et seq.*, including, but not limited to, penalties under Labor Code sections 210, 226.3, 248.5, 256, 558, 1174.5, 1197.1, and 2699, and Wage Order No. 7-2001, section 20.

Thank you for your attention to this matter. If you have any questions, please contact me at the phone number or address below:

Mao Shiokura
Capstone Law APC
1875 Century Park East, Suite 1000
Los Angeles, CA 90067
(310) 556-4811

Best Regards,

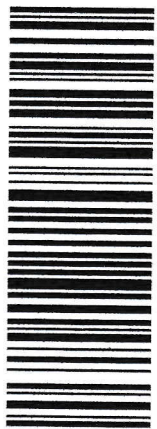


Mao Shiokura

Copy: ROSS DRESS FOR LESS, INC. (via U.S. Certified Mail); ROSS STORES, INC. (via U.S. Certified Mail); RETAIL ASSURANCE GROUP, INC. (via U.S. Certified Mail); ROSS DISTRIBUTION COMPANY LLC (via U.S. Certified Mail); ROSS MERCHANDISING, INC. (via U.S. Certified Mail); ROSS PROCUREMENT, INC. (via U.S. Certified Mail)

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LAW APC
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s, CA 90067



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DUBLIN CA 94568



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Chavez v. Ross
Dress for Less, Inc.

PS Form 3800, April 2015 PSN 7530-02-000-9047

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\$008.08
0000666553 MAY 21 2021
MAILED FROM ZIP CODE 90067



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DUBLIN CA 94568



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☐ Addressee

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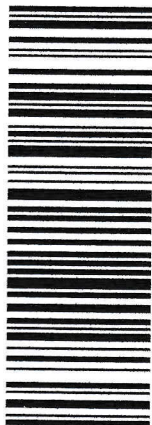
D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

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| ☒ Certified Mail® | ☐ Registered Mail Restricted Delivery |
| ☐ Certified Mail Restricted Delivery | ☐ Return Receipt for Merchandise |
| ☐ Collect on Delivery | ☐ Signature Confirmation™ |
| ☐ Collect on Delivery Restricted Delivery | ☐ Signature Confirmation Restricted Delivery |
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| ☐ Certified Mail Restricted Delivery | \$ |
| ☐ Adult Signature Required | \$ |
| ☐ Adult Signature Restricted Delivery | \$ |

Postage

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Total Postage and Fees

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ROSS DISTRIBUTION COMPANY LLC

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City, State, ZIP+4 DUBLIN CA 94568

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Chavez V. Ross
Distribution Company
LLC

PS Form 3800, April 2015 PSN 7530-02-000-9047

See Reverse for Instructions

one

AW APC

1000 Park East, Ste 1000
CA 90067

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5130 HACIENDA DRIVE
DUBLIN CA 94568



9590 9402 5816 0034 8457 03

2. Article Number (Transfer from service label)

7020 1290 0001 8879 4938

PS Form 3811, July 2015 PSN 7530-02-000-9053

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A. Signature

X☐ Agent
☐ Addressee

B. Received by (Printed Name)

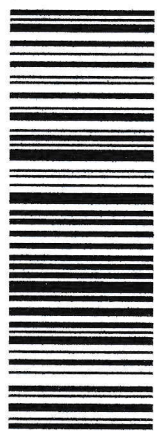
C. Date of Delivery

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

3. Service Type

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| ☐ Adult Signature | ☐ Priority Mail Express® |
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| ☐ Collect on Delivery | ☐ Signature Confirmation™ |
| ☐ Collect on Delivery Restricted Delivery | ☐ Signature Confirmation Restricted Delivery |
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|---|---------|
| ☒ Return Receipt (hardcopy) | \$ 2.85 |
| ☐ Return Receipt (electronic) | \$ |
| ☐ Certified Mail Restricted Delivery | \$ |
| ☐ Adult Signature Required | \$ |
| ☐ Adult Signature Restricted Delivery | \$ |

Postage

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Total Postage and Fees

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5130 HACIENDA DRIVE
DUBLIN CA 94568

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Stores, Inc.

