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[Additional Plaintiff's counsel on next page]

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SANTA CLARA

ALLEN GARCIA, as an aggrieved
employee pursuant to the Private Attorneys
General Act ("PAGA"), on behalf of the
State of California and other aggrieved
employees,

Plaintiff,

vs.

WAL-MART ASSOCIATES, INC., a
Delaware corporation; and DOES 1
through 10, inclusive,

Defendants.

Case No.: 25CV468957

**COMPLAINT – PAGA ENFORCEMENT
ACTION**

- (1) Claim for Civil Penalties Pursuant to
PAGA § 2699 for Violations of California
Labor Code and IWC Wage Order No.
7-2001, subdivision 14(A); and
- (2) Claim for Civil Penalties Pursuant to
PAGA § 2699 for Violations of California
Labor Code and IWC Wage Order No.
7-2001, subdivision 14(B).

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1 Plaintiff Allen Garcia, 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 on behalf of the Plaintiff, the State of California, and other current and former employees who
7 worked for Defendants in California as a non-exempt employee at a California retail store
8 location and who suffered violations of Industrial Welfare Commission (“IWC”) Wage Order
9 No. 7-2001 subdivision 14(A) and/or (B) as set forth in this complaint at any time between
10 one year prior to the filing of the pre-filing written notice to the Labor and Workforce
11 Development Agency (“LWDA”) in this case on March 18, 2025, until judgment (“non-party
12 Aggrieved Employees”). Plaintiff’s share of civil penalties sought in this action does not
13 exceed \$75,000.

14 2. This Court has jurisdiction over this action pursuant to the California
15 Constitution, Article VI, section 10. The overall amount in controversy exceeds \$35,000. The
16 statute under which this action is brought does not specify any other basis for jurisdiction.

17 3. This Court has jurisdiction over all Defendants because, on information and
18 belief, Defendants are either citizens of California, have sufficient minimum contacts in
19 California, and otherwise intentionally avail themselves of the California market so as to
20 render the exercise of jurisdiction over them by the California courts consistent with
21 traditional notions of fair play and substantial justice. Also, Plaintiff and all other non-party
22 Aggrieved Employees were employed by Defendants in California.

23 4. There is no basis for federal diversity jurisdiction in this action given that the
24 State of California, as the real party in interest in this action, is not a “citizen” for purposes of
25 satisfying diversity jurisdiction. *Urbino v. Orkin Servs. of Cal.*, 726 F.3d 1118, 1123 (9th Cir.
26 Cal. 2013). *Urbino* also holds that civil penalties cannot be aggregated to satisfy the amount
27 in controversy requirement for federal diversity jurisdiction in this action, and that diversity
28 jurisdiction cannot be established when Plaintiff’s share of the civil penalties attributable to

violations personally suffered are less than \$75,000. *Id.* at 1122.

5. Venue is proper in this Court because Defendants employ or employed persons within the County of Santa Clara, and have violated the requirements of the California Labor Code and applicable IWC Wage Order in this county which give rise to the penalties sought in this action. Cal. Code Civ. P. § 393. Specifically, Defendants have violated the requirements of the California Labor Code and applicable IWC Wage Order in at least ten (10) locations within the County of Santa Clara, including Defendants' stores located in Gilroy (7150 Camino Arroyo, Gilroy, California 95020); Milpitas (301 Ranch Drive, Milpitas, California 95035); Morgan Hill (170 Cochrane Plaza, Morgan Hill, California 95037); Mountain View (600 Showers Drive, Mountain View, California 94040); San Jose (777 Story Road, San Jose, California 95122; 1450 Monterey Road, San Jose, California 95110; 4080 Stevens Creek Boulevard, San Jose, California 95129; 5095 Almaden Expressway, San Jose, California 95118; 4055 Evergreen Village Square, Suite 140, San Jose, California 95135); and Santa Clara (3255 Mission College Boulevard, Santa Clara, California 95054). Pursuant to California Civil Code of Procedure section 393, venue is proper for the recovery of a penalty imposed by statute in the county in which the cause, or some part of the cause, arose. Because Defendants have employees in Santa Clara County, and Plaintiff could bring an action filed under PAGA in any county in which an aggrieved employee worked and Labor Code violations occurred, venue is proper. *Crestwood Behavioral Health, Inc. v. Superior Court of Alameda County*, 60 Cal. App. 5th 1069 (2021).

6. California Labor Code sections 2698, *et seq.*, the "Labor Code Private Attorneys General Act of 2004," authorize aggrieved employees to sue as private attorneys general their current or former employers for various civil penalties for violations of various provisions in the California Labor Code. Labor Code section 1198 makes a violation of a Wage Order such as subdivision 14(A) or 14(B) a violation of the Labor Code.

THE PARTIES

7. Plaintiff Allen Garcia worked for Defendants as a non-exempt employee from approximately June 4, 2024 to February 23, 2025. Plaintiff worked for Defendants at their

1 Walmart Supercenter (store #2094) located at 1800 University Drive, Vista, California 92083.
2 During his employment, Plaintiff worked as a Cashier. Plaintiff typically worked four (4) or
3 more hours per day and five (5) days per week. Plaintiff's job duties included, without
4 limitation, operating the cash register, performing customer service functions, and processing
5 money order transactions.

6 8. Defendant WAL-MART ASSOCIATES, INC. was and is, upon information
7 and belief, a Delaware corporation doing business in California, and at all times hereinafter
8 mentioned, an employer whose employees are engaged throughout this county, the State of
9 California, or the various states of the United States of America.

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

14 10. Plaintiff is informed and believes, and thereon alleges, that DOES 1 through 10
15 are the partners, agents, owners, shareholders, managers, or employees of WAL-MART
16 ASSOCIATES, INC., at all relevant times.

17 11. Plaintiff is informed and believes, and thereon alleges, that each and all of the
18 acts and omissions alleged herein was performed by, or is attributable to, WAL-MART
19 ASSOCIATES, INC. and/or DOES 1 through 10 (collectively, "Defendants" or
20 "WALMART"), each acting as the agent, employee, alter ego, and/or joint venturer of, or
21 working in concert with, each of the other co-Defendants and was acting within the course and
22 scope of such agency, employment, joint venture, or concerted activity with legal authority to
23 act on the others' behalf. The acts of any and all Defendants were in accordance with, and
24 represent, the official policy of Defendants.

