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11 individually and on behalf of all others similarly situated

12 **SUPERIOR COURT OF CALIFORNIA**

13 **COUNTY OF RIVERSIDE**

14 TAIA CHAGALL GIBSON, individually and
15 on behalf of all others similarly situated,

16 Plaintiff(s),

17 v.

18 SKECHERS U.S.A., INC; and DOES 1 through
19 100,

20 Defendants.

Case No. **CVRI 2303612**

COMPLAINT

1. **Failure to Provide Compliant Meal Periods**
2. **Failure to Provide Compliant Rest Periods**
3. **Failure to Pay for All Hours Worked**
4. **Failure to Pay All Overtime Owed**
5. **Failure To Reimburse Work-Related Expenses**
6. **Wage Statement Penalties**
7. **Waiting Time Penalties**
8. **Violation of Unfair Competition Law**
9. **Private Attorneys General Act**

21 **RELEVANT PARTIES**

22 1. Plaintiff Taia Chagall Gibson ("Plaintiff") is an adult resident of Riverside County,
23 California, and was at all times relevant residing in Riverside County, California.

24 2. Defendant Skechers U.S.A., Inc ("Defendant") is a California corporation with its principal
25 place of business located in Riverside County, California. Defendant is registered to and does
26 conduct business in the State of California and is subject to the laws of the State of California. All
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1 acts and omissions of Defendant employees as alleged herein occurred while they were acting
2 within the course and scope of their employment.

3 3. Plaintiff is unaware of the true names or capacities of the Defendants sued herein as DOES 1
4 through 100, inclusive (“Doe Defendants”), and therefore sues said Doe Defendants by such
5 fictitious names. Plaintiff will seek leave of this Court to amend this Complaint to insert the true
6 names and capacities of such Doe Defendants when such information has been obtained. Plaintiff is
7 informed and believes, and based on such information and belief alleges, that each of the fictitiously
8 named Doe Defendants has participated in some way in the wrongful acts and omissions alleged
9 below, and is liable to Plaintiff for damages and other relief to which Plaintiff is entitled. Defendant
10 and Doe Defendants are collectively referred to as “Defendants”.

11 **JURISDICTION AND VENUE**

12 4. This action is properly filed in Riverside County because the acts and omissions that give
13 rise to Plaintiff’s claims took place in Riverside County, and Defendants transact substantial
14 business in this County.

15 5. This Court has jurisdiction over Defendants because Defendants’ unlawful conduct as
16 alleged herein occurred in Riverside County, California and Plaintiff suffered damages from such
17 conduct within Riverside County, California.

18 **FACTUAL ALLEGATIONS**

19 6. At all times relevant, Plaintiff was Defendants’ employee.

20 7. Plaintiff was employed by Defendants from 3/29/2021 to 3/24/2023.

21 8. Defendants failed to provide Plaintiff with compliant meal breaks because meal breaks were
22 regularly missed, late, or short.

23 9. Plaintiff was required to remain on call and on duty because Plaintiff had to answer phone
24 calls, emails, and chat and respond to customers at all times, even during their meal breaks.

25 10. Despite not being provided with compliant meal breaks, Defendant did not pay premium pay
26 for these missed breaks at Plaintiff’s regular rate of pay.

27 11. Defendant failed to provide Plaintiff with compliant rest breaks because were missed.

28 12. Plaintiff had to remain on call for the entirety of their rest breaks.

13. Despite not being provided with compliant rest breaks, Defendant did not pay premium pay for these missed breaks at Plaintiff's regular rate of pay.

14. Defendants failed to pay Plaintiff for all hours worked because Plaintiff had to go through a security check prior to clocking in. Therefore, Plaintiff is owed unpaid time in the amount it took her to go through the security check.

15. In addition, Plaintiff had to answer phone calls, emails, chat and respond to customers at all times, even during their meal breaks. Her meal breaks were unpaid. Since she had to work during her meal breaks, Plaintiff is owed 30 minutes of unpaid time per shift.

16. Defendants failed to pay Plaintiff all overtime owed because Plaintiff regularly worked in excess of eight hours in a day and 40 hours in a workweek. Since Plaintiff was required to perform work off the clock, it follows that this time was often overtime.

17. Thus, the Plaintiff was not paid all overtime wages owed.

18. Defendants failed to reimburse Plaintiff for all work-related expenses because Plaintiff was required to purchase space heater since the office was kept too cold. Unfortunately Defendants did not reimburse Plaintiff for these expenses.

19. Defendants failed to provide Plaintiff with accurate wage statements because the wage statements issued to Plaintiff did not accurately list total wages owed and hours worked, among other things.

