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May 15, 2025

**NOTICE OF LABOR CODE VIOLATIONS PURSUANT TO
LABOR CODE SECTION 2699.3**

To: California Labor and Workforce Development Agency
Attn. PAGA Administrator
1515 Clay Street, Suite 801
Oakland, California 94612
Via Online Submission Only

<u>PETSMART LLC</u> Registered Agent for Process Service c/o Corporate Creations Network Inc. 7801 Folsom Boulevard, Ste. 202 Sacramento, CA 95826 <u>Certified No.: 9589 0710 5270 1859 0115 58</u>	<u>PETSMART LLC</u> Attn.: Legal Department 19601 N. 27th Avenue Phoenix, AZ 85027 <u>Certified No.: 9589 0710 5270 1859 0115 65</u>
<u>PETSMART LLC</u> Attn.: Legal Department 2828 Campus Parkway Riverside, CA 92507 <u>Certified No.: 9589 0710 5270 1859 0115 72</u>	

From: SAMANTHA A MUDGE, on behalf of herself and all other current and former aggrieved
California-based hourly non-exempt employees of PETSMART LLC.

c/o Joseph Lavi, Esq.
Vincent C. Granberry, Esq.
Jeffrey D. Klein, Esq.
Chloe J. Sykes, Esq.
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Our firm has been retained by aggrieved employee SAMANTHA A MUDGE concerning a representative action pursuant to the Private Attorneys General Act of 2004, Labor Code sections 2698, *et seq.* ("PAGA") against her employers, PETSMART LLC.

We are filing this written notice with the Labor and Workforce Development Agency ("LWDA") pursuant to the provisions of the California Labor Code Sections 2699, 2699.3, and 2698, *et seq.* The purpose of this letter is to inquire whether LWDA intends to investigate and seek civil penalties associated with my client's allegations of violations of the Labor Code by her Employer. In addition to submitting this letter and the \$75.00 filing fee via the online PAGA filing system, I am causing a copy of this letter to be mailed to the Department of Industrial Relations – Accounting Unit.

FACTUAL STATEMENT AND THEORIES OF LABOR CODE VIOLATIONS

Aggrieved employee SAMANTHA A MUDGE ("Plaintiff" or "Employee") was employed by PETSMART LLC ("Defendants" or "Employers") as an hourly non-exempt employee from in or around 2022 until on or about current. believes Defendant(s) employed more than one hundred (100) employees in total during the period covered by this notice, and Labor Code section 2999.3(c)(2) does not apply.

1. Failure to Authorize and Permit All Legally Required and Legally Compliant Lactation Accommodation Breaks and/or Failure to Pay Lactation Accommodation Premiums

Employers often employed non-exempt employees, including the named Employee and other current and former aggrieved California-based hourly non-exempt employees, who desired to express breast milk for the employees' infant children.

California law requires every employer to provide a reasonable amount of break time to accommodate an employee's desire to express breast milk for the employee's infant child each time the employee needs to express milk. California law also requires that an employer provide an employee with a room or location for the employee to express milk in private which shall:

- (a) not be a bathroom, shall be in close proximity to the employee's work area, shielded from view and free from intrusion while the employee is expressing milk;
- (b) shall be safe, clean, and free of hazardous materials as defined in Labor Code section 6382;
- (c) shall contain a surface to place a breast pump and personal items;
- (d) shall contain a place to sit; and
- (e) shall have access to electricity or alternative devices, including, but not limited to, extension cords or charging stations, needed to operate an electric or battery-powered breast pump.

California law also requires the employer provide access to a sink with running water and a refrigerator suitable for storing milk in close proximity to the employee's workspace or other suitable colling device if a refrigerator cannot be provided. If an employer fails to provide reasonable break time or adequate space to express milk, the employer must pay the employee an additional hour of pay at the employee's regular rate for each workday the adequate space or reasonable time is not provided. (Lab. Code §§1033, subd. (a), 226.7, subd. (c).)

In this case, Employee and other current and former aggrieved California-based hourly non-exempt employees of Employers sought to express breast milk for the employees' infant children; however, Employers employed policies, practices, and/or procedures or lack of such policies, practices, and/or procedures which resulted in its failure to provide Employee and other current and former aggrieved California-based hourly non-exempt employees with reasonable break time for lactation or a room which complied with the requirements of California law, including but not limited to, the room not being private and shielded from view or free from intrusion while the employee is expressing milk. For example, the rooms where Employee and other current and former aggrieved California-based hourly non-exempt employees were permitted to express milk (a) had no blinds or other forms of shielding view of the inside of the room; (b) had no locking mechanism on the door(s); and (c) which other employees were permitted to enter the rooms while Employee and other current and former aggrieved California-based hourly non-exempt employees were expressing milk.

Additionally, Employers failed to pay Employee and other current and former aggrieved California-based hourly non-exempt employees an additional hour of pay at their regular rate of compensation for each workday the employees did not receive all legally required and compliant lactation periods, i.e., legally compliant time or space. Employers employed policies and procedures which ensured that employees did not receive any lactation period premium wages to compensate them for workdays in which they did not receive all legally required and compliant lactation periods.

The aforementioned policies, practices, and/or procedures of Employers resulted in Employee and other current and former aggrieved California-based hourly non-exempt employees not being provided with all legally required and compliant lactation periods and/or not receiving premium wages to compensate them for such instances, all in violation of California law.