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

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

PAGA REPRESENTATIVE ALLEGATIONS

14. Defendants operate the nation's largest chain of retail stores under various Walmart store brands, including approximately 144 Supercenter locations, 65 Discount store locations, and 64 Neighborhood Market locations in California.

15. Upon information and belief, Defendants maintain a single, centralized Human Resources (HR) department at their corporate headquarters in Bentonville, Arkansas, for all non-exempt employees working for Defendants in California, which is responsible for the recruiting and hiring of new employees, and communicating and implementing Defendants' company-wide policies to employees throughout California.

16. In particular, on information and belief, Plaintiff and other non-party Aggrieved Employees received the same standardized documents and/or written policies. Upon information and belief, Defendants maintained uniform practices with respect to their provision of seats (or lack thereof) in their retail stores for all non-exempt employees in California, including Plaintiff and other non-party Aggrieved Employees, regardless of their location or position.

17. During the relevant time period, Plaintiff and other non-party Aggrieved Employees have spent or spend a substantial portion of their day behind Defendants' cashwraps. The nature of the work of an employee performing cashier duties can reasonably be accomplished from a seated position. However, as set forth herein, Defendants systematically, and on a company-wide basis, designed cashwraps that require standing and do not provide suitable seats at cashwraps, forcing Plaintiff and other non-party Aggrieved Employees to stand throughout their work shifts.

18. Plaintiff alleges that Defendants' California retail stores are generally similar in their layout and design and that the cashwraps could allow for the presence and use of a seat or stool by Defendants' employees during the performance of their work duties at these

1 cashwraps. However, on information and belief, Defendants have designed their cashwraps to
2 require Plaintiff and other non-party Aggrieved Employees to stand while performing their
3 cashwrap work duties. Defendants could have designed their cashwraps in a manner that
4 would allow Plaintiff and other non-party Aggrieved Employees to perform cashwrap duties
5 while seated and could have provided Plaintiff and other non-party Aggrieved Employees with
6 suitable seats at the cashwraps. Instead, on information and belief, Defendants have denied
7 and continue to deny them seats altogether or deny them suitable seats. As a result, Plaintiff
8 and other non-party Aggrieved Employees are and have been forced to stand throughout the
9 day. In addition, Defendants have failed to expressly advise Plaintiff and other non-party
10 Aggrieved Employees that they could utilize seats while performing their duties.

11 19. Additionally, Defendants have not placed an adequate number of suitable seats
12 within reasonable proximity to the work areas of employees who perform duties whose nature
13 requires standing and therefore has not permitted employees to use those seats when not
14 actively engaged in performing their standing duties (i.e., during “lulls in operation”), even
15 though sitting would not interfere with the performance of their job duties.

16 20. Defendants continue to employ non-exempt employees at retail store locations
17 throughout California.

18 21. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
19 should have known that Plaintiff and other non-party Aggrieved Employees were entitled to
20 suitable seating when the nature of their work reasonably permits the use of seats and/or were
21 entitled to sit when it did not interfere with the performance of their cashier duties. In
22 violation of the California Labor Code and applicable IWC Wage Order, Defendants failed to
23 provide Plaintiff and other non-party Aggrieved Employees suitable seating.

24 22. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
25 should have known that Plaintiff and other non-party Aggrieved Employees were entitled to
26 have seats in reasonable proximity to their work area(s) and be permitted to use such seats
27 when it did not interfere with the performance of their duties whose nature require standing
28 during lulls in performing those tasks. In violation of the California Labor Code and

1 applicable IWC Wage Order, Defendants failed to provide Plaintiff and other non-party
2 Aggrieved Employees suitable seating within reasonable proximity of their work areas and
3 failed to permit them to use such seats when not actively engaged in their standing duties.

4 23. At all times herein set forth, PAGA provides that any provision of law under
5 the California Labor Code and applicable IWC Wage Order that provides for a civil penalty to
6 be assessed and collected by the LWDA for violations of the California Labor Code and
7 applicable IWC Wage Order may, as an alternative, be recovered by aggrieved employees in a
8 civil action brought on behalf of themselves and other current or former employees pursuant
9 to procedures outlined in California Labor Code section 2699.3.

10 24. PAGA defines an “aggrieved employee” in Labor Code section 2699(c)(1) as
11 “any person who was employed by the alleged violator and personally suffered each of the
12 violations alleged.”

13 25. Plaintiff and other current and former California employees of Defendants are
14 “aggrieved employees” as defined by Labor Code section 2699(c)(1) in that they are all
15 Defendants’ current or former California employees and each of the alleged violations of IWC
16 Wage Order No. 7-2001, subdivisions 14(A) and 14(B), were committed against them.

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

- 20 (a) The aggrieved employee or representative shall give written notice by
21 online filing with the LWDA and by certified mail to the employer of
22 the specific provisions of the California Labor Code alleged to have
23 been violated, including the facts and theories to support the alleged
24 violation.
- 25 (b) An aggrieved employee’s notice filed with the LWDA pursuant to
26 2699.3(a) and any employer response to that notice shall be
27 accompanied by a filing fee of seventy-five dollars (\$75).
- 28 (c) The LWDA shall notify the employer and the aggrieved employee or

1 representative by certified mail that it does not intend to investigate the
2 alleged violation (“LWDA Notice”) within sixty (60) calendar days of
3 the postmark date of the aggrieved employee’s notice. Upon receipt of
4 the LWDA Notice, or if no LWDA Notice is provided within sixty-five
5 (65) calendar days of the postmark date of the aggrieved employee’s
6 notice, the aggrieved employee may commence a civil action pursuant
7 to California Labor Code section 2699 to recover civil penalties.

