

FILED
Superior Court Of California,
Sacramento
05/17/2022
mvalledor
By _____, Deputy
Case Number:
34-2022-00318520

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Attorneys for Plaintiff, the Class, and the Aggrieved Employees

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

LAUREN LANG, as an individual and on
behalf of all others similarly situated,

Plaintiff,

vs.

PNS STORES, INC., a California
corporation; BIG LOTS STORES – PNS,
LLC, a California limited liability
company; and DOES 1 through 50,
inclusive,

Defendants.

Case No.: 34-2022-00318520

**FIRST AMENDED REPRESENTATIVE
ACTION COMPLAINT UNDER THE
PRIVATE ATTORNEYS GENERAL ACT OF
2004**

DEMAND OVER \$25,000.00

BY FAX

1 Plaintiff Lauren Lang (“Plaintiff”) hereby submits this First Amended Representative
2 Action (“Complaint”) against Defendant PNS Stores, Inc. and Big Lots Stores – PNS, LLC
3 (collectively, “PNS,” or “Defendant”) and Does 1 through 50 (collectively, “Defendants”), on
4 behalf of herself and all aggrieved employees of Defendants for penalties under the California
5 Labor Code resulting from Defendant’s failure to provide accurate itemized wage statements,
6 provide duty free meal and rest periods, pay sick pay at the regular rate of pay, and failure to pay
7 minimum, regular, and overtime wages for all hours worked as follows:

8 **INTRODUCTION**

9 1. This Complaint is within the Court’s jurisdiction under California Labor Code §§
10 201-204, 226, 226.7, 233, 246, 510, 512, 558, 1194, 1197, 1197.1, 2698, *et seq.*, and the
11 applicable Wage Orders of the California Industrial Welfare Commission (“IWC”).

12 2. This Complaint challenges systemic illegal employment practices resulting in
13 violations of the California Labor Code against individuals who worked for Defendants.

14 **JURISDICTION AND VENUE**

15 3. The Court has jurisdiction over the violations of the California Labor Code §§
16 201-204, 226, 226.7, 233, 246, 510, 512, 558, 1194, 1197, 1197.1, 2698, *et seq.*, and the
17 applicable IWC Wage Orders.

18 4. Venue is proper in Sacramento County, because Defendants are located in
19 Sacramento County and Plaintiff worked for Defendants in Sacramento County.

20 **PARTIES**

21 5. Plaintiff was employed by Defendants as an Assistant Store Manager from about
22 December 31, 2018, to about December 20, 2021. During her employment with Defendants,
23 Plaintiff worked as a non-exempt employee.

24 6. Plaintiff was and is the victim of the policies, practices, and customs of
25 Defendants complained of in this action in ways that have deprived Plaintiff of the rights
26 guaranteed by California Labor Code §§ 201-204, 226, 226.7, 246, 510, 512, 558, 1194, 1197,
27 1197.1, 2698, *et seq.*, and the applicable IWC Wage Orders.

1 7. Plaintiff is informed and believes, and based thereon alleges, that Defendant PNS
2 Stores, Inc. was and is a California corporation that maintains operations and does business in
3 the State of California, including in Sacramento County, California. Plaintiff is informed and
4 believes, and based thereon alleges, that Defendant Big Lots Stores – PNS, LLC is a California
5 limited liability company that maintains operations and does business in the State of California,
6 including in this County. Plaintiff is informed and believes, and based thereon alleges, that
7 Defendant operates retail stores throughout the United States, including in California.

8 8. Plaintiff is informed and believes, and based thereon alleges, that at all times
9 herein mentioned Does 1 through 50, are and were corporations, business entities, individuals,
10 and partnerships, licensed to do business and actually doing business in the State of California.
11 As such and based upon all the facts and circumstances incident to Defendants' business,
12 Defendants are subject to the California Labor Code and the IWC Wage Orders.

13 9. Plaintiff does not know the true names or capacities, whether individual, partner
14 or corporate, of the defendants sued herein as Does 1 through 50, inclusive, and for that reason,
15 said defendants are sued under such fictitious names, and Plaintiff prays for leave to amend this
16 Complaint when the true names and capacities are known. Plaintiff is informed and believes and
17 based thereon alleges that each of said fictitious defendants was responsible in some way for the
18 matters alleged herein and proximately caused Plaintiff and members of the general public and
19 class to be subject to the illegal employment practices, wrongs and injuries complained of herein.

20 10. At all times herein mentioned, each of said Defendant participated in the doing of
21 the acts hereinafter alleged to have been done by the named Defendant; and furthermore,
22 Defendants, and each of them, were the agents, servants, and employees of each of the other
23 defendants, as well as the agents of all Defendants, and at all times herein mentioned, were
24 acting within the course and scope of said agency and employment.