20. Due to Defendants' failure to pay all wages due to Plaintiff during their employment, it follows that Defendant failed to pay all wages due at the conclusion of Plaintiff's employment as well. Therefore, Defendants are liable to Plaintiff for waiting time penalties.

PAGA ALLEGATIONS

21. Pursuant to Labor Code section 2699(a), any provision of the Labor Code which provides for a civil penalty to be assessed and collected by the Labor and Workforce Development Agency ("LWDA") for violations of the Labor Code may, as an alternative, be recovered through a civil action brought by an aggrieved employee on behalf of himself or herself and other current or former employees pursuant to the procedures outlined in Labor Code section 2699.3.

22. Pursuant to Labor Code section 2699.3, an aggrieved employee may pursue a civil action under PAGA after the following requirement have been met:

23. The aggrieved employee has provided written notice by online filing to the LWDA and by certified mail to the employer (hereinafter “Employee’s Notice”) of the specific provisions of the Labor Code alleged to have been violated, including the facts and theories to support the alleged violations; and

24. The LWDA has provided notice (hereinafter “LWDA’s Notice”) to the employer and the aggrieved employee by certified mail that it does not intend to investigate the aggrieved employee’s claims. Upon receipt of the LWDA’s Notice, or if the LWDA does not provide such Notice within 65 calendar days of the postmark date of the Employee’s Notice, the aggrieved employee may commence a civil action pursuant to Labor Code section 2699 to recover civil penalties in addition to any other penalties to which the employee may be entitled.

25. On 4/27/23, Plaintiff provided written notice by online filing to the LWDA and by certified mail to Defendants of specific provisions of the Labor Code alleged to have been violated by Defendants, including the facts and theories to support the alleged violations.

26. The 65-day notice period has elapsed, and the LWDA did not provide Plaintiff with written notice that it intends to investigate the alleged violations of the Labor Code. Thus, Plaintiff seeks PAGA Penalties on behalf of all Aggrieved Employees.

27. The Aggrieved Employees are defined as “All other nonexempt, hourly employees, current and former, who were employed by Defendants within one year prior to 4/27/23, through final disposition of this action.”

FIRST CAUSE OF ACTION

Failure to Provide Compliant Meal Periods

By Plaintiff Against All Defendants

28. Plaintiff incorporates by reference the paragraphs above.

29. Labor Code section 512 and the Wage Orders provide that “an employer shall not employ an employee for a work period of more than five hours per day without providing the employee with a

1 meal period of not less than 30 minutes” or “for a work period of more than 10 hours per day
2 without providing the employee with a second meal period of not less than 30 minutes”.

3 30. An employer provides compliant meal breaks to its employees “if it relieves its employees
4 of all duty, relinquishes control over their activities and permits them a reasonable opportunity to
5 take an uninterrupted 30-minute break.” (*Brinker Restaurant Corp. v. Superior Court*, 53 Cal.4th
6 1004, 1040 (2012)).

7 31. Not only must an employer affirmatively relieve its employees of all duty during their meal
8 breaks, it also must not “impede or discourage” its employees from taking compliant meal breaks.
9 (*Brinker*, supra).

10 32. Defendants failed to provide Plaintiff with compliant meal breaks as alleged herein.

11 33. For each day that Defendants failed to provide Plaintiff with a compliant meal break,
12 Defendants were required to remit premium pay pursuant to Labor Code section 226.7(c), which is
13 one additional hour of pay at Plaintiff’s regular rate of pay. (*Ferra v. Loews Hollywood Hotel, LLC*,
14 11 Cal. 5th 858 (2021)).

15 34. Defendants failed to pay premium pay at Plaintiff’s regular rate of pay for each day a meal
16 break was missed.

17 35. Plaintiff is therefore entitled to recover premium pay for missed meal breaks, interest,
18 penalties, attorney fees, and costs.

19 **SECOND CAUSE OF ACTION**

20 **Failure to Provide Compliant Rest Periods**

21 **By Plaintiff Against All Defendants**

22 36. Plaintiff incorporates by reference the paragraphs above.

23 37. Labor Code section 226.7 and the Wage Orders requires employers to authorize and permit
24 its employees to take rest periods based on the total hours worked daily at the rate of 10 minutes net
25 per four hours or major fraction thereof.

26 38. Furthermore, “[d]uring rest periods employers must relieve employees of all duties and
27 relinquish control over how employees spend their time.” (*Augustus v. ABM Sec. Servs., Inc.*, 2 Cal.
28 5th 257, 269 (2016)).