8 27. On March 28, 2025, Plaintiff provided written notice by online filing to the
9 LWDA and by Certified Mail to Defendants of the specific provisions of the California Labor
10 Code alleged to have been violated, including facts and theories to support the alleged
11 violations, in accordance with California Labor Code section 2699.3. Plaintiff’s written
12 notice was accompanied with the applicable filing fees of seventy-five dollars (\$75). That
13 same day, the LWDA PAGA Administrator confirmed receipt of Plaintiff’s written notice and
14 assigned Plaintiff PAGA Case Number LWDA-CM-1086958-25. On May 28, 2025, Plaintiff
15 filed an amended written notice by online filing to the LWDA and by certified mail to
16 Defendants of the specific provisions of the California Labor Code alleged to have been
17 violated, supplementing and/or clarifying the facts and theories to support the alleged
18 violations set forth in his original LWDA notice, in accordance with California Labor Code
19 section 2699.3. True and correct copies of Plaintiff’s written notices to the LWDA and
20 Defendants are attached hereto as “Exhibit 1.”

21 28. As of the filing date of this complaint, over 65 days have passed since Plaintiff
22 sent the initial notice described above to the LWDA, and the LWDA has not responded that it
23 intends to investigate Plaintiff’s claims and Defendants have not cured the violations.

24 29. Thus, Plaintiff has satisfied the administrative prerequisites under California
25 Labor Code section 2699.3(a) to recover civil penalties against Defendants for violations of
26 California Labor Code section 1198.

27 30. Defendants, at all times relevant to this complaint, were employers or persons
28 acting on behalf of an employer(s) who violated Plaintiff’s and other non-party Aggrieved

1 Employees' rights by violating sections of the California Labor Code as set forth above.

2 31. As set forth below, Defendants have violated provisions of both the Labor Code
3 sections regulating conditions of labor as well as the applicable IWC Wage Order,
4 specifically, Labor Code section 1198 and California Code of Regulations, Title 8, section
5 11070(14)(A)-(B).

6 32. Pursuant to PAGA, and in particular, California Labor Code sections 1194.5,
7 2699(a), 2699(k), 2699.3(a), and 2699.5, Plaintiff, acting in the public interest as a private
8 attorney general, seeks assessment and collection of civil penalties and injunctive relief for
9 himself, all other non-party Aggrieved Employees, and the State of California against
10 Defendants for violations of California Labor Code section 1198.

11 **FIRST CAUSE OF ACTION**

12 **FAILURE TO PROVIDE SUITABLE SEATING**

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

15 **(By Plaintiff on Behalf of the State of California and Aggrieved Employees Against all**
16 **Defendants)**

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

19 34. California Labor Code sections 2698, *et seq.* permit Plaintiff to recover civil
20 penalties for the violation(s) of the Labor Code sections enumerated in Labor Code section
21 2699.5. Section 2699.5 enumerates Labor Code section 1198, among others. Defendants'
22 conduct, as alleged herein, violates section 1198 of the California Labor Code, by failing to
23 provide suitable seating to Plaintiff and other non-party Aggrieved Employees as set forth
24 below.

25 35. At all relevant times herein, California Labor Code section 1198 makes it
26 illegal to employ an employee under conditions of labor that are prohibited by the applicable
27 wage order. California Labor Code section 1198 requires that ". . . the standard conditions of
28 labor fixed by the commission shall be the . . . standard conditions of labor for employees.

1 The employment of any employee . . . under conditions of labor prohibited by the order is
2 unlawful.”

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

6 37. During the relevant time period, Defendants violated California Labor Code
7 section 1198 and California Code of Regulations, Title 8, section 11070(14)(A), because
8 Plaintiff and other non-party Aggrieved Employees were not allowed to sit, even when the
9 nature of their work would reasonably permit the use of seats, nor were they provided with
10 suitable seats. As employees assigned cashier duties, Plaintiff’s and other non-party
11 Aggrieved Employees’ tasks, including operating the cash register, scanning items, and
12 bagging items, could be performed from a seated position. Plaintiff and other non-party
13 Aggrieved Employees could have handled customer transactions and performed other similar
14 tasks at cashwraps at any of Defendants’ stores while seated, without affecting the quality and
15 effectiveness of the performance of their job duties.

16 38. Defendants could have designed their cashwraps in a manner that allowed
17 Plaintiff and other non-party Aggrieved Employees to sit while performing cashwrap duties
18 and could have placed suitable seats or stools at or near each cashwrap for use by Plaintiff and
19 other non-party Aggrieved Employees. Instead, on information and belief, Defendants
20 designed the cashwraps to require Plaintiff and other non-party Aggrieved Employees to stand
21 at the work area(s) and did not provide suitable seats or stools they could use while working at
22 the cashwrap. In addition, upon information and belief, Defendants prohibited employees
23 from sitting while working. Defendants’ management did not inform Plaintiff and other non-
24 party Aggrieved Employees that they were allowed to sit down, provide any means for them
25 to sit down, or mention any policy regarding sitting.

26 39. For example, during his employment, when Plaintiff performed cashiering
27 duties at the cashwrap, he was required to stand the entire time because Defendants, on
28 information and belief, designed their cashwraps for standing and did not provide suitable

1 seating for employees' use while working at cashwraps. Other non-party Aggrieved
2 Employees similarly were not permitted to sit while performing cash register duties because
3 Defendants designed their cashwraps for standing and did not provide seats or stools at the
4 cashwraps.

5 40. As a result of Defendants' company-wide policy and/or practice prohibiting
6 employees from sitting during their shifts and failure to provide suitable seating to these
7 employees, as well as designing their cashwraps to require standing, Plaintiff and other non-
8 party Aggrieved Employees were forced to stand during shifts and denied seats. Defendants'
9 failure to provide suitable seating to Plaintiff and other non-party Aggrieved Employees
10 violated and continues to violate California Labor Code section 1198 and IWC Wage Order
11 No. 7-2001, subdivision 14(A).

12 41. Plaintiff and other non-party Aggrieved Employees and the State of California
13 are therefore entitled to recover civil penalties pursuant to Labor Code sections 2699(a), (f),
14 and (k).

