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Superior Court of California
County of San Bernardino
Rancho Cucamonga District
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**SUPERIOR COURT OF THE STATE OF CALIFORNIA,
FOR THE COUNTY OF SAN BERNARDINO**

TESS EILEEN CHRISMAN, an Individual,

Plaintiff,

vs.

WAL-MART ASSOCIATES, INC., a
Delaware Corporation; CHRIS ALAN
LUCERO SR., an Individual; RYAN BITTLE,
an Individual; and DOES 1-20, inclusive,

Defendants.

Case Number: CIVRS2607673

COMPLAINT FOR:

1. Harassment Based on Sex and/or Gender;
2. Discrimination Based on Sex and/or Gender;
3. Retaliation in Violation of FEHA;
4. Failure to Take All Reasonable Steps to Prevent and/or Remedy Discrimination, Harassment and/or Retaliation
5. Assault;
6. Battery;
7. Violation of *Civil Code* § 51.7;
8. Violation of *Civil Code* § 52.1;
9. Wrongful Termination Violating Public Policy;
10. Retaliation and/or Wrongful Termination in Violation of *Labor Code* § 98.6;
11. Retaliation and/or Wrongful Termination in Violation of *Labor Code* § 1102.5;
12. Retaliation and/or Wrongful Termination in Violation of *Labor Code* § 6310;
13. Defamation;
14. Intentional Infliction of Emotional Distress; and
15. Private Attorneys General Act.

Jury Trial Demanded

Plaintiff, Tess Eileen Chrisman ("Plaintiff"), hereby alleges as follows:

1 **JURISDICTION AND VENUE**

2 1. This Court has jurisdiction over this action pursuant to California Constitution Article VI,
3 § 10, which grants the Superior Court "original jurisdiction in all causes except those given by statute to
4 other courts." The statutes under which this action is brought do not specify any other basis for
5 jurisdiction.

6 2. This Court has jurisdiction over all Defendants because, based on information and belief,
7 each party is either a citizen of California, has sufficient minimum contacts in California, or otherwise
8 intentionally avails itself of the California market, so as to render the exercise of jurisdiction over it by
9 the California courts consistent with traditional notions of fair play and substantial justice.

10 3. Plaintiff has exhausted her administrative remedies by the timely request of a Right to
11 Sue notice from the California Civil Rights Division within three years of the events alleged herein.

12 4. Plaintiff has exhausted her administrative remedies by the timely submission of her
13 claims through the Labor and Workforce Development Agency less than one year after the events
14 alleged herein, providing notice of the same to all parties simultaneously, and the filing of this complaint
15 more than sixty-five days thereafter.

16 5. Venue is proper in this Court because, upon information and belief, one or more of the
17 named Defendants reside, transact business, or have offices in this county and the acts and omissions
18 alleged herein took place in this county.

19
20 **THE PARTIES**

21 6. Plaintiff, Tess Eileen Chrisman, has, at all times relevant to this action, resided in the
22 County of San Bernardino, California.

23 7. Defendant, Wal-Mart Associates, Inc. ("WALMART") was and is upon the information
24 and belief, a Delaware corporation doing business within the State of California as itself, and at all time
25 hereinafter mentioned, is an employer whose employees are engaged in commerce throughout this
26 county and the State of California.

27 8. Plaintiff is informed and believes that Defendant, Chris Alan Lucero Sr. ("LUCERO"),
28 has, at all times relevant to this action, resided in the County of San Bernardino, California.

1 9. Defendant, Ryan Bittle (“BITTLE”), has, at all times relevant to this action, resided in the
2 County of San Bernardino, California. Upon information and belief, at all times herein, BITTLE was a
3 managing agent for WALMART.

4 10. Plaintiff is unaware of the true names or capacities of the Defendants sued herein under
5 the fictitious names DOES 1–20 but prays for leave to amend and serve such fictitiously named
6 Defendants pursuant to *Code of Civil Procedure* § 474, once their names and capacities become known.

7 11. Plaintiff is informed and believes, and thereon alleges, that DOES 1–20 are the partners,
8 joint ventures, parent companies, owners, shareholders, or managers or employees of Defendants and,
9 therefore, were acting on behalf of Defendants.

10 12. WALMART, LUCERO, BITTLE and DOES 1-20 shall collectively be referred to as
11 “Defendants.”

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

15 14. Plaintiff is informed and believes, and thereon alleges, that each and all of the Acts and
16 omissions alleged herein were performed by, or are attributable to all Defendants, each acting as the
17 agent for the other, with legal authority to act on the other’s behalf. The acts of Defendants, and each of
18 them, were in accordance with and represent the official policy of Defendants.