2. *Failure to Timely Pay Earned Wages During Employment in Violation of Labor Code Section 204*

Employee alleges that during her employment, Employer failed to timely pay Employee's and other current and former aggrieved California-based hourly non-exempt employees' earned wages. In California, wages must be paid at least twice during each calendar month on days designated in advance by the employer as regular paydays, subject to some exceptions. Labor Code §204(a). Wages earned between the 1st and 15th days, inclusive, of any calendar month must be paid between the 16th and the 26th day of that month and wages earned between the 16th and the last day, inclusive, of any calendar month must be paid between the 1st and 10th day of the following month. *Id.* Other payroll periods such as those that are weekly, biweekly, or semimonthly, must

be paid within seven (7) calendar days following the close of the payroll period in which wages were earned. Labor Code §204(d).

As a derivative of Employee's claims above, Employee alleges that Employer failed to timely pay *her* and other current and former aggrieved California-based hourly non-exempt employees' earned wages in violation of Labor Code section 204. Employer's aforementioned policies, practices, and/or procedures resulted in Employer failing to pay Employee and other current and former aggrieved California-based hourly non-exempt employees their earned wages within the applicable time frames outlined in Labor Code 204. Plaintiff also believes these failures were malicious, fraudulent, or oppressive. Employer would further be liable for civil penalties pursuant to Labor Code section 2699(f)(2)(B)(ii).

Based on these violations, Employee intends to seek civil penalties pursuant to PAGA, Labor Code sections 2698, *et seq.*, on behalf of LWDA against Employer if authorized to file a representative action on behalf of the State of California.

3. *Secret Payment of Wages Lower Than Designated by Statute, in Violation of Labor Code Section 223*

Labor Code section 223 provides that, where any statute or contract requires an employer to maintain the designated wage scale, it shall be unlawful to secretly pay a lower wage while purporting to pay the wage designated by statute or contract. By engaging in the unlawful conduct alleged herein, including by failing to pay wages no less than the applicable legal minimum and overtime wages, and also meal and rest break premiums, as established by Labor Code sections 226.7, 510, 1194, 1197 and sections 11 and 12 of the applicable IWC Wage Orders, as incorporated by Labor Code section 1198, the Employer secretly paid a lower wage than designated by statute while purporting to pay the wages designated by statute, in violation of Labor Code section 223. The Employee will therefore pursue the civil penalties established by Labor Code section 225.5 for all such violations of Labor Code section 223, on behalf of the LWDA and against Employer if authorized to file a representative action on behalf of the State of California. Plaintiff also believes these failures were malicious, fraudulent, or oppressive. Employer would further be liable for civil penalties pursuant to Labor Code section 2699(f)(2)(B)(ii).

4. *Failure to Establish, Implement, and Maintain a Workplace Violence and Injury Prevention Program in Compliance with Labor Code Sections 6401.7 and 6401.9.*

California Labor Code Section 6401.7 requires every employer to establish, implement, and maintain an effective injury prevention program. California Labor Code Section 6401.9 requires California employers to adopt a comprehensive Workplace Violence Prevention Plan (WVPP), train employees on workplace violence, log safety incidents, and conduct periodic inspections to evaluate workplace violence hazards.

Employee alleges that Employer did not comply with Employer's responsibilities and duties under Labor Code sections 6401.7 and 6401.9. Employee is informed and believes and thereon alleges that Employer (1) failed to establish, implement, and maintain an effective injury prevention program; (2) failed to adopt a compliant Workplace Violence Prevention Plan; (3);

failed to train Employee and other aggrieved California-based hourly non-exempt employees in workplace violence and injury prevention; (4) failed to log safety incidents; and (5) failed to conduct compliant periodic inspections. Plaintiff believes these failures were willful and intentional. Plaintiff also believes these failures were malicious, fraudulent, or oppressive. Employer would further be liable for civil penalties pursuant to Labor Code section 2699(f)(2)(B)(ii).

Based on these violations, Employee will seek civil penalties pursuant to PAGA, Labor Code sections 2698, et seq., under Labor Code sections 6401.9(g), 6317(d), and 2699(f) on behalf of LWDA, against Employer if authorized to file a representative action on behalf of the State of California.

CONCLUSION

Our client intends to file a representative action pursuant to PAGA concerning her wage claims as warranted by Employer's violations of Labor Code sections 204, 223, 1030, 1031, 1033, 6401.7, 6401.9 and section 5 of the applicable IWC Wage Orders. This letter is being sent to you as an inquiry into whether LWDA wishes to investigate my client's claims for civil penalties associated with Employer's violations of the Labor Code, as alleged herein. Thank you for your assistance and cooperation in this matter. If you have any questions or concerns, please contact me at the above-listed information.

Very truly yours,
LAVI & EBRAHIMIAN, LLP



Chloe J. Sykes, Esq.

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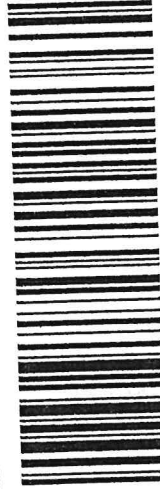
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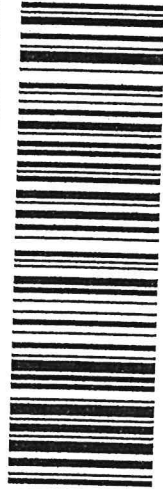
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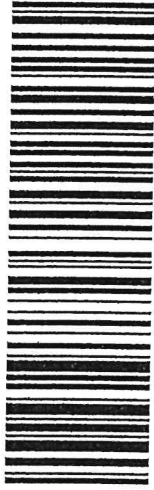
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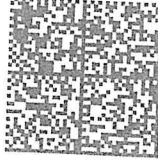
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