15 SECOND CAUSE OF ACTION

16 FAILURE TO PROVIDE SUITABLE SEATING

17 VIOLATION OF LABOR CODE SECTION 1198 AND CALIFORNIA CODE OF 18 REGULATIONS, TITLE 8, SECTION 11070(14)(B)

19 **(By Plaintiff on Behalf of the State of California and Aggrieved Employees Against all**
20 **Defendants)**

21 42. Plaintiff incorporates by reference and re-alleges as if fully stated herein each
22 and every allegation set forth above.

23 43. California Labor Code sections 2698, *et seq.* permit Plaintiff to recover civil
24 penalties for the violation(s) of the Labor Code sections enumerated in Labor Code section
25 2699.5. Section 2699.5 enumerates Labor Code section 1198, among others. Defendants'
26 conduct, as alleged herein, violates section 1198 of the California Labor Code, by failing to
27 provide suitable seating to Plaintiff and other non-party Aggrieved Employees as set forth
28 below.

1 44. At all relevant times herein, California Labor Code section 1198 makes it
2 illegal to employ an employee under conditions of labor that are prohibited by the applicable
3 wage order. California Labor Code section 1198 requires that “. . . the standard conditions of
4 labor fixed by the commission shall be the . . . standard conditions of labor for employees.
5 The employment of any employee . . . under conditions of labor prohibited by the order is
6 unlawful.”

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

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

17 47. Defendants did not place an adequate number of suitable seats or stools within
18 reasonable proximity to the work areas of employees who perform duties whose nature
19 requires standing, and therefore have not permitted employees to use those seats when not
20 actively engaged in performing their standing duties (i.e., during “lulls in operation”), even
21 though sitting would not interfere with the performance of their job duties. Defendants could
22 have provided Plaintiff and other non-party Aggrieved Employees with a suitable seat or stool
23 within reasonable proximity of their work areas but instead deny employees seats and force
24 them to stand throughout the day. Moreover, Defendants did not inform Plaintiff and other
25 non-party Aggrieved Employees of their right to a seat or stool under California law.

26 48. For example, during his employment, Plaintiff experienced lulls in his work at
27 various times during a typical shift, especially when the store was not busy. During these
28 lulls, when Plaintiff was not actively performing tasks (which, on information and belief,

Defendants would claim that the nature of the work requires standing), Plaintiff could have taken a moment to sit and rest his legs, back, and feet if seating was provided. Other non-party Aggrieved Employees similarly were not permitted to sit during these lulls in operation and were forced to stand throughout the day.

49. As a result of Defendants' company-wide failure to provide seats in reasonable proximity to employees' work areas and failure to permit them to use those seats when not actively engaged in what Defendants claim are standing duties, Plaintiff and other non-party Aggrieved Employees were forced to stand during shifts and denied seats. Defendants' failure to provide suitable seating to Plaintiff and other non-party Aggrieved Employees violated and continues to violate California Labor Code section 1198 and IWC Wage Order No. 7-2001, subdivision 14(B).

50. Plaintiff and other non-party Aggrieved Employees and the State of California are therefore entitled to recover civil penalties pursuant to Labor Code sections 2699(a), (f), and (k).

PRAYER FOR RELIEF

Plaintiff, on behalf of the State of California and all other non-party Aggrieved Employees, prays for relief and judgment against Defendants, jointly and severally, as follows:

1. For civil penalties, injunctive relief, and attorneys' fees in excess of thirty-five thousand dollars (\$35,000) to the State of California and aggrieved employees.

As to the First Cause of Action

2. That the Court declare, adjudge and decree that Defendants violated California Labor Code section 1198 and IWC Wage Order No. 7-2001, subdivision 14(A) as to Plaintiff and other non-party Aggrieved Employees (by failing to provide suitable seating);

3. For civil penalties pursuant to California Labor Code sections 2699(a), (f), and (k) for violations of California Labor Code section 1198;

4. For injunctive relief pursuant to California Labor Code sections 1194.5 and/or 2699(k) to bring Defendants into compliance with California's seating requirements;

5. For attorneys' fees and costs pursuant to California Labor Code section 2699(k)(1), and any and all other relevant statutes, for Defendants' violations of California Labor Code section 1198;

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

7. For such other and further relief as the Court may deem equitable and appropriate.

As to the Second Cause of Action

8. That the Court declare, adjudge and decree that Defendants violated California Labor Code section 1198 and IWC Wage Order No. 7-2001, subdivision 14(B) as to Plaintiff and other non-party Aggrieved Employees (by failing to provide suitable seating);

9. For civil penalties pursuant to California Labor Code sections 2699(a), (f), and (k) for violations of California Labor Code section 1198;

10. For injunctive relief pursuant to California Labor Code sections 1194.5 and/or 2699(k) to bring Defendants into compliance with California's seating requirements;

11. For attorneys' fees and costs pursuant to California Labor Code section 2699(k)(1), and any and all other relevant statutes, for Defendants' violations of California Labor Code section 1198;

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

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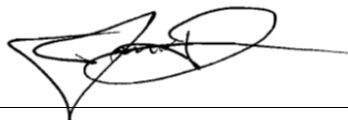
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13. For such other and further relief as the Court may deem equitable and appropriate.

Dated: June 24, 2025

Respectfully submitted,

Capstone Law APC



By: _____
Melissa Grant
Robert Drexler
Jonathan Lee
Robert Myong

Attorneys for Plaintiff Allen Garcia

EXHIBIT “1”



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Los Angeles, California 90067
310.556.4811 Main | 310.943.0396 Fax

ARIANNA EGUILUZ
310.712.8142 Direct
Arianna.Eguiluz@capstonelawyers.com

March 18, 2025

VIA ONLINE SUBMISSION

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

Subject: *Allen Garcia v. Wal-Mart Associates, Inc., et al.*

Dear PAGA Administrator:

This office represents Allen Garcia in connection with his claims under the California Labor Code, and this letter is sent in compliance with the notice requirements of the California Labor Code Private Attorneys General Act, California Labor Code section 2699.3. Mr. Garcia was an employee of WAL-MART ASSOCIATES, INC. and/or WALMART INC. For the purpose of this letter, Mr. Garcia collectively refers to these entities as "WALMART."