39. Defendants failed to provide Plaintiff with compliant rest breaks as alleged herein.

40. For each day that Defendants failed to provide Plaintiff with a compliant rest break, Defendants were required to remit premium pay pursuant to Labor Code section 226.7(c), which is one additional hour of pay at Plaintiff's regular rate of pay. (*Ferra v. Loews Hollywood Hotel, LLC*, 11 Cal. 5th 858 (2021)).

41. Defendants failed to pay premium pay at Plaintiff's regular rate of pay for each day a rest break was missed.

42. Plaintiff is therefore entitled to recover premium pay for missed rest breaks, interest, penalties, attorney fees, and costs.

THIRD CAUSE OF ACTION

Failure to Pay for All Hours Worked

By Plaintiff Against All Defendants

43. Plaintiff incorporates by reference the paragraphs above.

44. Labor Code sections 558 and 1194 and the Wage Orders require an employer to pay employees minimum wages for all hours worked fewer than eight hours in a day and/or fewer than 40 hours in a workweek.

45. Defendants failed to pay Plaintiff for all hours worked as alleged herein.

46. Plaintiff is therefore entitled to recover all unpaid wages, liquidated damages, interest, penalties, attorney fees, and costs.

FOURTH CAUSE OF ACTION

Failure to Pay All Overtime Owed

By Plaintiff Against All Defendants

47. Plaintiff incorporates by reference the paragraphs above.

48. Labor Code section 510 provides that "[a]ny work in excess of eight hours in one workday and any work in excess of 40 hours in any one workweek and the first eight hours worked on the seventh day of work in any one workweek shall be compensated at the rate of no less than one and one-half times the regular rate of pay for an employee."

49. Defendants failed to pay Plaintiff all overtime wages owed as alleged herein.

1 50. Plaintiff is therefore entitled to recover all unpaid overtime wages, liquidated damages,
2 interest, penalties, attorney fees, and costs.

3 **FIFTH CAUSE OF ACTION**

4 **Failure To Reimburse Work-Related Expenses**

5 **By Plaintiff Against All Defendants**

6 51. Plaintiff incorporates by reference the paragraphs above.

7 52. Pursuant to Labor Code section 2802, an employer shall indemnify his or her employee for
8 all necessary expenditures or losses incurred by the employee in direct consequence of the
9 employee's discharge of his or her duties.

10 53. Defendants failed to reimburse Plaintiff for all work-related expenses as alleged herein.

11 54. Plaintiff is therefore entitled to reimbursement for all work-related expenses, penalties,
12 attorney fees, and costs.

13 **SIXTH CAUSE OF ACTION**

14 **Wage Statement Penalties**

15 **By Plaintiff Against All Defendants**

16 55. Plaintiff incorporates by reference the paragraphs above.

17 56. Labor Code section 226(a) requires employers to provide itemized wage statements to its
18 employees that identify accurate information regarding their compensation. Defendants, as a matter
19 of policy and practice, failed in its affirmative obligation to provide accurate itemized wage
20 statements to Plaintiff in violation of Labor Code section 226(a).

21 57. As alleged herein, the wage statements that Defendants issued to Plaintiff were inaccurate
22 and incomplete.

23 58. Defendants knowingly and intentionally issued wage statements that were inaccurate and
24 incomplete, and the issuance of inaccurate and incomplete wage statements caused injury to
25 Plaintiff in that Plaintiff was unable to accurately verify and/or calculate their wages.

26 59. Plaintiff is therefore entitled to the recovery of wage statement penalties, attorney fees, and
27 costs.

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1 **SEVENTH CAUSE OF ACTION**

2 **Waiting Time Penalties**

3 **By Plaintiff Against All Defendants**

4 60. Plaintiff incorporates by reference the paragraphs above.

5 61. Labor Code sections 201 and 202 require that an employer provide an employee with all
6 wages due and payable either: (a) immediately upon termination, or (b) within 3 days of the
7 employee's resignation.

8 62. Labor Code section 203 provides that if an employer willfully fails to pay wages owed in
9 accordance with Labor Code sections 201 or 202, then the wages of the employee continue as a
10 penalty from the due date at the same rate until paid or until an action is commenced, not to exceed
11 thirty days.

12 63. As alleged herein, Defendants willfully did not pay Plaintiff all wages owed at the
13 conclusion of employment.

14 64. Plaintiff is therefore entitled to the recovery of waiting time penalties, interest, attorney fees,
15 and costs.

16 **EIGHTH CAUSE OF ACTION**

17 **Violation of Unfair Competition Law**

18 **By Plaintiff Against All Defendants**

19 65. Plaintiff incorporates by reference the paragraphs above.

