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25 IVANIE MURPHY

26 SUPERIOR COURT OF CALIFORNIA

27 COUNTY OF LOS ANGELES

28 IVANIE MURPHY, an individual, on
behalf of himself, all aggrieved employees,
and the State of California as a Private
Attorney General,

Plaintiff,

v.

NORDSTROM, INC., a Washington
corporation, and DOES 1-50, inclusive,

Defendants.

Case No. 22STCV25014

ASSIGNED FOR ALL PURPOSES TO:
JUDGE LIA MARTIN, DEPT. 16

**FIRST AMENDED COMPLAINT FOR
CIVIL PENALTIES UNDER PAGA FOR
FAILURE TO PROVIDE SUITABLE
SEATING**

Complaint Filed: August 3, 2022

Trial Date: None Set

Plaintiff Ivanie Murphy ("Plaintiff"), on behalf of himself and other aggrieved employees,
complains and alleges as follows:

INTRODUCTION

1. Plaintiff, as a proxy for the state of California, brings a representative law enforcement
action under the Private Attorneys General Act ("PAGA"), Labor Code Section 2698 et seq., to

1 recover civil penalties against defendant Nordstrom, Inc. ("Defendant"). On behalf of himself and
2 other aggrieved employees, Plaintiff seeks to recover civil penalties - 75% payable to the Labor
3 Workforce Development Agency ("LWDA") and 25% payable to aggrieved employees - owed by
4 Defendant under Labor Code Section 2699 for failure to provide suitable seating to employees who
5 could reasonably perform the nature of their work while seated.

6 JURISDICTION AND VENUE

7 2. Venue is proper in the County of Los Angeles because work was performed by Plaintiff
8 and other aggrieved employees for Defendant in the County of Los Angeles and the legal obligations
9 of Defendant to Plaintiff and other aggrieved employees were breached in the County of Los Angeles.

10 3. The California Superior Court has jurisdiction in this matter because Plaintiff is a
11 resident of California, Defendant is qualified to do business in California, and Defendant regularly
12 conducts business in California. Further, there is no federal question at issue as the claims herein are
13 based solely on California law.

14 THE PARTIES

15 Plaintiff

16 4. Plaintiff worked for Defendant at one of Defendant's Nordstrom Rack stores from
17 approximately October 2020 to April 2022. During his employment with Defendant, Plaintiff worked
18 in various job capacities, and at times his duties including processing customer transactions or
19 otherwise assisting customers at a cash register ("Cashier Work"). Although Plaintiff could have
20 reasonably performed his Cashier Work while sitting in a seat, at no time during his employment did
21 Defendant provide Plaintiff a seat for use while performing Cashier Work.

22 5. Plaintiff seeks to represent similarly situated persons who are Aggrieved Employees.
23 Aggrieved Employees are persons who, at any time since May 31, 2021 (the date one year before
24 Plaintiff gave the LWDA notice of his allegations), worked for Defendant at a Nordstrom Rack store in
25 the state of California and had work duties that included Cashier Work.

26 B. Defendants

27 6. Nordstrom, Inc. is a corporation organized under the laws of the State of Washington.
28 Defendant maintains its principal place of business in Seattle, Washington. Defendant operates retail

stores throughout the state of California. At all times relevant to this action, Defendant was the employer of Plaintiff and the other Aggrieved Employees.

7. Plaintiff is ignorant of the true names, capacities, relationships and extent of participation in the conduct herein alleged, of the Defendants sued herein as Does 1 through 50, but is informed and believes and thereon alleges that said Defendants are legally responsible for the wrongful conduct alleged herein and therefore sues these Defendants by such fictitious names. Plaintiff will amend this complaint to allege their true names and capacities when ascertained.

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

FIRST CAUSE OF ACTION

CIVIL PENALTIES UNDER PAGA

(By Plaintiff and Aggrieved Employees against Defendants)

9. At all times relevant to this action, Plaintiff and other Aggrieved Employees were employees of Defendant entitled to the benefits of Wage Order 7.