The employer may be contacted directly at the address below:

WAL-MART ASSOCIATES, INC.
702 SW 8TH STREET
BENTONVILLE, AR 72716

WALMART INC.
1 CUSTOMER DR
BENTONVILLE, AR 72716

Mr. Garcia intends to seek civil penalties, attorneys' 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"). Mr. Garcia seeks relief on behalf of himself, the State of California, and other persons who are or were employed by WALMART as a non-exempt employee in a California retail store location ("aggrieved employees"). This letter is sent in compliance with the notice and reporting requirements of California Labor Code section 2699.3.

WALMART employed Mr. Garcia as a non-exempt employee from approximately June 4, 2024, to February 23, 2025. Mr. Garcia worked for WALMART as a Cashier at its Walmart Supercenter location in Vista, California. Mr. Garcia typically worked four (4) or more hours per day and five (5) days per week. Mr. Garcia's job duties included, without limitation, operating the cash register, performing customer service functions, and processing money order transactions.

WALMART committed each of the following Labor Code violations against Mr. Garcia, the facts and theories of which follow, making him an “aggrieved employee” pursuant to California Labor Code section 2699(c)(1).¹ Mr. Garcia’s relevant claims are as follows:

WALMART’s Company-Wide and Uniform HR Practices

WAL-MART ASSOCIATES, INC. and WALMART INC. are Delaware corporations that operate the nation’s largest chain of retail stores under various Walmart store brands, including approximately 144 Supercenter locations, 65 Discount store locations, and 64 Neighborhood Market locations in California. Upon information and belief, WALMART maintains a centralized Human Resources (HR) department at its corporate headquarters in Bentonville, Arkansas, for all non-exempt employees working for WALMART at retail stores in California, including Mr. Garcia and other aggrieved employees. WALMART maintained uniform practices with respect to its provision of seats (or lack thereof) in its retail stores for all non-exempt employees in California, including Mr. Garcia and other aggrieved employees, regardless of their location or position.

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 Industrial Welfare Commission (“IWC”) 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.*

¹ These facts, theories, and claims are based on Mr. Garcia’s experience and counsel’s review of those records currently available relating to Mr. Garcia’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, Mr. Garcia reserves the right to supplement this letter with additional facts, theories, and claims if he becomes aware of them subsequent to the submission of this letter.

WALMART's California retail stores are generally similar in their layout and design and there was, and continues to be, space at cash wraps to allow for the presence and use of a seat or stool by Mr. Garcia and other aggrieved employees during the performance of their work duties. WALMART could have provided Mr. Garcia and other aggrieved employees with a suitable seat at cash wraps, with reasonable or no modification to these work areas, but instead denied and continues to deny them seats altogether or denies them suitable seats. As a result, Mr. Garcia and other aggrieved employees are and have been forced to stand throughout the day. In addition, WALMART failed to expressly advise Mr. Garcia and other aggrieved employees that they could utilize seats while performing their duties.

During his employment, Mr. Garcia performed cashiering duties at the cash wrap and spent a significant portion of his day behind the cash wrap. Other aggrieved employees similarly spent a portion of their day at cash wraps performing cash register duties. The nature of the work of an employee performing cashier and/or customer service duties can reasonably be accomplished from a seated position. Mr. Garcia and other aggrieved employees could have provided customer service, handled cash register transactions, and performed other similar tasks at cash wraps at any of WALMART's retail stores while seated without interference with their ability to perform their job duties. However, as set forth herein, WALMART systematically, and on a company-wide basis, does not provide seats or does not provide suitable seats at cash wraps and expressly prohibits employees from sitting while working, forcing Mr. Garcia and other aggrieved employees to stand throughout their work shifts.

WALMART violated California Labor Code section 1198 and California Code of Regulations, Title 8, section 11070(14)(A) because Mr. Garcia and other aggrieved employees were not allowed to sit, even when the nature of their work would reasonably permit the use of seats, nor were they provided with suitable seats. WALMART management did not inform Mr. Garcia 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 WALMART's company-wide policy and/or practice of prohibiting employees from sitting during their shifts and company-wide failure to provide suitable seating, Mr. Garcia and other aggrieved employees were forced to stand during shifts and denied seats. WALMART's failure to provide suitable seating to Mr. Garcia and other aggrieved employees violates California Labor Code section 1198 and IWC Wage Order No. 7-2001, subdivision 14(A).

Mr. Garcia and other aggrieved employees are entitled to recover civil penalties, attorneys' fees, costs, and interest thereon, and seek injunctive relief to bring WALMART into compliance with the applicable IWC Wage Order and Labor Code section 1198, pursuant to Labor Code sections 1194.5 and/or 2699(a), (f), and (k).

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 IWC 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, WALMART’s California retail stores are generally similar in their layout and design and there was, and continues to be, space near their work areas (with reasonable or no modification to these work areas) to allow for the presence and use of a seat or stool by Mr. Garcia and other aggrieved employees during lulls in operations. For example, Mr. Garcia experienced lulls in his work at various times during a typical shift, especially when the store was not busy. During these lulls, when Mr. Garcia was not actively performing tasks that require standing, Mr. Garcia could have taken a moment to sit and rest his legs, back, and feet if seating was provided. WALMART could provide Mr. Garcia and other aggrieved employees with a suitable seat or stool in its work areas but instead denies employees seating and forces Mr. Garcia and other aggrieved employees to stand throughout the day.

WALMART did not provide Mr. Garcia and other aggrieved employees with suitable 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 Mr. Garcia and other aggrieved employees engaged in duties in which the nature of the work required standing, WALMART denied them the use of seats nearby during lulls in their work duties. Moreover, WALMART did not inform Mr. Garcia and other aggrieved employees of their rights to a seat or stool under California law.

As a result of WALMART’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 suitable seats in reasonable proximity to their work areas, Mr. Garcia and other aggrieved employees were forced to stand during shifts and denied seats. WALMART’s failure to provide suitable seating to Mr. Garcia and other aggrieved employees violates California Labor Code section 1198 and IWC Wage Order No. 7-2001, subdivision 14(B).