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See Reverse for instructions

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ROSS MERCHANDISING, INC.
5130 HACIENDA DRIVE
DUBLIN CA 94568



9590 9402 5816 0034 8456 97

2. Article Number (Transfer from service label)

7020 1290 0001 8879 4921

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- D. Is delivery address different from item 1?** ☐ Yes
If YES, enter delivery address below: ☐ No

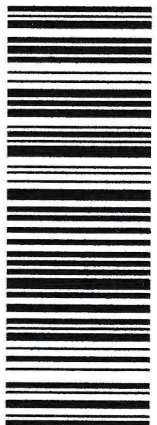
3. Service Type

- ☐ Adult Signature
- ☐ Adult Signature Restricted Delivery
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- ☐ Certified Mail Restricted Delivery
- ☐ Collect on Delivery
- ☐ Collect on Delivery Restricted Delivery
- ☐ Insured Mail
- ☐ Insured Mail Restricted Delivery over \$500

- ☐ Priority Mail Express®
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- ☐ Return Receipt for Merchandise
- ☐ Signature Confirmation™
- ☐ Signature Confirmation Restricted Delivery

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CERTIFIED MAIL



7020 1290 0001 8879 4921

ROSS MERCHANDISING, INC.
5130 HACIENDA DRIVE
DUBLIN CA 94568

U.S. Postal Service™
CERTIFIED MAIL® RECEIPT
Domestic Mail Only

For delivery information, visit our website at www.usps.com®.

OFFICIAL USE

Certified Mail Fee

\$ 3.60

Extra Services & Fees (check box, add fee as appropriate)

- ☒ Return Receipt (hardcopy) \$ 2.85
- ☐ Return Receipt (electronic) \$
- ☐ Certified Mail Restricted Delivery \$
- ☐ Adult Signature Required \$
- ☐ Adult Signature Restricted Delivery \$

Postage

\$ 1.63

Total Postage and Fees

\$ 8.08

Sent To

ROSS MERCHANDISING, INC.
5130 HACIENDA DRIVE
DUBLIN CA 94568

Postmark
Here

Chavez V. Ross
Merchandising, Inc.

PS Form 3800, April 2015 PSN 7530-02-000-9047

See Reverse for Instructions

one
LAW APC
Park East, Ste 1000
CA 90047

UNITED STATES POSTAGE
PITNEY BOWES
\$008.08
02 1P
000066553 MAY 21 2021
MAILED FROM ZIP CODE 90067



SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

RETAIL ASSURANCE GROUP, INC.
C/O MARSH MANAGEMENT SERVICES, INC.
745 FORT ST STE 1100
HONOLULU, HAWAII 96813



9590 9402 5816 0034 8456 80

2. Article Number (Transfer from service label)

7020 1290 0001 8879 4914

PS Form 3811, July 2015 PSN 7530-02-000-9053

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X

☐ Agent
☐ Addressee

B. Received by (Printed Name)

C. Date of Delivery

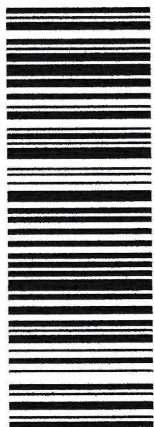
D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

3. Service Type

- | | |
|--|---|
| ☐ Adult Signature | ☐ Priority Mail Express® |
| ☐ Adult Signature Restricted Delivery | ☐ Registered Mail™ |
| ☒ Certified Mail® | ☐ Registered Mail Restricted Delivery |
| ☐ Certified Mail Restricted Delivery | ☐ Return Receipt for Merchandise |
| ☐ Collect on Delivery | ☐ Signature Confirmation™ |
| ☐ Collect on Delivery Restricted Delivery | ☐ Signature Confirmation Restricted Delivery |
| ☐ Insured Mail | |
| ☐ Insured Mail Restricted Delivery (over \$500) | |

Domestic Return Receipt

CERTIFIED MAIL



7020 1290 0001 8879 4914

RETAIL ASSURANCE GROUP, INC.
C/O MARSH MANAGEMENT SERVICES, INC.
745 FORT ST STE 1100
HONOLULU, HAWAII 96813

**U.S. Postal Service™
CERTIFIED MAIL® RECEIPT**
Domestic Mail Only

For delivery information, visit our website at www.usps.com®.

OFFICIAL USE

Certified Mail Fee
\$ 3.60

Extra Services & Fees (check box, add fee as appropriate)

☒ Return Receipt (hardcopy) \$ 2.55

☐ Return Receipt (electronic) \$

☐ Certified Mail Restricted Delivery \$

☐ Adult Signature Required \$

☐ Adult Signature Restricted Delivery \$

Postage

\$ 1.63

Total Postage and Fees

\$ 8.08

Sent To

RETAIL ASSURANCE GROUP, INC.
C/O MARSH MANAGEMENT SERVICES, INC.

