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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF ALAMEDA

LILIANA SANDOVAL, on behalf of the State of California, *Plaintiff,* v. LAMPS PLUS, INC.; and DOES 1 through 100, inclusive, Defendants.	Case No. 22CV014052 **COMPLAINT FOR PENALTIES PURSUANT TO SECTIONS 2699(a) and (f) OF THE CALIFORNIA LABOR CODE PRIVATE ATTORNEYS GENERAL ACT** **DEMAND FOR JURY**

Plaintiff Liliana Sandoval ("Plaintiff"), by her attorneys, alleges upon information and belief, except for her own acts, which are alleged on knowledge, as follows:

INTRODUCTION

1. Plaintiff brings this Labor Code Private Attorneys General Act ("PAGA") enforcement action on behalf of the State of California against Defendant Lamps Plus, Inc. ("Defendant").

2. Defendant is the largest lighting retailer in the United States.

3. Defendant has maintained and continues to maintain unlawful policies and practices of failing to properly compensate its current and former non-exempt hourly employees, including but not limited to sales associates and other employees with similar job duties as Plaintiff ("Aggrieved Employees"). Throughout the relevant time period, Defendant:

(a) failed to authorize or provide compliant meal and rest periods or pay premiums for all missed or non-complaint meal and rest periods;

(b) failed to timely pay Aggrieved Employees for all hours worked;

(c) failed to pay Aggrieved Employees minimum wages;

(d) failed to pay Aggrieved Employees overtime wages;

(e) failed to provide Aggrieved Employees accurate, itemized wage statements;

(f) failed to reimburse Aggrieved Employees for all necessary business expenses; and

(g) failed to timely pay Aggrieved Employees full wages owed upon termination or resignation.

4. On behalf of the State of California, Plaintiff seeks to recover civil penalties for these violations pursuant to Sections 2699(a) and (f) of the PAGA.

JURISDICTION AND VENUE

5. Venue is proper in this County pursuant to Code of Civil Procedure §§ 395(a) and/or 395.5. Defendant conducts business, has retail locations, and employs Aggrieved Employees in this County, and as a result, the causes of action asserted arose in whole or in part in this County.

6. This Court has jurisdiction over the claims for penalties in this Complaint pursuant to the PAGA. The Court also has jurisdiction over Defendant because it is a corporation authorized to do

business in the State of California, and because Defendant in fact does business and employs workers in the State of California.

PARTIES

7. Plaintiff is an individual over the age of eighteen, and at all times relevant to this Complaint was a resident of the State of California.

8. Defendant is a California corporation, licensed and doing business in the State of California. Defendant may be served with process by serving its registered agent, Dennis Swanson, at 20250 Plummer St., Chatsworth, CA 91311.

FACTUAL ALLEGATIONS

9. Defendant is the largest lighting retailer in the United States. It operatores retail stores throughout the State of California, including in Alameda County. Defendant has approximately 1,660 employees across all of its locations, including hundreds of workers in California.

10. Plaintiff is a former employee of Defendant. Plaintiff worked for Defendant as a Sales Associate in Pasadena, California, from approximately October 2019 to April 2020 and again from approximately June 2020 to April 2022. Plaintiff worked five to six days a week, eight hours a day, forty or more hours a week. Throughout her employment, Plaintiff was compensated at a rate of approximately $14.00 to $16.00 an hour.

11. Aggrieved Employees were similarly employed by Defendant throughout California, including in this County, and performed work materially similar to Plaintiff. Defendant paid Aggrieved Employees, including Plaintiff, on an hourly rate basis.[1]

12. At all relevant times, Defendant conducted business under the laws of California, as had places of business in California, including in this County, and employed Aggrieved Employees in this County. Defendant is a "person" as defined in Labor Code § 18 and Business and Professions Code § 17201. Defendant is also an "employer" as that term is used in the Labor Code and Industrial Welfare Commission ("IWC") Wage Orders.

13. During the relevant period, Defendant failed to authorize, permit, and/or make available

[1] Aggrieved Employees include ***current*** employees as well as former employees. For ease of discussion, however, the allegations herein are made in the past tense.

timely and/or compliant meal and rest breaks to Aggrieved Employees. For example, Defendant consistently failed to provide timely meal breaks, failed to provide uninterrupted rest breaks, and failed to relinquish control over Aggrieved Employees during meal and rest breaks.

14. Defendant also failed to compensate Aggrieved Employees premium wages at the regular rate of pay for non-compliant meal and rest breaks.