Mr. Garcia and other aggrieved employees are entitled to recover civil penalties, attorneys’ fees, costs, and interest thereon, and seek injunctive relief to bring WALMART into compliance with the applicable IWC Wage Order and Labor Code section 1198, pursuant to Labor Code sections 1194.5 and/or 2699(a), (f), and (k).

Mr. Garcia, acting in the public interest as a private attorney general, seeks assessment and collection of civil penalties and injunctive relief for himself, all other aggrieved employees, and the State of California against WALMART for violations of California Labor Code section 1198 and the applicable IWC Wage Order.

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

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

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

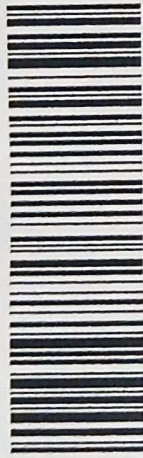
Best Regards,

A handwritten signature in black ink, appearing to read "Arianna Eguiluz". The signature is fluid and cursive, with the first name "Arianna" written in a larger, more prominent script than the last name "Eguiluz".

Arianna Eguiluz

Copy: WAL-MART ASSOCIATES, INC. (via U.S. Certified Mail); WALMART INC. (via U.S. Certified Mail)

Capstone Law, APC
1875 Century Park, East, 1000
Los Angeles, CA. 90067



9589 0710 5270 0211 0143 36

WALMART INC.
1 CUSTOMER DR
BENTONVILLE, AR 72716

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.

WALMART INC.
1 CUSTOMER DR
BENTONVILLE, AR 72716



9590 9402 8803 4005 5731 97

2. Article Number (Transfer from service label)

9589 0710 5270 0211 0143 36

PS Form 3811, July 2020 PSN 7530-02-000-9053

COMPLETE THIS SECTION ON DELIVERY

A. Signature ☒ Agent
☒ Addressee

Received by (Printed Name) C. Date of Delivery

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
 - ☐ Priority Mail Express®
 - ☐ Registered Mail™
 - ☐ Registered Mail Restricted Delivery
 - ☐ Signature Confirmation™
 - ☐ Signature Confirmation Restricted Delivery

Domestic Return Receipt

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

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

☒ Return Receipt (hardcopy) \$

☐ Return Receipt (electronic) \$

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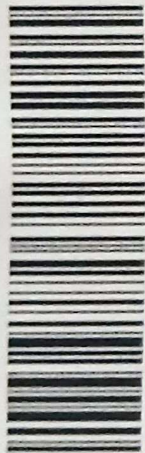
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Capstone Law, APC
1875 Century Park, East, 1000
Los Angeles, CA. 90067



9589 0710 5270 0211 0143 29

**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

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

☒ Return Receipt (hardcopy) \$

☐ Return Receipt (electronic) \$

☐ Certified Mail Restricted Delivery™ \$

☐ Adult Signature Required \$

☐ Adult Signature \$

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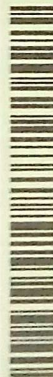
WAL-MART
ASSOCIATES, INC.
702 SW 8TH STREET
BENTONVILLE, AR 72716

WAL-MART
ASSOCIATES, INC.
702 SW 8TH STREET
BENTONVILLE, AR 72716

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.

WAL-MART
ASSOCIATES, INC.
702 SW 8TH STREET
BENTONVILLE, AR 72716



9590 9402 8803 4005 5731 80

2. Article Number (Transfer from service label)

9589 0710 5270 0211 0143 29

PS Form 3811, July 2020 PSN 7530-02-000-9053

COMPLETE THIS SECTION ON DELIVERY

A. Signature ☒ Agent
☒ Addressee

Received by (Printed Name) C. Date of Delivery

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

Service Type
☐ Adult Signature
☐ Adult Signature Restricted Delivery
☒ Certified Mail®
☐ Certified Mail Restricted Delivery
☐ Collect on Delivery
☐ Collect on Delivery Restricted Delivery
☐ Insured Mail
☐ Registered Mail™
☐ Registered Mail Restricted Delivery
☐ Signature Confirmation™
☐ Signature Confirmation Restricted Delivery

Domestic Return Receipt

SENDER: COMPLETE THIS SECTION		COMPLETE THIS SECTION ON DELIVERY	
■ Complete items 1, 2, and 3. ■ Print your name and address on the reverse so that we can return the card to you.		A. Signature <u>Hilda Rodriguez</u> ☐ Agent ☐ Addressee ☒ Received by (Printed Name) <u>Hilda Rodriguez</u> C. Date of Delivery <u>8</u> Is delivery address different from item 1? ☐ Yes If YES, enter delivery address below: ☐ No	
WAL-MART ASSOCIATES, INC. 702 SW 8TH STREET BENTONVILLE, AR 72716		MAR 24 2025	
9590 9402 8803 4005 5731 80		Service Type ☐ Priority Mail Express® ☐ Adult Signature ☐ Registered Mail™ ☐ Adult Signature Restricted Delivery ☐ Registered Mail Restricted Delivery ☒ Certified Mail® ☐ Signature Confirmation™ ☐ Certified Mail Restricted Delivery ☐ Signature Confirmation Restricted Delivery ☐ Collect on Delivery ☐ Insured Mail ☐ Collect on Delivery Restricted Delivery ☐ Restricted Delivery	
2. Article Number (Transfer from service label) 9589 0710 5270 0211 0143 29		Domestic Return Receipt	
PS Form 3811, July 2020 PSN 7530-02-000-9053			

SENDER: COMPLETE THIS SECTION		COMPLETE THIS SECTION ON DELIVERY	
■ Complete items 1, 2, and 3. ■ Print your name and address on the reverse so that we can return the card to you.		A. Signature <u>Hilda Rodriguez</u> ☐ Agent ☐ Addressee ☒ Received by (Printed Name) <u>Hilda Rodriguez</u> C. Date of Delivery <u>8</u> Is delivery address different from item 1? ☐ Yes If YES, enter delivery address below: ☐ No	
WALMART INC. 1 CUSTOMER DR BENTONVILLE, AR 72716		MAR 24 2025	
9590 9402 8803 4005 5731 97		Service Type ☐ Priority Mail Express® ☐ Adult Signature ☐ Registered Mail™ ☐ Adult Signature Restricted Delivery ☐ Registered Mail Restricted Delivery ☒ Certified Mail® ☐ Signature Confirmation™ ☐ Certified Mail Restricted Delivery ☐ Signature Confirmation Restricted Delivery ☐ Collect on Delivery ☐ Insured Mail ☐ Collect on Delivery Restricted Delivery ☐ Restricted Delivery	
2. Article Number (Transfer from service label) 9589 0710 5270 0211 0143 36		Domestic Return Receipt	
PS Form 3811, July 2020 PSN 7530-02-000-9053			