20 66. Defendants' conduct described herein constitutes unfair competition.

21 67. Specifically, Defendants have gained an unfair advantage over other similarly situated
22 businesses by unlawfully reducing their overhead costs by not paying their employees what they are
23 owed.

24 68. Pursuant to Business and Professions Code 17203, Plaintiff is entitled to restitution of all
25 wrongfully withheld wages.

26 69. Plaintiff may recover attorney fees pursuant to Code of Civil Procedure section 1021.5.

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1 **NINTH CAUSE OF ACTION**

2 **Private Attorneys General Act**

3 **By Plaintiff and the Aggrieved Employees Against All Defendants**

4 70. Plaintiff incorporates by reference the paragraphs above.

5 71. PAGA permits Plaintiff and the Aggrieved Employees to recover civil penalties for the
6 violation(s) of the Labor Code.

7 72. As alleged herein, Defendants' conduct violates numerous sections of the Labor Code.

8 73. With respect to violations of Labor Code sections 226.7 and 558 for Defendants' failure to
9 provide Plaintiff and the Aggrieved Employees with compliant meal periods or compensation in
10 lieu thereof, the penalties in Labor Code sections 558 and 2699 apply.

11 74. With respect to violations of Labor Code section 226.7 for Defendants' failure to provide
12 Plaintiff and the Aggrieved Employees with compliant rest periods or compensation in lieu thereof,
13 the penalties in Labor Code section 2699 apply.

14 75. With respect to violations of Labor Code section 1197 for Defendants' failure to compensate
15 Plaintiff and the Aggrieved Employees for all minimum wages earned, the penalties in Labor Code
16 sections 1197.1 and 2699 apply.

17 76. With respect to violations of Labor Code section 510 for Defendants' failure to compensate
18 Plaintiff and the Aggrieved Employees for all overtime wages earned, the penalties in Labor Code
19 sections 558, 1197.1, and 2699 apply.

20 77. With respect to violations of Labor Code section 226(a) for failure to provide accurate wage
21 statements to Plaintiff and the Aggrieved Employees, the penalties in Labor Code sections 226.3
22 and 2699 apply.

23 78. With respect to violations of Labor Code section 203 for failure to pay all wages due to
24 Plaintiff and the Aggrieved Employees and the conclusion of their employment, the penalties in
25 Labor Code section 2699 apply.

26 79. With respect to violations of Labor Code section 2802 for failure to reimburse Plaintiff and
27 the Aggrieved Employees for all work-related expenses, the penalties in Labor Code section 2699
28 apply.

80. Additionally, Plaintiff and the Aggrieved Employees are entitled to attorney's fees pursuant to Labor Code section 2699(g).

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for judgment against Defendants as follows:

First Cause of Action

1. Damages and/or penalties pursuant to Labor Code section 226.7
2. Interest
3. Attorneys' fees
4. Costs
5. Other relief the court deems proper

Second Cause of Action

1. Damages and/or penalties pursuant to Labor Code section 226.7
2. Interest
3. Attorneys' fees
4. Costs
5. Other relief the court deems proper

Third Cause of Action

1. Damages and/or penalties pursuant to Labor Code sections 558, 1194, 1197, and 1197.1
2. Liquidated damages
3. Interest
4. Attorneys' fees
5. Costs
6. Other relief the court deems proper

Fourth Cause of Action

1. Damages and/or penalties pursuant to Labor Code sections 510, 558, and 1194
2. Interest
3. Attorneys' fees
4. Costs

1 5. Other relief the court deems proper

2 Fifth Cause of Action

3 1. Reimbursement of all work-related expenses

4 2. Attorneys' fees

5 3. Costs

6 4. Other relief the court deems proper

7 Sixth Cause of Action

8 1. Penalties pursuant to Labor Code section 226

9 2. Attorneys' fees

10 3. Costs

11 4. Other relief the court deems proper

12 Seventh Cause of Action

13 1. Penalties pursuant to Labor Code section 203

14 2. Attorneys' fees

15 3. Costs

16 4. Other relief the court deems proper

17 Eighth Cause of Action

18 1. Restitution of all wrongfully withheld wages

19 2. Attorneys' fees

20 3. Costs

21 4. Other relief the court deems proper

22 Ninth Cause of Action

23 1. All applicable civil penalties available pursuant to Labor Code section 2698, et seq.

24 2. Attorneys' fees

25 3. Costs

26 4. Other relief the court deems proper

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1 DATED: July 11, 2023

/s/ DANIEL GINZBURG

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3 DANIEL GINZBURG

4 Attorney for Plaintiff

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