19 15. Plaintiff is informed and believes, and thereon alleges, that at all times material hereto
20 and mentioned herein, each Defendant sued herein (both named and DOE Defendants 1-20) was the
21 expressly and/or implicitly authorized agent, business-entity agent, servant, employer, partner, joint
22 venturer, integrated enterprise, joint employer, business-entity employer, authorized agent, contractor,
23 contractee, partner, division owner, subsidiary, principal, division, alias, successor in interest, and/or
24 alter ego with and/or of each of the remaining Defendants and was, at all times material hereto, acting
25 within the purpose and scope of such agency, servitude, partnership, employment, integrated enterprise,
26 contract, venture, ownership, subsidiary, principal, alias, and/or alter ego and with the authority,
27 consent, approval, control, influence, and ratification of each remaining Defendant herein.

28 16. At all times herein mentioned, Defendants, and each of them, including DOES 1–20,

1 ratified each and every act or omission complained of herein, and/or committed such actions themselves
2 on behalf of themselves and/or, with authorization, on behalf of each other. At all times herein
3 mentioned, the Defendants, and each of them, engaged in acts alleged herein as the employer and/or as
4 an authorized business-entity employer (as defined by California *Government Code* §12926(d)), and/or,
5 at a minimum, aided and abetted the acts and omissions of each and all the other Defendants, in either
6 actually and/or proximately causing the damages herein alleged. Likewise, at all times herein mentioned,
7 Defendants, and each of them, aided and abetted the acts and omissions of each and all the other
8 Defendants in actually and/or proximately causing the damages herein alleged.

9
10 **FACTUAL ALLEGATIONS**

11 17. Defendant WALMART is a Delaware corporation authorized to conduct business in
12 California and operates a fulfillment center located at or near 6750 Kimball Avenue, Chino, California
13 91710. At all relevant times, WALMART employed five or more employees and was Plaintiff's
14 employer within the meaning of the Fair Employment and Housing Act ("FEHA"), *Government Code* §
15 12926(d).

16 18. At all relevant times, Defendant LUCERO was employed by WALMART and worked
17 with Plaintiff at its Chino fulfillment center. Defendant BITTLE was employed in WALMART's Asset
18 Protection department and was authorized to investigate employees, question employees, obtain and
19 communicate written statements, and participate in disciplinary and termination decisions. LUCERO,
20 BITTLE, WALMART's managers, Human Resources personnel, and DOES 1-20 acted as
21 WALMART's employees and agents and, where applicable, within the course and scope of their
22 employment. WALMART authorized, adopted, approved, and/or ratified their conduct.

23 19. WALMART hired Plaintiff on or around April 19, 2016. Plaintiff worked as a Picker,
24 Trainer, Seasonal Supervisor, Offline Associate, and Quality Assurance Specialist and/or Auditor. Her
25 duties included counting and auditing merchandise, verifying inventory, correcting inventory errors,
26 inspecting products, and removing damaged or expired merchandise throughout WALMART's multi-
27 level facility. Plaintiff was qualified for her positions, performed her duties competently, and received
28 no disciplinary write-ups while working in Quality Assurance.

1 20. Plaintiff is a woman and was protected from harassment, discrimination, and retaliation
2 based on her sex and/or gender, as well as retaliation for opposing and reporting conduct she reasonably
3 believed violated FEHA and other California laws.

4 21. In or around 2017, Plaintiff and LUCERO began a consensual romantic relationship that
5 later became abusive. During the relationship, LUCERO engaged in controlling, threatening, gender-
6 based, and physically violent conduct toward Plaintiff. LUCERO's offsite conduct led to Plaintiff's
7 reasonable apprehension of LUCERO's subsequent workplace conduct and the foreseeable risk of harm
8 she later reported to WALMART.

9 22. Through these and other acts, LUCERO intentionally caused Plaintiff to apprehend
10 imminent harmful and offensive contact and intentionally inflicted such contact upon her. LUCERO's
11 violence, threats, intimidation, and coercion were motivated, at least in substantial part, by Plaintiff's
12 sex and gender and were intended to control Plaintiff and interfere with her exercise of rights secured by
13 California law, including her rights to bodily autonomy, personal security, freedom from gender
14 violence, freedom from workplace harassment, and the right to report unlawful conduct, in violation of
15 *Civil Code* §§ 51.7 and 52.1.

16 23. After Plaintiff terminated and distanced herself from the relationship, LUCERO carried
17 his abuse into the workplace. LUCERO regularly followed, watched, stared at, and monitored Plaintiff
18 throughout WALMART's facility; deliberately entered and approached Plaintiff in her assigned work
19 areas; intentionally bumped into and made unwanted and offensive physical contact with her; and, while
20 in close proximity to Plaintiff, made movements and sounds as though he was preparing to spit on her.
21 By deliberately approaching, confronting, and physically intimidating Plaintiff in this manner, LUCERO
22 intended to, and did, cause Plaintiff to reasonably apprehend imminent harmful and offensive contact,
23 while appearing to possess the immediate ability to carry out such contact. LUCERO further
24 intentionally subjected Plaintiff to harmful and offensive bodily contact without her consent by
25 repeatedly bumping into and physically contacting her, thereby assaulting and battering Plaintiff in the
26 workplace.