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

ANTHONY CASTILLO
310.712.8169 Direct
Anthony.Castillo@capstonelawyers.com

May 28, 2025

VIA ONLINE SUBMISSION

California Labor & Workforce Development Agency
ATTN: PAGA Administrator
(<https://dir.govfa.net/422>)

Subject: *Allen Garcia v. Wal-Mart Associates, Inc., et al.*
LWDA Case No. LWDA-CM-1086958-25 – AMENDED NOTICE

Dear PAGA Administrator:

This office represents Allen Garcia in connection with his claims under the California Labor Code, and this letter is sent in compliance with the notice requirements of the California Labor Code Private Attorneys General Act, California Labor Code section 2699.3. Mr. Garcia was an employee of WAL-MART ASSOCIATES, INC. and/or WALMART INC. For the purpose of this letter, Mr. Garcia collectively refers to these entities as “WALMART.” We previously provided notice of Mr. Garcia’s claims to the California Labor and Workforce Development Agency (“LWDA”) on March 18, 2025, and submitted the applicable filing fee pursuant to Labor Code section 2699.3(a)(1)(B). This amended notice supplements Mr. Garcia’s prior LWDA notice and is intended to clarify the facts and theories supporting his claims.

The employers may be contacted directly at the addresses below:

WAL-MART ASSOCIATES, INC.
702 SW 8TH STREET
BENTONVILLE, AR 72716

WALMART INC.
1 CUSTOMER DR
BENTONVILLE, AR 72716

Mr. Garcia intends to seek civil penalties, attorneys’ 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”). Mr. Garcia seeks relief on behalf of himself, the State of California, and other persons who are or were employed by WALMART as a non-exempt employee in a California retail store location (“aggrieved employees”). This letter is sent in compliance with the notice and reporting requirements of California Labor Code section 2699.3.

WALMART employed Mr. Garcia as a non-exempt employee from approximately June 4, 2024, to February 23, 2025. Mr. Garcia worked for WALMART as a Cashier at its Walmart Supercenter location in Vista, California. Mr. Garcia typically worked four (4) or more hours per day and five (5)

days per week. Mr. Garcia's job duties included, without limitation, operating the cash register, performing customer service functions, and processing money order transactions.

WALMART committed each of the following Labor Code violations against Mr. Garcia, the facts and theories of which follow, making him an "aggrieved employee" pursuant to California Labor Code section 2699(c)(1).¹ Mr. Garcia's relevant claims are as follows:

WALMART's Company-Wide and Uniform HR Practices

WAL-MART ASSOCIATES, INC. and WALMART INC. are Delaware corporations that operate the nation's largest chain of retail stores under various Walmart store brands, including approximately 144 Supercenter locations, 65 Discount store locations, and 64 Neighborhood Market locations in California. Upon information and belief, WALMART maintains a centralized Human Resources (HR) department at its corporate headquarters in Bentonville, Arkansas, for all non-exempt employees working for WALMART at retail stores in California, including Mr. Garcia and other aggrieved employees. WALMART maintained uniform practices with respect to its provision of seats (or lack thereof) in its retail stores for all non-exempt employees in California, including Mr. Garcia and other aggrieved employees, regardless of their location or position.

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 Industrial Welfare Commission ("IWC") 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

¹ These facts, theories, and claims are based on Mr. Garcia's experience and counsel's review of those records currently available relating to Mr. Garcia'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, Mr. Garcia reserves the right to supplement this letter with additional facts, theories, and claims if he becomes aware of them subsequent to the submission of this letter.

words, the employer must show that compliance is “infeasible because no suitable seating exists.”
See id.

WALMART’s California retail stores are generally similar in their layout and design, and there was, and continues to be, space at the cashwraps would allow for the presence and use of a seat or stool by Mr. Garcia and other aggrieved employees during the performance of their work duties at these cashwraps. However, WALMART designed its cashwraps to require Mr. Garcia and other aggrieved employees to stand while performing their work duties at those locations. WALMART could have designed its cashwraps in a manner that allowed Mr. Garcia and other aggrieved employees to sit while performing their duties and could have placed suitable seats or stools at or near each cashwrap for use by Mr. Garcia and other aggrieved employees. Instead, WALMART designed its cashwraps to require Mr. Garcia and other aggrieved employees to stand at the work area(s) and did not provide suitable seats or stools they could use while working at the cashwrap. In addition, WALMART prohibited Mr. Garcia and other aggrieved employees from sitting while working, and WALMART’s management did not inform Mr. Garcia and other aggrieved employees that they could utilize seats while performing their duties.

During his employment, Mr. Garcia performed cashiering duties at the cashwrap and spent a significant portion of his day behind the cashwrap. Other aggrieved employees similarly spent a portion of their day at cashwraps performing cash register duties. The nature of the work of an employee performing cashier and/or customer service duties can reasonably be accomplished from a seated position. Mr. Garcia and other aggrieved employees could have provided customer service, handled cash register transactions, and performed other similar tasks at cashwraps at any of WALMART’s retail stores while seated without affecting the quality and effectiveness of the performance of their job duties. However, as stated, WALMART, on a company-wide basis, designed cashwraps to require employees to stand while performing their cashier duties and did not provide suitable seats at cashwraps, forcing Mr. Garcia and other aggrieved employees to stand throughout their work shifts.