10. Section 14 of Wage Order 7 provides that "All working employees shall be provided with suitable seats when the nature of the work reasonably permits the use of seats."

11. At all times relevant to this action, Defendant did not comply with the requirements of Section 14 of Wage Order 7. Plaintiff is informed and believes and thereon alleges that, while the nature of the Cashier Work performed by Plaintiff and other Aggrieved Employees reasonably permitted the use of seats, Defendant did not provide Plaintiff or other Aggrieved Employees with suitable seating for use during the performance of Cashier Work.

12. Defendant's violation of Wage Order 7 constitutes a violation of Labor Code Section 1198, which prohibits employment under conditions of labor that violate Wage Order 7.

13. At all times relevant to this action, Plaintiff and other Aggrieved Employees were "aggrieved employees" within the meaning of Labor Code Section 2699.

14. Labor Code Sections 2699(a) and (g) authorize an aggrieved employee, on behalf of

1 himself and other current or former employees, to bring a civil action to recover civil penalties
2 pursuant to the procedures specified in Labor Code Section 2699.3.

3 15. Plaintiff has complied with the procedures for bringing suit specified in Labor Code
4 Section 2699.3. By letter dated May 31, 2022 (copy attached hereto as Exhibit 1), Plaintiff gave
5 written notice to the LWDA via electronic filing and to Defendant via certified mail of the specific
6 provisions of the Labor Code alleged to have been violated, including the facts and theories to support
7 the alleged violations. Because the LWDA did not give notice within 65 calendar days after the
8 postmark date of May 31, 2022 that it intended to investigate Plaintiff's allegations, Plaintiff became
9 entitled to pursue his PAGA claims in a civil action.

10 16. Pursuant to Labor Code Sections 2699(a) and (f), Plaintiff and other Aggrieved
11 Employees are entitled to civil penalties for Defendant's violations of Wage Order 7 and Labor Code
12 Section 1198 in the amount of one hundred dollars (\$100) for each aggrieved employee per pay period
13 for the initial violation, and two hundred dollars (\$200) for each aggrieved employee per pay period
14 for each subsequent violation. Pursuant to Labor Code Section 2699(i), 75% of the civil penalties
15 recovered shall be distributed to the LWDA, and 25% shall be distributed to the aggrieved employees.

16 17. Pursuant to Labor Code Section 2699(g), Plaintiff is entitled to an award of reasonable
17 attorney's fees and costs in connection with his claims for civil penalties.

18 **PRAYER FOR RELIEF**

19 WHEREFORE, on behalf of himself and all other aggrieved employees, Plaintiff prays for
20 relief and judgment against Defendants as follows:

21 A. Civil penalties under Labor Code Section 2699 (75% payable to the LWDA and 25%
22 payable to aggrieved employees).

23 B. Costs.

24 C. Reasonable attorney's fees.

25 D. Such other relief as the Court deems just and proper.

26 Dated: May 22, 2023

27 By KARASIK LAW FIRM
28 s/ Gregory N. Karasik
Gregory N. Karasik
Attorneys for Plaintiff

PROOF OF SERVICE

Murphy v. Nordstrom, Inc.
Los Angeles County Superior Court, Case No. 22STCV25014

I am employed in the State of California, County of Los Angeles. I am over the age of 18 and not a party to the within action. My business address is 16021 Aiglon St., Pacific Palisades, California 90272.

I served the document described as **FIRST AMENDED COMPLAINT FOR CIVIL PENALTIES UNDER PAGA FOR FAILURE TO PROVIDE SUITABLE SEATING** on the interested parties in this action listed below or on the attached service list as follows:

[x]	BY E-MAIL: Based on court order or the agreement of the parties to accept service by electronic transmission, I caused the documents to be sent to the person(s) at the email address(es) listed below.
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I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on May 22, 2023 at Pacific Palisades, California.



Gregory N. Karasik