27 24. Given LUCERO's history of physical violence, false accusations, and controlling
28 conduct, Plaintiff reasonably understood his workplace actions as continuing threats of violence

1 designed to intimidate and torment her. LUCERO's workplace conduct was sufficiently severe and
2 pervasive to alter the conditions of Plaintiff's employment and create a hostile, intimidating, abusive,
3 and offensive working environment. As a result of his workplace conduct, Plaintiff had difficulty
4 concentrating, regularly cried or felt on the verge of crying, left work early, used paid time off, and lost
5 working hours and income.

6 25. Multiple WALMART employees witnessed LUCERO following, staring at, stalking, and
7 intimidating Plaintiff. Plaintiff's co-worker expressed concern for Plaintiff's safety after witnessing
8 LUCERO stalking her and offered to provide information regarding his conduct.

9 26. In or around January 2023, after LUCERO approached Plaintiff at work and made a
10 snorting and spitting motion as though he intended to spit on her, Plaintiff reported the incident to
11 WALMART's Human Resources personnel. Plaintiff disclosed LUCERO's workplace stalking,
12 intimidation, unwanted physical contact, simulated spitting, and the prior abuse and violence that caused
13 her to reasonably fear further physical harm from him at work. Through these complaints, WALMART
14 was placed on actual notice of LUCERO's threatening, assaultive, battering, harassing, and gender-
15 based workplace conduct and the foreseeable risk of further workplace harm to Plaintiff.

16 27. Plaintiff further informed WALMART that she could not safely work near LUCERO,
17 was losing work and paid time because of his conduct, could not concentrate, and was regularly on the
18 verge of crying. At WALMART's request, Plaintiff submitted a written statement documenting
19 LUCERO's conduct. Plaintiff's oral and written complaints constituted protected opposition to and
20 reporting of conduct she reasonably believed constituted unlawful harassment, discrimination, threats,
21 violence, and unsafe working conditions.

22 28. Although WALMART represented that it would investigate Plaintiff's complaints and
23 suggested that she seek a restraining order, it failed to promptly investigate, question LUCERO, separate
24 the employees, discipline LUCERO, or otherwise protect Plaintiff from further workplace contact.
25 Despite actual notice of the threatening and violent conduct Plaintiff reported, WALMART continued to
26 employ LUCERO in the same working environment without taking effective corrective action, thereby
27 breaching its independent duty to exercise reasonable care to provide Plaintiff with a safe workplace and
28 protect her from foreseeable workplace harassment, assault, battery, intimidation, and physical harm.

1 29. As a result of WALMART's negligent acts and omissions, Plaintiff and LUCERO
2 continued working at the same facility, where LUCERO continued stalking, following, intimidating, and
3 making unwanted physical contact with Plaintiff. WALMART thereafter declined Plaintiff's request for
4 a workable transfer, enabling LUCERO's workplace misconduct to continue and directly and
5 proximately causing Plaintiff's resulting workplace-related injuries and damages.

6 30. On or around March 29, 2024, Plaintiff filed a Request for Domestic Violence
7 Restraining Order against LUCERO because of his continuing abuse, stalking, threats, and violence. In
8 or around June 2024, Plaintiff reported the continuing harassment to a WALMART Assistant General
9 Manager and requested a transfer because she could not safely continue working near LUCERO. The
10 Assistant General Manager offered only a night-shift position, despite Plaintiff explaining that she could
11 not work nights because she cared for her elderly mother. WALMART did not require LUCERO to
12 transfer or otherwise modify his assignment and instead placed the burden of avoiding the harasser upon
13 Plaintiff.

14 31. On or around November 28, 2024, Plaintiff again reported LUCERO's conduct to a
15 Human Resources Manager, directed her to the prior written complaint, and submitted another written
16 statement. Rather than protect Plaintiff, the Human Resources Manager instructed her to continue
17 working and ignore LUCERO. From approximately January through April 2025, Plaintiff attempted on
18 multiple occasions to report continuing incidents and follow up on WALMART's supposed
19 investigation, but Human Resources repeatedly refused or failed to meet with her.

20 32. During this period, LUCERO continued following, staring at, bumping into, entering the
21 work areas of, and intimidating Plaintiff in the presence of other employees. WALMART had actual and
22 constructive knowledge of the hostile, discriminatory, and unsafe working environment but failed to
23 take immediate and appropriate corrective action or reasonable steps to prevent and correct harassment,
24 discrimination, and retaliation as required by *Government Code* § 12940.

25 33. By retaining LUCERO in the same working environment, refusing Plaintiff a workable
26 transfer, disregarding her complaints and witnesses, and permitting the conduct to continue,
27 WALMART treated Plaintiff less favorably than LUCERO and subjected her to adverse terms and
28 conditions of employment because of her sex and gender.

1 34. Plaintiff also repeatedly complained about unsafe physical conditions at WALMART's
2 facility, including a broken gate used to cross a conveyor belt that had become excessively heavy
3 because its supporting shocks no longer functioned. Plaintiff warned WALMART's managers that
4 somebody would be injured if employees continued lifting it. Although management acknowledged the
5 condition, WALMART failed to promptly repair it and merely told Plaintiff to use another gate located a
6 substantial distance away, which interfered with her ability to satisfy WALMART's productivity
7 requirements.