15. During the relevant time period, Defendant also failed to provide Aggrieved Employees their compensation due for all hours worked, including at minimum wage and overtime wages. For example, Defendant required and/or permitted Aggrieved Employees to perform unrecorded and/or uncompensated work before clocking in for their shifts. Aggrieved Employees performed pre-shift off-the-clock work with Defendant's knowledge and/or approval, such as assisting customers. Aggrieved Employees' pre-shift work was unrecorded and uncompensated.

16. Defendant also required and/or permitted Aggrieved Employees to undergo COVID-19-related testing procedures. The time Aggrieved Employees spent for these procedures was unrecorded and uncompensated.

17. Defendant also failed to compensate Aggrieved Employees overtime wages at the regular rate of pay taking into consideration differential pay and other remuneration.

18. During the relevant time period, Defendant also failed to provide Aggrieved Employees reimbursement for all necessary expenditures or losses incurred in direct consequence of the discharge of their duties, or of their obedience to the directions of Defendant. For example, Aggrieved Employees were required to wear uniforms and maintain them at their own expense.

19. During the relevant time period, Defendant also failed to provide Aggrieved Employees with accurate itemized wage statements. Aggrieved Employees received inaccurate wage statements that did not reflect total hours worked and total gross and net wages earned. Aggrieved Employees' wage statements did not accurately reflect, for example, off-the-clock hours worked, overtime wages earned at the regular rate of pay, and premium wages earned for missed, late, and non-compliant meal and rest breaks at the regular rate of pay.

20. During the relevant time period, Defendant also failed to provide those Aggrieved Employees who are former employees, with full payment of all wages owed upon separation from

employment. At the time their employment ended, Aggrieved Employees were owed wages for all time worked, whether their termination was voluntary or involuntary, including minimum wages and overtime wages for all time worked including for off-the-clock work, premium payments for missed, late, and non-compliant meal and rest breaks, and reimbursement for business expenditures. Defendant failed to provide Aggrieved Employees with such owed compensation.

21. Upon information and belief, Defendant is aware that its policies and practices deprived Aggrieved Employees full and timely earned compensation, timely and compliant meal and rest breaks, reimbursement of business expenditures, and timely final wages upon separation from employment. Thus, Defendant's conduct is both deliberate and willful.

22. Upon information and belief, Defendant's unlawful conduct is widespread, repeated, and consistent as to Aggrieved Employees and throughout Defendant's operations in California. Defendant's conduct is willful, carried out in bad faith, and triggers significant civil penalties in an amount to be determined at trial.

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

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

24. Labor Code § 2699(a) provides:

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

25. Plaintiff seeks civil penalties pursuant to Labor Code § 2699(a) for each failure by Defendants to timely compensate Aggrieved Employees all wages due in compliance with Labor Code § 204, in the civil penalties established by Labor Code § 210(a) and (c).

26. Labor Code § 204 provides:

> (a) All wages, other than those mentioned in Section 201, 201.3, 202, 204.1, or 204.2, earned by any person in any employment are due and payable twice during each calendar month, on days designated in advance by the employer as the regular

> paydays. Labor performed between the 1st and 15th days, inclusive, of any calendar month shall be paid for between the 16th and the 26th day of the month during which the labor was performed, and labor performed between the 16th and the last day, inclusive, of any calendar month, shall be paid for between the 1st and 10th day of the following month…
>
> * * *
>
> (b) (1) Notwithstanding any other provision of this section, 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.

27. Labor Code § 210(a) and (c) sets forth the following civil penalties for violations of § 204:

> (1) For any initial violation, one hundred dollars ($100) for each failure to pay each employee.
>
> (2) For each subsequent violation, or any willful or intentional violation, two hundred dollars ($200) for each failure to pay each employee, plus 25 percent of the amount unlawfully withheld.
>
> * * *
>
> (c) An employee is only entitled to either recover the statutory penalty provided for in this section or to enforce a civil penalty as set forth in subdivision (a) of Section 2699, but not both, for the same violation.

28. Plaintiff also seeks civil penalties pursuant to Labor Code § 2699(a) for each failure by Defendant, alleged above, to provide minimum wages in compliance with Labor Code §§ 1182.12 and 1197, in the amount of civil penalties set forth in Labor Code § 1197.1(a).

29. Labor Code § 1182.12 sets forth the minimum wages for all industries, including the following amounts for any employer who employes 26 or more employees: (i) "January 1, 2020, to December 31, 2020, inclusive,—thirteen dollars ($13) per hour"; (ii) "From January 1, 2021, to December 31, 2021, inclusive,—fourteen dollars ($14) per hour"; and (iii) "From January 1, 2022, and until adjusted by subdivision (c)—fifteen dollars ($15) per hour."