25 11. Plaintiff is informed and believes, and based thereon alleges, that at all times
26 material hereto, each of the Defendants named herein was the agent, employee, alter ego and/or
27 joint venturer of, or working in concert with each of the other co-Defendants and was acting

1 within the course and scope of such agency, employment, joint venture, or concerted activity. To
2 the extent said acts, conduct, and omissions were perpetrated by certain Defendants, each of the
3 remaining Defendants confirmed and ratified said acts, conduct, and omissions of the acting
4 Defendants.

5 12. At all times herein mentioned, Defendants, and each of them, were members of,
6 and engaged in, a joint venture, partnership, and common enterprise, and acting within the course
7 and scope of, and in pursuance of, said joint venture, partnership, and common enterprise.

8 13. At all times herein mentioned, the acts and omissions of various Defendants, and
9 each of them, concurred and contributed to the various acts and omissions of each and all of the
10 other Defendants in proximately causing the violations as herein alleged. At all times herein
11 mentioned, Defendants, and each of them, ratified each and every act or omission complained of
12 herein. At all times herein mentioned, Defendants, and each of them, aided and abetted the acts
13 and omissions of each and all of the other Defendants in proximately causing the violations as
14 herein alleged.

15 **FIRST CAUSE OF ACTION**

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

17 **(BY PLAINTIFF AND AGGRIEVED EMPLOYEES AGAINST ALL DEFENDANTS)**

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

20 15. Plaintiff brings this cause of action as a proxy for the State of California and in
21 this capacity, seeks penalties on behalf of all Aggrieved Employees from January 4, 2021,
22 through the present, for Defendants' violations of Labor Code §§ 201-204, 226, 226.7, 246, 510,
23 512, 558, 1194, 1197, 1197.1, and 2698, as identified above, for: (a) failing to pay all minimum,
24 regular, and overtime wages for time spent opening and closing up the stores while off-the-clock
25 in violation of Labor Code §§ 201-204, 510, 558, 1194, 1197, and 1197.1; (b) failing to provide
26 duty free meal and rest period in violation of Labor Code §§ 226.7 and 512; (c) failure to pay
27 sick pay at the regular rate of pay and pay all final wages owed in violation of Labor Code §§

201-204 and 246; and (d) failing to provide accurate itemized wage statements in violation of Labor Code § 226(a).

16. On or about January 4, 2022, Plaintiff sent written notice to the California Labor & Workforce Development Agency (“LWDA”) of Defendants’ violation of Labor Code § 201-204, 226, 226.7, 246, 510, 512, 558, 1194, 1197, and 1197.1, pursuant to Labor Code § 2698, *et seq.*, the Private Attorneys General Act (“PAGA”). Plaintiff also sent written notice of said Labor Code violations to Defendant via certified mail pursuant to Labor Code § 2699.3. As of the date of the filing of this Complaint, the LWDA has not provided written notice regarding whether it intends to investigate the Labor Code violations set forth in Plaintiff’s written notice.

17. As such, pursuant to Labor Code § 2699(a), Plaintiff seeks recovery of any and all applicable civil penalties for Defendants’ violation of Labor Code §§ 201-204, 226, 226.3, 226.7, 246, 510, 512, 558, 1194, 1197, 1197.1, and 2698 for the time period described above, on behalf of herself and other Aggrieved Employees.

PRAYER FOR RELIEF

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

1. Upon the First Cause of Action, for civil penalties according to proof pursuant to the PAGA, Labor Code §226.3, and for costs and attorneys’ fees;

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

3. For such other and further relief as the Court may deem just and proper.

DATED: May 17, 2022

DIVERSITY LAW GROUP, P.C.

By: 
Larry W. Lee
Shalom “Christine” Choo
Attorneys for Plaintiff and the Aggrieved
Employees

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STATE OF CALIFORNIA]
]ss.
COUNTY OF LOS ANGELES]

On May 17, 2022, I served the following document(s) described as: **FIRST AMENDED REPRESENTATIVE ACTION COMPLAINT UNDER THE PRIVATE ATTORNEYS GENERAL ACT OF 2004** on the interested parties in this action as follows:

 X BY MAIL: by placing the original or X a true and correct copy thereof enclosed, in (a) sealed envelope(s) addressed to the party(ies) listed above or on the attached mailing list. I am readily familiar with the firm's practice for collection and processing of correspondence and other materials for mailing with the United States Postal Service. On this date, I sealed the envelope(s) containing the above materials and placed the envelope(s) for collection and mailing on this date at the address above following our office's ordinary business practices. The envelope(s) will be deposited with the United States Postal Service on this date, in the ordinary course of business.


Erika Mejia