8 35. Plaintiff's complaints concerning the defective gate, workplace violence, harassment,
9 stalking, threats, and other unsafe conditions constituted protected disclosures of working conditions and
10 suspected legal violations under *Labor Code* §§ 232.5, 1102.5, and 6310.

11 36. On or around June 20, 2025, Plaintiff, through counsel, filed with the Labor and
12 Workforce Development Agency and served WALMART with a written PAGA notice pursuant to
13 *Labor Code* § 2699.3, alleging wage-and-hour, recordkeeping, suitable-seating, warehouse-quota, and
14 workplace-safety violations, including unpaid wages, noncompliant meal and rest periods,
15 uncompensated security-screening and travel time, inaccurate wage statements and records, excessively
16 heavy module doors, restricted restroom access, and unsafe workplace temperatures. The notice placed
17 WALMART on actual notice that Plaintiff was reporting suspected Labor Code and occupational-safety
18 violations and asserting protected statutory rights on behalf of herself and other aggrieved employees
19 and constituted protected activity under *Labor Code* § 98.6.

20 37. On or around September 9, 2025, approximately 81 days after Plaintiff filed and served
21 her PAGA notice, BITTLE summoned her to a conference room. BITTLE questioned Plaintiff
22 concerning damaged merchandise and whether she had ever consumed any such merchandise. Plaintiff
23 truthfully explained that, when she first began working for WALMART approximately nine years
24 earlier, she had chewed a piece of gum from previously opened or damaged merchandise on one or two
25 occasions but had not repeated the conduct after learning it could result in termination. BITTLE's
26 investigation occurred within 90 days of Plaintiff's protected activity under *Labor Code* § 98.6.

27 38. BITTLE directed Plaintiff to prepare a written statement, which expressly explained that
28 the incident had occurred approximately nine years earlier. Nevertheless, BITTLE and WALMART

1 characterized it as current and/or recently discovered “gross misconduct,” suspended Plaintiff,
2 confiscated her badge, escorted her to her locker, and required her to remove her belongings. Although
3 BITTLE told Plaintiff not to worry and represented that she could return the following Monday, Plaintiff
4 was terminated the next day, on or around September 10, 2025, approximately 82 days after she filed
5 and served her PAGA notice. Because WALMART investigated, suspended, removed, and terminated
6 Plaintiff within 90 days of her protected activity, a rebuttable presumption exists in favor of Plaintiff’s
7 retaliation claim pursuant to *Labor Code* § 98.6(b)(1).

8 39. WALMART’s separation notice stated that Plaintiff had been terminated for consuming
9 previously opened candy and bubblegum. The notice omitted that the alleged conduct had occurred
10 approximately nine years earlier and falsely conveyed that Plaintiff had recently consumed merchandise,
11 engaged in ongoing misconduct, and/or committed theft or dishonesty. Plaintiff had not recently
12 consumed or stolen WALMART merchandise, had worked approximately nine years without repeating
13 the conduct, and had no disciplinary history for theft, dishonesty, or similar misconduct.

14 40. WALMART’s reliance upon the remote incident was pretextual and was used to conceal
15 its discriminatory and retaliatory motives. The investigation, suspension, and termination followed
16 Plaintiff’s repeated complaints of sex-and-gender-based harassment, requests for protection and transfer,
17 safety complaints, written complaints, and statutory *Labor Code* notice.

18 41. BITTLE knew Plaintiff had limited her statement to conduct occurring approximately
19 nine years earlier but nevertheless communicated to Human Resources, management, and other
20 WALMART personnel that Plaintiff had engaged in gross misconduct, improperly consumed
21 merchandise, and/or stolen merchandise. WALMART published and maintained information in its
22 employment systems stating that Plaintiff had been terminated for misconduct, and a WALMART
23 employee later encountered such information on a WALMART work computer.

24 42. The accusation thereafter spread among WALMART employees. Plaintiff was informed
25 that employees were gossiping that she had been terminated for stealing and that LUCERO was
26 spreading the accusation. The statements that Plaintiff had recently stolen merchandise or engaged in
27 current gross misconduct were false, and LUCERO, BITTLE, WALMART, and applicable DOES knew
28 they were false or misleading, lacked reasonable grounds to believe them, and/or acted with reckless

1 disregard for the truth.

2 43. Defendants excessively published and republished the accusations to justify Plaintiff's
3 termination, discredit her complaints, damage her reputation, and conceal their discriminatory and
4 retaliatory conduct. The statements injured Plaintiff in her occupation by portraying her as dishonest,
5 untrustworthy, and unfit for employment.

6 44. Plaintiff's suspension, removal from the workplace, publication of accusations of theft
7 and misconduct, refusal to reinstate her, and termination constituted adverse employment actions. Her
8 complaints concerning LUCERO, requests for protection and transfer, opposition to WALMART's
9 failure to correct the hostile environment, safety disclosures, and statutory *Labor Code* notice were
10 substantial motivating reasons for those actions.