WALMART violated California Labor Code section 1198 and California Code of Regulations, Title 8, section 11070(14)(A) because Mr. Garcia and other aggrieved employees were not allowed to sit, even when the nature of their work would reasonably permit the use of seats, nor were they provided with suitable seats. WALMART’s management did not inform Mr. Garcia 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. WALMART’s failure to provide suitable seating to Mr. Garcia and other aggrieved employees violates California Labor Code section 1198 and IWC Wage Order No. 7-2001, subdivision 14(A).

Mr. Garcia and other aggrieved employees are entitled to recover civil penalties, attorneys’ fees, costs, and interest thereon, and seek injunctive relief to bring WALMART into compliance with the applicable IWC Wage Order and Labor Code section 1198, pursuant to Labor Code sections 1194.5 and/or 2699(a), (f), and (k).

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 IWC 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 placed within reasonable proximity to their work area under subdivision 14(B) during “lulls in operation.” *Id.*

WALMART has not placed an adequate number of suitable seats within reasonable proximity to the work areas of employees who perform duties whose nature require standing and therefore has not permitted employees to use those seats when not actively engaged in performing their standing duties (i.e., during “lulls in operation”), even though sitting would not interfere with the performance of their job duties.

During his employment, Mr. Garcia experienced lulls in his work at various times during a typical shift, especially when the store was not busy. During these lulls, when Mr. Garcia was not actively performing tasks that require standing, Mr. Garcia could have taken a moment to sit and rest his legs, back, and feet if seating was provided. WALMART could provide Mr. Garcia and other aggrieved employees with a suitable seat or stool in its work areas but instead denies employees seating and forces Mr. Garcia and other aggrieved employees to stand throughout the day. Moreover, WALMART did not inform Mr. Garcia and other aggrieved employees of their rights to a seat or stool under California law. WALMART’s failure to provide suitable seating to Mr. Garcia and other aggrieved employees within reasonable proximity of their work areas and failure to permit them to use those seats when not actively engaged in their standing duties violates California Labor Code section 1198 and IWC Wage Order No. 7-2001, subdivision 14(B).

Mr. Garcia and other aggrieved employees are entitled to recover civil penalties, attorneys’ fees, costs, and interest thereon, and seek injunctive relief to bring WALMART into compliance with the applicable IWC Wage Order and Labor Code section 1198, pursuant to Labor Code sections 1194.5 and/or 2699(a), (f), and (k).

Mr. Garcia, acting in the public interest as a private attorney general, seeks assessment and collection of civil penalties and injunctive relief for himself, all other aggrieved employees, and the State of California against WALMART for violations of California Labor Code section 1198 and the applicable IWC Wage Order.

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

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

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

Best Regards,



Anthony Castillo

Copy: WAL-MART ASSOCIATES, INC. (via U.S. Certified Mail); WALMART INC. (via U.S. Certified Mail)

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.

**WAL-MART
ASSOCIATES, INC.**
702 SW 8th Street
Bentonville, AR 72716



9590 9402 7575 2098 7275 51

2. Article Number (Transfer from service label)

7021 1970 0000 9011 4006

PS Form 3811, July 2020 PSN 7530-02-000-9053

COMPLETE THIS SECTION ON DELIVERY

A. Signature ☐ Agent
X ☐ 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

Service Type
☐ Adult Signature
☐ Adult Signature Restricted Delivery
☒ Certified Mail®
☐ Certified Mail Restricted Delivery
☐ Collect on Delivery
☐ Collect on Delivery Restricted Delivery
☐ Mail
☐ Mail Restricted Delivery (09)

☐ Priority Mail Express®
☐ Registered Mail™
☐ Registered Mail Restricted Delivery
☐ Signature Confirmation™
☐ Signature Confirmation Restricted Delivery

Domestic Return Receipt

CAPSTONE LAW, APC
1875 Century Park East
Suite #1000
Los Angeles, CA 90067

**WAL-MART
ASSOCIATES, INC.**
702 SW 8th Street
Bentonville, AR 72716

PLACE STICKER AT TOP OF ENVELOPE TO THE RIGHT OF THE RETURN ADDRESS. FOLD AT DOTTED LINE.
CERTIFIED MAIL



7021 1970 0000 9011 4006
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**WAL-MART
ASSOCIATES, INC.**
702 SW 8th Street
Bentonville, AR 72716

City, State, ZIP+4®
PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for instructions

SENDER: COMPLETE THIS SECTION		COMPLETE THIS SECTION ON DELIVERY	
■ Complete items 1, 2, and 3. ■ Print your name and address on the reverse so that we can return the card to you. WALMART INC. 1 Customer Drive Bentonville, AR 72716 9590 9402 7575 2098 7275 68 2. Article Number (Transfer from service label) 7021 1970 0000 9011 4013		A. Signature X 1. Received by (Printed Name) _____ C. Date of Delivery _____ 3. Is delivery address different from item 1? ☐ Yes If YES, enter delivery address below: ☐ No 4. Service Type ☐ Adult Signature ☐ Adult Signature Restricted Delivery ☒ Certified Mail® ☐ Certified Mail Restricted Delivery ☐ Collect on Delivery ☐ Collect on Delivery Restricted Delivery ☐ Priority Mail Express® ☐ Registered Mail™ ☐ Registered Mail Restricted Delivery ☐ Signature Confirmation™ ☐ Signature Confirmation Restricted Delivery	

PS Form 3811, July 2020 PSN 7530-02-000-9053 Domestic Return Receipt

CARSTONE LAW, APC
1875 Century Park East
Suite #1000
Los Angeles, CA 90067

WALMART INC.
1 Customer Drive
Bentonville, AR 72716

PLACE STICKER AT TOP OF ENVELOPE TO THE RIGHT OF THE RETURN ADDRESS. FOLD AT DOTTED LINE.

CERTIFIED MAIL®

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☐ Adult Signature \$ _____
 Postage \$ _____
 Total Postage \$ _____
 Sent to _____
 Street and Apt. _____
 City, State, ZIP+4® _____

WALMART INC.
1 Customer Drive
Bentonville, AR 72716

Signature: *Walmart*

Postmark: *Walmart*

PS Form 3800, April 2015 PSN 7530-02-000-9017 See Reverse for instructions