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As a Private Attorney General on behalf of the State of California

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF ALAMEDA

Irina Weisfeiler, as a Private Attorney
General on behalf of the State of
California,

Plaintiff,

v.

ByteDance, Inc. doing business as TikTok
and Does 1 through 20, inclusive,

Defendants.

Case No.: **23CV027645**

**REPRESENTATIVE ACTION
COMPLAINT FOR:**

1. PAGA Civil Penalties for Violations
of Labor Code § 1197.5(b)) for
Failure to Provide Equal Pay on the
Basis of Gender/Sex

Jury Trial Demanded

1 Plaintiff Irina Weisfeiler, as a Private Attorney General on behalf of the State of
2 California, alleges as follows:

3 **INTRODUCTION**

4 1. Plaintiff Irina Weisfeiler (“Plaintiff”) brings this representative action against
5 Defendant ByteDance, Inc. (doing business as TikTok) and Does 1 through 20, inclusive
6 (collectively, “Defendants”), asserting violations of the California Labor Code against
7 “aggrieved employees” (defined as all current and former employees employed by
8 Defendants) throughout California during the “Relevant Time Period” (defined as one year
9 before Plaintiff gave notice of these claims to the California Labor and Workforce
10 Development Agency (“LWDA”) up to and including the date of the commencement of trial)
11 subject to the same wage and hour violations and losses alleged herein.

12 2. On December 2, 2022, Plaintiff gave notice of these claims to the LWDA and
13 to the agent for service of process for Defendants. Plaintiff has not received any response from
14 the LWDA indicating that it intends to investigate these claims. Accordingly, Plaintiff has
15 exhausted all notice requirements under the PAGA.

16 3. Through this action, Plaintiff alleges that Defendants have engaged in a
17 systematic pattern of wage violations under the California Labor Code and Industrial Welfare
18 Commission (“IWC”) Wage Orders, all of which contribute to Defendants’ deliberate unfair
19 competition.

20 4. Plaintiff asserts claims for civil penalties as a representative of the State of
21 California, as authorized by the Private Attorneys General Act of 2004 (“PAGA”), and to the
22 extent permitted by law, on behalf of aggrieved employees who held the positions identified
23 herein and suffered one or more of the violations alleged. Labor Code §§ 2698, *et seq.*

24 5. Plaintiff is informed and believes, and thereon alleges, that Defendants have
25 increased their profits by violating state wage and hour laws by, among other things:

26 (a) Failing to pay employees of each gender/sex the same wages for
27 substantially similar work.

28 6. Plaintiff brings this lawsuit seeking monetary relief against Defendants to

1 recover, among other things, civil penalties, attorneys' fees, costs and expenses, and any other
2 appropriate relief pursuant to the Labor Code.

3 **JURISDICTION AND VENUE**

4 7. This is a representative action, pursuant to California Code of Civil Procedure
5 § 382. The relief sought by Plaintiff exceeds the minimal jurisdictional limits of the Superior
6 Court and will be established according to proof at trial.

7 8. This Court has jurisdiction over this action pursuant to the California
8 Constitution, Article VI, § 10, which grants the Superior Court original jurisdiction in all
9 causes except those given by statutes to other courts. The statutes under which this action is
10 brought do not specify any other basis for jurisdiction.

11 9. Based on information and belief, Plaintiff alleges that this entire action arises
12 solely under the laws of the State of California and applicable regulations of the health, safety
13 and wages of the employees residing in the State of California. Plaintiff alleges, on
14 information and belief, that no federal question is raised. Moreover, PAGA civil penalty
15 actions are not subject to federal jurisdiction.

16 10. This Court has jurisdiction over all Defendants because, upon information and
17 belief, they are citizens of California, have sufficient minimum contacts in California or
18 otherwise intentionally avail themselves of the California market so as to render the exercise
19 of jurisdiction over them by the California courts consistent with traditional notions of fair
20 play and substantial justice.

21 11. Venue is proper in this Court because, upon information and belief, Defendants
22 reside, transact business or have offices in this county and the acts and omissions alleged
23 herein took place in this county.

24 **THE PARTIES**

25 **Plaintiff**

26 12. Plaintiff Irina Weisfeiler is a citizen of California. Plaintiff was employed by
27 Defendants during the Relevant Time Period in California.

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1 **Defendants**

2 13. Defendant ByteDance, Inc. is an international corporation with headquarters
3 in Culver City, California.

4 14. Plaintiff is unaware of the true names or capacities of the defendants sued as
5 Does 1 through 20 but will seek leave of this Court to amend this Complaint and serve such
6 fictitiously named defendants once their names and capacities become known.