11 45. WALMART thereby retaliated against Plaintiff in violation of *Government Code* §
12 12940(h) and *Labor Code* §§ 98.6, 232.5, 1102.5, and 6310. WALMART's termination of Plaintiff
13 further violated the fundamental public policies embodied in those statutes, *Civil Code* §§ 51.7 and 52.1,
14 and California's policies favoring workplaces free from discrimination, harassment, retaliation, violence,
15 and unsafe working conditions.

16 46. Despite repeated notice, WALMART failed to protect Plaintiff, separate her from
17 LUCERO, investigate known witnesses, prevent further workplace harassment, or impose appropriate
18 discipline. By allowing LUCERO's workplace conduct to continue, instructing Plaintiff to ignore him,
19 refusing her a workable transfer, and ultimately terminating Plaintiff, WALMART authorized,
20 condoned, adopted, and ratified the hostile and threatening working environment LUCERO created.

21 47. WALMART likewise adopted and ratified BITTLE's conduct by accepting his
22 misleading characterization of Plaintiff's statement, relying upon it to terminate her, publishing the
23 resulting accusations, and refusing to correct or retract them after Plaintiff challenged the termination.

24 48. LUCERO's workplace conduct was intentional, malicious, oppressive, extreme, and
25 outrageous. WALMART knew of LUCERO's workplace stalking, intimidation, unwanted physical
26 contact, and the reported history of violence that made further harm foreseeable, but failed to take
27 effective corrective action. WALMART and BITTLE further knew that subjecting Plaintiff to a
28 pretextual investigation, falsely branding her as a thief, and terminating her employment would cause

severe emotional distress.

49. As a direct and proximate result of Defendants' actionable workplace and employment-related conduct, Plaintiff suffered and continues to suffer lost wages, benefits, and earning capacity; damage to her professional and personal reputation; humiliation; embarrassment; anxiety; depression; sleeplessness; diminished appetite; weight loss; social isolation; loss of self-esteem; and fear for her safety in the workplace. Plaintiff has required medication and medical care for emotional distress caused by LUCERO's workplace conduct, WALMART's failure to protect her, and Defendants' investigation, suspension, defamatory accusations, and termination of her employment.

50. Defendants acted with malice, oppression, and fraud and with a willful and conscious disregard for Plaintiff's rights and safety. WALMART's officers, directors, and managing agents authorized, adopted, and/or ratified the wrongful conduct alleged herein, thereby entitling Plaintiff to punitive and exemplary damages.

FIRST CAUSE OF ACTION

HARASSMENT BASED ON SEX AND/OR GENDER

(Against WALMART, LUCERO and DOES 1-20)

51. As a separate and distinct cause of action, Plaintiff complains and realleges all the allegations contained in this complaint and incorporates them by reference into this cause of action as though fully set forth herein, excepting those allegations which are inconsistent with this cause of action.

52. At all times relevant herein, the FEHA, including *Government Code* § 12940(j), prohibited workplace harassment based on an employee's sex and/or gender. FEHA further imposes personal liability upon an employee who personally engages in unlawful harassment.

53. At all times relevant herein, the actions of Defendants, as described in this Complaint, constitute unlawful harassment on the basis of Plaintiff's sex and/or gender in violation of *Government Code* § 12940 et. seq. Such harassment by Defendants created a hostile, intimidating, and oppressive work environment for Plaintiff, whereby the conditions of her employment were adversely altered. Moreover, the harassment impeded Plaintiff's progress and the enjoyment of her employment.

54. WALMART knew or should have known of LUCERO's unlawful harassment but failed

1 to take immediate and appropriate corrective action. Plaintiff repeatedly placed WALMART's Human
2 Resources personnel and management on actual notice of LUCERO's stalking, intimidation, unwanted
3 physical contact, prior violence and gender-based conduct through oral complaints, written statements
4 and requests for protection and transfer. Despite such notice, WALMART failed to promptly and
5 meaningfully investigate Plaintiff's complaints, separate Plaintiff and LUCERO, discipline LUCERO,
6 provide Plaintiff with a workable transfer or otherwise prevent the harassment from continuing.
7 WALMART's negligent failure to prevent and correct LUCERO's known misconduct enabled the
8 hostile working environment to continue. LUCERO is personally liable for the harassment he
9 perpetrated, and WALMART is liable for knowingly failing to take immediate and appropriate
10 corrective action.

11 55. As a direct and proximate result of Defendants' conduct, Plaintiff has suffered and
12 continues to suffer actual, consequential and incidental financial losses, including without limitation,
13 loss of income, earnings, salary and benefits, and the intangible loss of employment related
14 opportunities in her field and damage to her professional reputation, the exact amount of which is not yet
15 known and will be shown according to proof at the time of trial. Plaintiff also claims such amounts as
16 damages pursuant to *Civil Code* §§ 3287, 3288 and/or any other laws providing for prejudgment interest.