Street and Apt. No., PO Box No.
745 FORT ST STE 1100

City, State, ZIP+4® HONOLULU, HAWAII 96813

PS Form 3800, April 2015 PSN 7530-02-000-9047

See Reverse for Instructions

Postmark
Here

Chavez v. Retail
Assurance Group,
Inc.

one
AW APC
y Park East, Ste 1000
CA 90027



SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

ROSS PROCUREMENT, INC.
5130 HACIENDA DRIVE
DUBLIN CA 94568



9590 9402 5816 0034 8456 66

2. Article Number (Transfer from service label)

7020 1290 0001 8879 4907

PS Form 3811, July 2015 PSN 7530-02-000-9053

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X

☐ Agent☐ Addressee

B. Received by (Printed Name)

C. Date of Delivery

D. Is delivery address different from item 1? If YES, enter delivery address below:

☐ Yes☐ No

3. Service Type

- ☐ Adult Signature
- ☐ Adult Signature Restricted Delivery
- ☒ Certified Mail®
- ☐ Certified Mail Restricted Delivery
- ☐ Collect on Delivery
- ☐ Collect on Delivery Restricted Delivery
- ☐ Insured Mail
- ☐ Insured Mail Restricted Delivery (over \$500)

- ☐ Priority Mail Express®
- ☐ Registered Mail™
- ☐ Registered Mail Restricted Delivery
- ☐ Return Receipt for Merchandise
- ☐ Signature Confirmation™
- ☐ Signature Confirmation Restricted Delivery

Domestic Return Receipt



7020 1290 0001 8879 4907

ROSS PROCUREMENT, INC.
5130 HACIENDA DRIVE
DUBLIN CA 94568

U.S. Postal Service™
CERTIFIED MAIL® RECEIPT
Domestic Mail Only

For delivery information, visit our website at www.usps.com®.

OFFICIAL USE

Certified Mail Fee

\$ 3.60

Extra Services & Fees (check box, add fee as appropriate)

- ☒ Return Receipt (hardcopy) \$ 2.85
- ☐ Return Receipt (electronic) \$
- ☐ Certified Mail Restricted Delivery \$
- ☐ Adult Signature Required \$
- ☐ Adult Signature Restricted Delivery \$

Postage

\$ 1.63

Total Postage and Fees

\$ 8.08

Sent To

ROSS PROCUREMENT, INC.

Street and Apt. No.,

5130 HACIENDA DRIVE

City, State, ZIP+4®

DUBLIN CA 94568

Postmark
Here

Chavez v. Ross
Procurement,
Inc.

PS Form 3800, April 2015 PSN 7530-02-000-9047

See Reverse for Instructions.

one
LAW APC
ry Park East, Ste 1000
CA 90047

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

RETAIL ASSURANCE GROUP, INC.
C/O MARSH MANAGEMENT SERVICES, INC.
745 FORT ST STE 1100
HONOLULU, HAWAII 96813



9590 9402 5816 0034 8456 80

2. Article Number (Transfer from service label)

7020 1290 0001 8879 4914

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X *Terisa D. Fabry* ☐ Agent ☐ Addressee

B. Received by (Printed Name)

C. Date of Delivery

TERISA D. FABRY *5/28/21*

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

3. Service Type

- ☐ Adult Signature
- ☐ Adult Signature Restricted Delivery
- ☒ Certified Mail®
- ☐ Certified Mail Restricted Delivery
- ☐ Collect on Delivery
- ☐ Collect on Delivery Restricted Delivery
- ☐ Insured Mail
- ☐ Insured Mail Restricted Delivery over \$500

- ☐ Priority Mail Express®
- ☐ Registered Mail™
- ☐ Registered Mail Restricted Delivery
- ☐ Return Receipt for Merchandise
- ☐ Signature Confirmation™
- ☐ Signature Confirmation Restricted Delivery

PS Form 3811, July 2015 PSN 7530-02-000-9053

Domestic Return Receipt

SENDER: COMPLETE THIS SECTION

■ Complete items 1, 2, and 3.

■ Print your name and address on the reverse so that we can return the card to you.

■ Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

ROSS STORES, INC.
5130 HACIENDA DRIVE
DUBLIN CA 94568

9590 9402 5816 0034 8457 03

2. Article Number (Transfer from service label)

7020 1290 0001 8879 4938

PS Form 3811, July 2015 PSN 7530-02-000-9053

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X Ron Potter

☐ Agent

☐ Addressee

B. Received by (Printed Name)

Ron Potter

C. Date of Delivery

D. Is delivery address different from item 1? ☐ Yes

If YES, enter delivery address below: ☐ No

3. Service Type

☐ Priority Mail Express®

☐ Adult Signature

☐ Adult Signature Restricted Delivery

☒ Certified Mail®

☐ Certified Mail Restricted Delivery

☐ Collect on Delivery

☐ Collect on Delivery Restricted Delivery

☐ Insured Mail

☐ Insured Mail Restricted Delivery (over \$500)

☐ Registered Mail™

☐ Registered Mail Restricted Delivery

☐ Return Receipt for Merchandise

☐ Signature Confirmation™

☐ Signature Confirmation Restricted Delivery

SENDER: COMPLETE THIS SECTION

■ Complete items 1, 2, and 3.

■ Print your name and address on the reverse so that we can return the card to you.

■ Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

ROSS DRESS FOR LESS, INC.
5130 HACIENDA DRIVE
DUBLIN CA 94568

9590 9402 5816 0034 8456 73

2. Article Number (Transfer from service label)

7020 1290 0001 8879 4952

PS Form 3811, July 2015 PSN 7530-02-000-9053

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X Ron Potter

☐ Agent

☐ Addressee

B. Received by (Printed Name)

Ron Potter

C. Date of Delivery

D. Is delivery address different from item 1? ☐ Yes

If YES, enter delivery address below: ☐ No

3. Service Type

☐ Priority Mail Express®

☐ Adult Signature

☐ Adult Signature Restricted Delivery

☒ Certified Mail®

☐ Certified Mail Restricted Delivery

☐ Collect on Delivery

☐ Collect on Delivery Restricted Delivery

☐ Insured Mail

☐ Insured Mail Restricted Delivery (over \$500)

☐ Registered Mail™

☐ Registered Mail Restricted Delivery

☐ Return Receipt for Merchandise

☐ Signature Confirmation™

☐ Signature Confirmation Restricted Delivery

SENDER: COMPLETE THIS SECTION

■ Complete items 1, 2, and 3.

■ Print your name and address on the reverse so that we can return the card to you.

■ Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

ROSS DISTRIBUTION COMPANY LLC
5130 HACIENDA DRIVE
DUBLIN CA 94568

9590 9402 5816 0034 8457 10

2. Article Number (Transfer from service label)

7020 1290 0001 8879 4945

PS Form 3811, July 2015 PSN 7530-02-000-9053

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X Ron Potter

☐ Agent

☐ Addressee

B. Received by (Printed Name)

Ron Potter

C. Date of Delivery

D. Is delivery address different from item 1? ☐ Yes

If YES, enter delivery address below: ☐ No

3. Service Type

☐ Priority Mail Express®

☐ Adult Signature

☐ Adult Signature Restricted Delivery

☒ Certified Mail®

☐ Certified Mail Restricted Delivery

☐ Collect on Delivery

☐ Collect on Delivery Restricted Delivery

☐ Insured Mail

☐ Insured Mail Restricted Delivery (over \$500)

☐ Registered Mail™

☐ Registered Mail Restricted Delivery

☐ Return Receipt for Merchandise

☐ Signature Confirmation™

☐ Signature Confirmation Restricted Delivery

SENDER: COMPLETE THIS SECTION

■ Complete items 1, 2, and 3.

■ Print your name and address on the reverse so that we can return the card to you.

■ Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

ROSS PROCUREMENT, INC.
5130 HACIENDA DRIVE
DUBLIN CA 94568

9590 9402 5816 0034 8456 66

2. Article Number (Transfer from service label)

7020 1290 0001 8879 4907

PS Form 3811, July 2015 PSN 7530-02-000-9053

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X Ron Potter

☐ Agent

☐ Addressee

B. Received by (Printed Name)

Ron Potter

C. Date of Delivery

D. Is delivery address different from item 1? ☐ Yes

If YES, enter delivery address below: ☐ No

3. Service Type

☐ Priority Mail Express®

☐ Adult Signature

☐ Adult Signature Restricted Delivery

☒ Certified Mail®

☐ Certified Mail Restricted Delivery

☐ Collect on Delivery

☐ Collect on Delivery Restricted Delivery

☐ Insured Mail

☐ Insured Mail Restricted Delivery (over \$500)

☐ Registered Mail™

☐ Registered Mail Restricted Delivery

☐ Return Receipt for Merchandise

☐ Signature Confirmation™

☐ Signature Confirmation Restricted Delivery

SENDER: COMPLETE THIS SECTION

■ Complete items 1, 2, and 3.

■ Print your name and address on the reverse so that we can return the card to you.

■ Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

ROSS MERCHANDISING, INC.
5130 HACIENDA DRIVE
DUBLIN CA 94568

9590 9402 5816 0034 8456 97

2. Article Number (Transfer from service label)

7020 1290 0001 8879 4921

PS Form 3811, July 2015 PSN 7530-02-000-9053

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X Ron Potter

☐ Agent

☐ Addressee

B. Received by (Printed Name)

Ron Potter

C. Date of Delivery

D. Is delivery address different from item 1? ☐ Yes

If YES, enter delivery address below: ☐ No

3. Service Type

☐ Priority Mail Express®

☐ Adult Signature

☐ Adult Signature Restricted Delivery

☒ Certified Mail®

☐ Certified Mail Restricted Delivery

☐ Collect on Delivery

☐ Collect on Delivery Restricted Delivery

☐ Insured Mail

☐ Insured Mail Restricted Delivery (over \$500)

☐ Registered Mail™

☐ Registered Mail Restricted Delivery

☐ Return Receipt for Merchandise

☐ Signature Confirmation™

☐ Signature Confirmation Restricted Delivery