30. IWC Wage order 7-2001, Section 4 sets forth the following minimum wages for any employer who employes 26 or more employees: "(a) Thirteen dollars ($13.00) per hour for all hours worked, effective January 1, 2020; (b) Fourteen dollars ($14.00) per hour for all hours worked, effective January 1, 2021; and (c) Fifteen dollars ($15.00) per hour for all hours worked, effective January 1, 2022."

31. Labor Code § 1197 provides: "The minimum wage for employees fixed by the commission or by any applicable state or local law, is the minimum wage to be paid to employees, and the payment of a lower wage than the minimum so fixed is unlawful."

32. Labor Code § 1197.1(a) provides:

> (1) For any initial violation that is intentionally committed, one hundred dollars ($100) for each underpaid employee for each pay period for which the employee is underpaid. This amount shall be in addition to an amount sufficient to recover underpaid wages, liquidated damages pursuant to Section 1194.2, and any applicable penalties imposed pursuant to Section 203.
>
> (2) For each subsequent violation for the same specific offense, two hundred fifty dollars ($250) for each underpaid employee for each pay period for which the employee is underpaid regardless of whether the initial violation is intentionally committed. This amount shall be in addition to an amount sufficient to recover underpaid wages, liquidated damages pursuant to Section 1194.2, and any applicable penalties imposed pursuant to Section 203.

33. Plaintiff also seeks civil penalties pursuant to Labor Code § 2699(a) for each failure by Defendant, alleged above, to provide overtime wages in compliance with Labor Code § 510, in the amount of civil penalties set forth in Labor Code § 558(a)(1) and (2).

34. Labor Code § 510 provides:

> Eight hours of labor constitutes a day's work. Any work in excess of eight hours in one workday and any work in excess of 40 hours in any one workweek and the first eight hours worked on the seventh day of work in any one workweek shall be compensated at the rate of no less than one and one-half times the regular rate of pay for an employee. Any work in excess of 12 hours in one day shall be compensated at the rate of no less than twice the regular rate of pay for an employee. In addition, any work in excess of eight hours on any seventh day of a workweek shall be compensated at the rate of no less than twice the regular rate of pay of an employee.

35. Labor Code § 558(a)(1) and (2) sets forth the following civil penalties for violations of § 510:

> (1) For any initial violation, fifty dollars ($50) for each underpaid employee for each pay period for which the employee was underpaid in addition to an amount sufficient to recover underpaid wages.
>
> (2) For each subsequent violation, one hundred dollars ($100) for each underpaid employee for each pay period for which the employee was underpaid in addition to an amount sufficient to recover underpaid wages.

36. Plaintiff also seeks civil penalties pursuant to Labor Code § 2699(a) for each failure by Defendant, alleged above, to provide Aggrieved Employees accurate, itemized wage statements in

compliance with Labor Code § 226(a) in the amounts established by Labor Code § 226.3.

37. Labor Code § 226(a) provides:

> Every employer shall, semimonthly or at the time of each payment of wages, furnish each of his or her employees, either as a detachable part of the check, draft, or voucher paying the employee's wages, or separately when wages are paid by personal check or cash, an accurate itemized statement in writing showing (1) gross wages earned, (2) total hours worked by the employee, except for any employee whose compensation is solely based on a salary and who is exempt from payment of overtime under subdivision (a) of Section 515 or any applicable order of the Industrial Welfare Commission, (3) the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis, (4) all deductions, provided that all deductions made on written orders of the employee may be aggregated and shown as one item, (5) net wages earned, (6) the inclusive dates of the period for which the employee is paid, (7) the name of the employee and his or her social security number, (8) the name and address of the legal entity that is the employer, and (9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee. The deductions made from payments of wages shall be recorded in ink or other indelible form, properly dated, showing the month, day, and year, and a copy of the statement or a record of the deductions shall be kept on file by the employer for at least four years at the place of employment or at a central location within the state of California.

38. Labor Code § 226.3 sets forth the following civil penalties for violations of § 226(a):

> Any employer who violates subdivision (a) of Section 226 shall be subject to a civil penalty in the amount of two hundred fifty dollars ($250) per employee per violation in an initial citation and one thousand dollars ($1,000) per employee for each violation in a subsequent citation, for which the employer fails to provide the employee a wage deduction statement or fails to keep the records required in subdivision (a) of Section 226. The civil penalties provided for in this section are in addition to any other penalty provided by law.

39. Pursuant to Labor Code § 2699.3(a)(1) and (2), Plaintiff provided the Labor and Workforce Development Agency ("LWDA") with notice of his intention to file this claim on April 25, 2022. See LWDA Case No. LWDA-CM-880409-22, available at: https://cadir.secure.force.com/PagaSearch/PAGACaseDetails?id=a1Bt0000002AOdEEAW. At least sixty-five calendar days have passed without notice from the LWDA. Plaintiff satisfied the administrative prerequisites to commence this civil action in compliance with § 2699.3(a).