17 56. As a direct and proximate result of Defendants' conduct, Plaintiff has sustained and
18 continues to suffer severe and serious emotional distress and physical injuries, including, but not limited
19 to, emotional trauma, physical manifestations of emotional distress, personal injuries, pain and suffering,
20 personal inconvenience, sickness and illness, all to Plaintiff's damages in an amount to be shown
21 according to proof.

22 57. The conduct of Defendants in harassing Plaintiff because of her sex and/or gender
23 subjected Plaintiff to cruel and unjust hardship in conscious disregard of Plaintiff's rights, as it was
24 anticipated by Defendants that Plaintiff would suffer damages in the foreseeable future. Plaintiff is
25 informed and believes, and based thereon alleges, that Defendants' conduct against Plaintiff was done
26 with an intent to cause injury to the Plaintiff. As a consequence of the aforesaid oppressive, malicious
27 and/or fraudulent conduct, Plaintiff is entitled to an award of punitive damages in a sum to be shown
28 according to proof pursuant to California *Government Code* §§ 12965 & 12970.

1 58. Plaintiff has incurred and continues to incur legal expenses and attorneys' fees which she
2 is entitled to recover pursuant to California *Government Code* § 12965.

3
4 **SECOND CAUSE OF ACTION**

5 **DISCRIMINATION BASED ON SEX AND/OR GENDER**

6 **(Against WALMART and DOES 1-20)**

7 59. As a separate and distinct cause of action, Plaintiff complains and realleges all the
8 allegations contained in this complaint and incorporates them by reference into this cause of action as
9 though fully set forth herein, excepting those allegations which are inconsistent with this cause of action.

10 60. Plaintiff is a woman and is protected from discrimination based on her sex and/or gender.
11 At all relevant times, Plaintiff was qualified for her position and competently performed her duties for
12 WALMART.

13 61. The discrimination by Defendants, as described herein and above, created a hostile,
14 intimidating, and oppressive work environment for Plaintiff, whereby the conditions of her employment
15 were adversely altered. Further, the discrimination impeded Plaintiff's progress and the enjoyment of
16 her employment with Defendants. The discriminatory work environment existed on a continuing and
17 ongoing basis up to Plaintiff's termination.

18 62. At all times, Defendants knew, or should have known, that the conduct, acts, and failures
19 to act of Defendants and/or its employees, as described herein above, violated Plaintiff's rights under the
20 law. Likewise, Defendants knew, or in the exercise of reasonable care should have known, that unless
21 Defendants intervened to protect Plaintiff, and to adequately supervise, prohibit, discipline, and/or
22 otherwise penalize the conduct, acts, and failures to act of Defendants and others as described herein,
23 Defendants' failure to so protect, supervise, and intervene would have the effect of encouraging,
24 ratifying, condoning, increasing and/or worsening said conduct, acts, and failures to act. Defendants
25 failed to take such action and, thus, such ratification resulted.

26 63. By engaging in the above-referenced acts and omissions stated herein, Defendants
27 discriminated against Plaintiff on account of her sex and/or gender in violation of the FEHA and
28 California *Government Code* § 12940 et seq.

64. As a direct and proximate result of Defendants' conduct, Plaintiff has suffered and continues to suffer actual, consequential and incidental financial losses, including without limitation, loss of income, earnings, salary and benefits, and the intangible loss of employment related opportunities in her field and damage to her professional reputation, the exact amount of which is not yet known and will be shown according to proof at the time of trial. Plaintiff also claims such amounts as damages pursuant to *Civil Code* §§ 3287, 3288 and/or any other laws providing for prejudgment interest.

65. As a direct and proximate result of Defendants' conduct, Plaintiff has sustained and continues to suffer severe and serious emotional distress and physical injuries, including, but not limited to, emotional trauma, physical manifestations of emotional distress, personal injuries, pain and suffering, personal inconvenience, sickness and illness, all to Plaintiff's damages in an amount to be shown according to proof.

66. The conduct of Defendants in discriminating against Plaintiff because of her sex and/or gender subjected Plaintiff to cruel and unjust hardship in conscious disregard of Plaintiff's rights, as it was anticipated by Defendants that Plaintiff would suffer damages in the foreseeable future. Plaintiff is informed and believes, and based thereon alleges, that Defendants' conduct against Plaintiff was done with an intent to cause injury to the Plaintiff. As a consequence of the aforesaid oppressive, malicious and/or fraudulent conduct, Plaintiff is entitled to an award of punitive damages in a sum to be shown according to proof pursuant to *Government Code* §§ 12965 & 12970.

67. Plaintiff has incurred and continues to incur legal expenses and attorneys' fees which she is entitled to recover pursuant to California *Government Code* § 12965.

THIRD CAUSE OF ACTION
RETALIATION IN VIOLATION OF FEHA
(Against WALMART and DOES 1-20)

68. As a separate and distinct cause of action, Plaintiff complains and realleges all the allegations contained in this complaint and incorporates them by reference into this cause of action as though fully set forth herein, excepting those allegations which are inconsistent with this cause of action.