7 15. Plaintiff is informed and believes, and thereon alleges, that Defendants at all
8 times hereinafter mentioned, were and are employers as defined in and subject to the Labor
9 Code and IWC Wage Orders, whose employees were and are engaged throughout this county
10 and the State of California.

11 16. Plaintiff is informed and believes, and thereon alleges, that each Defendant
12 acted in all respects pertinent to this action as the agent of the other Defendants, carried out a
13 joint scheme, business plan or policy in all respects pertinent hereto, and the acts of each
14 Defendants are legally attributable to the other Defendants. Furthermore, Defendants in all
15 respects acted as the employer and/or joint employer of Plaintiff and the other aggrieved
16 employees.

17 17. Plaintiff is informed and believes, and thereon alleges, that each and all of the
18 acts and omissions alleged herein were performed by, or are attributable to, Defendants and/or
19 DOES 1 through 20, acting as the agent or alter ego for the other, with legal authority to act
20 on the other's behalf. The acts of any and all Defendants were in accordance with, and
21 represent, the official policy of Defendants.

22 18. At all relevant times, Defendants, and each of them, acted within the scope of
23 such agency or employment, or ratified each and every act or omission complained of herein.
24 At all relevant times, Defendants, and each of them, aided and abetted the acts and omissions
25 of each and all the other Defendants in proximately causing the damages herein alleged.

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

GENERAL ALLEGATIONS

20. At all relevant times mentioned herein, Defendants employed Plaintiff and other aggrieved employees.

21. Plaintiff was employed by Defendants.

22. Defendant continued to employ employees throughout California.

23. Plaintiff is informed and believes, and thereon alleges, that at all times herein mentioned, Defendants were advised by skilled lawyers, employees and other professionals who were knowledgeable about California's wage and hour laws, employment and personnel practices and the requirements of California law.

24. Plaintiff is informed and believes, and thereon alleges, that Defendant knew or should have known that Plaintiff and other aggrieved employees were entitled to wage rates not less than the rates paid to employees of the opposite sex for substantially similar work and that they were not receiving equal wage rates as employees of the opposite sex for substantially similar work. In violation of the Labor Code, Plaintiff and other aggrieved employees were not paid equal wages for substantially similar work, when viewed as a composite of skill, effort, and responsibility, and performed under similar working conditions. Upon information and belief, there is no wage differential based on a seniority system, merit system, system that measures earnings by quantity or quality of production, or bona fide factor other than sex, such as education, training, or experience.

25. Plaintiff is informed and believes, and thereon alleges, that Defendant knew or should have known they had a duty to compensate Plaintiff and other aggrieved employees equally to those of a different sex for performing substantially similar work, and Defendant had the financial ability to pay such compensation but willfully, knowingly, and intentionally failed to do so all in order to increase Defendants' profits.

26. Plaintiff suffered losses as detailed above as a result of these practices and is therefore an aggrieved employee under Labor Code section 2699(c). Plaintiff is informed and believes that because the Defendant used identical procedures for all employees, there are many other aggrieved employees who suffered the above violations including failing to pay

employees of each gender/sex the same wages for substantially similar work, for which recovery under PAGA is owed.

FIRST CAUSE OF ACTION

FAILURE TO PAY THE SAME WAGE AS EMPLOYEES OF THE OPPOSITE SEX

(Violation of Cal. Labor Code §§ 1197.5(a))

27. Plaintiff hereby re-alleges and incorporates by reference all paragraphs above as though fully set forth herein.

28. Cal. Labor Code Section 1197.5(a) provides that it is unlawful for an employer to pay any of its employees at wage rates less than the rates paid to employees of the opposite sex for substantially similar work, when viewed as a composite of skill, effort, and responsibility, and performed under similar working conditions.

29. During the Relevant Time Period, Defendant paid Plaintiff and other female aggrieved employees less than employees of the opposite sex for substantially similar work, when viewed as a composite of skill, effort, and responsibility, and performed under similar working conditions.

30. During the Relevant Time Period, Defendants regularly failed to pay Plaintiff and other female aggrieved employees' wages at least equal wages to employees of the opposite sex performing substantially similar work pursuant to Cal. Labor Code Section 1197.5(a).

31. Defendants' failure to pay Plaintiff and other female aggrieved employees the required equal wages violate Labor Code 1197.5. Pursuant to this section, Plaintiff and other aggrieved employees are entitled to recover the unpaid balance of their wage compensation as well as interest, costs and attorneys' fees.

32. Pursuant to Labor Code Section 1197.5, Plaintiff and other aggrieved employees are entitled to recover liquidated damages as an additional amount equal to the amount of wages, with interest, that the employees were deprived of by reason of the violation.

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3. For such other relief as the Court deems just and proper.

Attorneys for Plaintiff Irina Weisfeiler,
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State of California

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