40. Plaintiff seeks the aforementioned penalties on behalf of the State of California as set forth in Labor Code § 2699(g)(1). Defendants are liable for the civil penalties set forth in this Complaint, with interest thereon. Plaintiff is also entitled to an award of attorneys' fees and costs as set

forth below. Wherefore, Plaintiff requests relief as hereinafter provided.

SECOND CAUSE OF ACTION

Penalties Pursuant to Labor Code § 2699(f)
(On Behalf of the State of California and Aggrieved Employees)

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

42. To the extent that any violation alleged herein does not carry penalties under Labor Code § 2699(a), Plaintiff seeks civil penalties pursuant to Labor Code § 2699(f) for Aggrieved Employees each pay period in which he or she was aggrieved, in the amounts established by Labor Code § 2699(f).

43. Labor Code § 2699(f) provides:

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

44. Plaintiff seeks civil penalties pursuant to Labor Code § 2699(f) for each failure by Defendant, alleged above, to timely provide wages earned and unpaid upon the discharge or quitting of employment, in compliance with Labor Code §§ 201 and 202.

45. Labor Code § 201(a) provides:

> If an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately.

46. Labor Code § 202(a) provides:

> If an employee not having a written contract for a definite period quits his or her employment, his or her wages shall become due and payable not later than 72 hours thereafter, unless the employee has given 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. Notwithstanding any other law, an employee who quits without providing a 72-hour notice shall be entitled to receive payment by mail if he or she so requests and designates a mailing address. The date of the mailing shall constitute the date of payment for purposes of the requirement to provide payment within 72 hours of the notice of quitting.

Alternatively, Plaintiff seeks civil penalties for violations of Labor Code §§ 201 and 202 above, pursuant to Labor Code § 2699(a); Defendant failed to pay Aggrieved Employees who are former employees, at least minimum wage owed upon discharge or quitting, implicating the civil penalties set forth in Labor Code § 1197.1(a).

47. Plaintiff also seeks civil penalties pursuant to Labor Code § 2699(f) for each failure by Defendant, alleged above, to reimburse Aggrieved Employees for "all necessary business expenditures or losses" in compliance with Labor Code § 2802.

48. Labor Code § 2802 provides:

> An employer shall indemnify his or her employee for all necessary expenditures or losses incurred by the employee in direct consequence of the discharge of his or her duties, or of his or her obedience to the directions of the employer, even though unlawful, unless the employee, at the time of obeying the directions, believed them to be unlawful.

49. Pursuant to Labor Code § 2699.3(a)(1) and (2), Plaintiff provided the Labor and Workforce Development Agency ("LWDA") with notice of his intention to file this claim on April 25, 2022. See LWDA Case No. LWDA-CM-880409-22, available at: https://cadir.secure.force.com/PagaSearch/PAGACaseDetails?id=a1Bt0000002AOdEEAW. At least sixty-five calendar days have passed without notice from the LWDA. Plaintiff satisfied the administrative prerequisites to commence this civil action in compliance with § 2699.3(a).

50. Plaintiff seeks the aforementioned penalties on behalf of the State of California as set forth in Labor Code § 2699(g)(1). Defendant is liable for the civil penalties set forth in this Complaint, with interest thereon. Plaintiff is also entitled to an award of attorneys' fees and costs, as well as injunctive relief and other remedies, pursuant to Labor Code § 432.6 and Business and Professions Code § 17203.

51. Wherefore, Plaintiff requests relief as hereinafter provided.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for relief as follows:

1. For the Court to declare, adjudge, and decree that Defendant has violated the California Labor Code as alleged herein;
2. For an order awarding the State of California civil penalties provided under the PAGA to be distributed to the State of California and Aggrieved Employees under the PAGA;

3. For appropriate injunctive and equitable relief, including an order enjoining Defendant from continuing their unlawful practices;

4. For interest as provided by applicable law;

5. For an award of reasonable attorneys' fees;

6. For all costs of suit; and

7. For such other and further relief as this Court deems just and proper.

Respectfully submitted,

Dated: July 1, 2022

SCHNEIDER WALLACE
COTRELL KONECKY

By: ______________________
Carolyn Cottrell
Attorney for Plaintiff

JURY DEMAND

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

Dated: July 1, 2022

SCHNEIDER WALLACE
COTRELL KONECKY

By: ______________________
Carolyn Cottrell
Attorney for Plaintiff