69. Plaintiff engaged in protected activity under FEHA by orally and in writing reporting and

opposing LUCERO's sex- and gender-based harassment, stalking, intimidation, unwanted physical contact and threatening conduct; requesting that WALMART investigate and protect her from LUCERO; requesting separation from LUCERO and a workable transfer; and repeatedly opposing WALMART's failure to prevent and correct the hostile working environment. Plaintiff reasonably believed the conduct she reported and opposed violated FEHA, and WALMART knew of Plaintiff's protected complaints and requests.

70. In retaliation for Plaintiff's protected activity, WALMART failed to take effective corrective action, refused to provide Plaintiff with a workable transfer, continued to require her to work in proximity to LUCERO, disregarded her repeated oral and written complaints, subjected her to a pretextual investigation, suspended her, confiscated her badge, removed her from the workplace, published and maintained accusations that she had engaged in theft and/or gross misconduct, refused to reinstate her and terminated her employment. Plaintiff's protected complaints and opposition were substantial motivating reasons for these materially adverse employment actions, in violation of *Government Code* § 12940(h).

71. As a direct and proximate result of Defendants' conduct, Plaintiff has suffered and continues to suffer actual, consequential and incidental financial losses, including without limitation, loss of income, earnings, salary and benefits, and the intangible loss of employment related opportunities in her field and damage to her professional reputation, the exact amount of which is not yet known and will be shown according to proof at the time of trial. Plaintiff also claims such amounts as damages pursuant to *Civil Code* §§ 3287, 3288 and/or any other laws providing for prejudgment interest.

72. As a direct and proximate result of Defendants' conduct, Plaintiff has sustained and continues to suffer severe and serious emotional distress and physical injuries, including, but not limited to, emotional trauma, physical manifestations of emotional distress, personal injuries, pain and suffering, personal inconvenience, sickness and illness, all to Plaintiff's damages in an amount to be shown according to proof.

73. The conduct of Defendants in retaliating against Plaintiff subjected Plaintiff to cruel and unjust hardship in conscious disregard of Plaintiff's rights, as it was anticipated by Defendants that Plaintiff would suffer damages in the foreseeable future. Plaintiff is informed and believes, and based

thereon alleges, that Defendants' conduct against Plaintiff was done with an intent to cause injury to Plaintiff. Moreover, the malicious, fraudulent and/or oppressive conduct was engaged in, authorized or ratified by officers, directors or managing agents of the corporation and/or was the result of the application of unlawful, malicious or oppressive policies and procedures. As a consequence of the aforesaid oppressive, malicious, and despicable conduct, Plaintiff is entitled to an award of punitive damages in a sum to be shown according to proof pursuant to *Government Code* §§ 12965 & 12970.

74. Plaintiff has incurred and continues to incur legal expenses and attorneys' fees which she is entitled to recover pursuant to *Government Code* § 12965.

FOURTH CAUSE OF ACTION

FAILURE TO TAKE ALL REASONABLE STEPS TO PREVENT AND/OR REMEDY HARASSMENT, DISCRIMINATION AND/OR RETALIATION

(Against WALMART and DOES 1-20)

75. As a separate and distinct cause of action, Plaintiff complains and realleges all the allegations contained in this complaint and incorporates them by reference into this cause of action as though fully set forth herein, excepting those allegations which are inconsistent with this cause of action.

76. *Government Code* § 12940(k) required WALMART to take all reasonable steps necessary to prevent discrimination, harassment and retaliation from occurring in the workplace. *Government Code* § 12940(j) further required WALMART, upon knowing or having reason to know of harassment by a nonsupervisory employee, to take immediate and appropriate corrective action. WALMART failed to satisfy these obligations.

77. Plaintiff repeatedly placed WALMART's Human Resources personnel and management on actual notice that LUCERO was stalking, following, intimidating, physically contacting and subjecting her to threatening and gender-based conduct in the workplace. Plaintiff submitted oral and written complaints, identified witnesses, requested protection and sought a workable transfer because she could not safely continue working near LUCERO.

78. Despite its actual and constructive knowledge of LUCERO's conduct and the foreseeable risk of further harm, WALMART failed to promptly and meaningfully investigate Plaintiff's complaints,

1 question or adequately discipline LUCERO, separate the employees, provide Plaintiff with a workable
2 transfer or otherwise take effective corrective action. Instead, WALMART instructed Plaintiff to
3 continue working and ignore LUCERO, permitted him to remain in the same working environment and
4 allowed his harassment, intimidation and unwanted physical contact to continue.

5 79. WALMART further failed to prevent discrimination, harassment and retaliation against
6 Plaintiff after she opposed and reported LUCERO's conduct. Rather than protect Plaintiff and remedy
7 the hostile working environment, WALMART disregarded her repeated complaints, treated LUCERO
8 more favorably, subjected Plaintiff to a pretextual investigation, suspended her, removed her from the
9 workplace, published and maintained accusations of theft and/or gross misconduct and terminated her
10 employment. WALMART thereby failed to take all reasonable steps necessary to prevent and correct
11 harassment, discrimination and retaliation in violation of *Government Code* § 12940(k).

12 80. As a direct, legal and/or proximate result of the aforesaid acts of Defendants, Plaintiff has
13 suffered actual, consequential and incidental financial losses, including without limitation, loss of
14 income, earnings, salary and benefits, and the intangible loss of employment-related opportunities
15 in Plaintiff's field and damage to Plaintiff's professional reputation, all in an amount subject to proof at
16 the time of trial. Plaintiff claims such amounts as damages, including all prejudgment interest on the
17 same.

18 81. As a direct, legal and/or proximate result of Defendants' conduct, Plaintiff has sustained
19 and continues to suffer emotional distress and physical harm, including related physical and
20 emotional trauma, pain and suffering, personal injury, physical injuries, personal inconvenience,
21 sickness and illness, etc. all to Plaintiff's damages in an amount to be shown according to proof.

22 82. The conduct of Defendants in failing to prevent discrimination, harassment and/or
23 retaliation in the workplace subjected Plaintiff to cruel and unjust hardship in conscious disregard of
24 Plaintiff's rights, as it was anticipated by Defendants that Plaintiff would suffer damages in the
25 foreseeable future. Plaintiff is informed and believes, and based thereon alleges, that Defendants'
26 conduct against Plaintiff was done with an intent to cause injury to Plaintiff. Moreover, the malicious,
27 fraudulent and/or oppressive conduct was engaged in, authorized or ratified by officers, directors or
28 managing agents of the corporation and/or was the result of the application of unlawful, malicious or

1 oppressive policies and procedures. As a consequence of the aforesaid oppressive, malicious, and
2 despicable conduct, Plaintiff is entitled to an award of punitive damages in a sum to be shown according
3 to proof pursuant to *Government Code* §§ 12965 & 12970.

4 83. Plaintiff has incurred and continues to incur legal expenses and attorneys' fees
5 which she is entitled to recover pursuant to *Government Code* § 12965.

6
7 **FIFTH CAUSE OF ACTION**

8 **ASSAULT**

9 **(Against WALMART, LUCERO and DOES 1-20)**

10 84. As a separate and distinct cause of action, Plaintiff complains and realleges all the
11 allegations contained in this complaint and incorporates them by reference into this cause of action as
12 though fully set forth herein, excepting those allegations which are inconsistent with this cause of action.

13 85. At all times herein, California *Civil Code* § 43 provides that "every person has, subject to
14 the qualifications and restrictions provided by law, the right of protection from bodily restraint or harm,
15 from personal insult, from defamation, and from injury to [his] personal relations." At all times,
16 WALMART failed to provide a workplace free from violence and bodily harm, thereby denying
17 Plaintiff protection in any way against assault, battery, violence and/or continued risks of workplace
18 violence in direct violation of California *Civil Code* § 43.

19 86. LUCERO intentionally engaged in acts designed to threaten, intimidate and cause
20 Plaintiff to apprehend imminent harmful and offensive bodily contact. Among other conduct, LUCERO
21 deliberately approached and confronted Plaintiff in close proximity, followed and cornered her
22 throughout WALMART's facility, physically intimidated her and made movements and sounds as
23 though he was preparing to spit on, strike or otherwise physically contact her.

24 87. LUCERO attacked and assaulted Plaintiff, while WALMART encouraged, enabled
25 and/or ratified such conduct during the course of Plaintiff's employment with WALMART.

26 88. As alleged herein, on his own behalf and as an employee of WALMART, LUCERO
27 acted with intent to threaten Plaintiff with an imminent harmful or offensive bodily contact and caused
28 Plaintiff a reasonable apprehension of such contact.

1 89. As alleged herein, WALMART, by and through its managers and Human Resources
2 personnel, ratified the conduct of LUCERO by allowing LUCERO's threatening, intimidating and
3 assaultive behavior in the workplace to proceed after receiving actual notice of such conduct and by
4 failing to adequately supervise, control and discipline him. The above said acts of LUCERO, and
5 WALMART's inaction despite its knowledge of the threatening and violent workplace conduct Plaintiff
6 reported, together with the prior abuse and violence Plaintiff disclosed as context for the foreseeable risk
7 of workplace harm, were a proximate cause of Plaintiff's workplace-related damage as stated below.
8 The damage allegations above, inclusive, are herein incorporated by reference.

9 90. By the aforesaid acts and conduct of LUCERO and WALMART, Plaintiff has been
10 directly and legally caused to suffer actual damages pursuant to California *Civil Code* § 3333, including,
11 but not limited to, attorneys' fees and other pecuniary loss not presently ascertained, for which Plaintiff
12 will seek leave of Court to amend when ascertained.

13 91. As a direct and legal result of LUCERO's workplace assaultive conduct and
14 WALMART's acts and omissions after receiving actual notice thereof, Plaintiff suffered shock, pain,
15 discomfort, anxiety and other psychological and/or emotional distress. The exact nature and extent of
16 said injuries are not known to the Plaintiff, who will pray leave of Court to insert the same when they
17 are ascertained. Plaintiff does not at this time know the exact duration or permanence of said injuries,
18 but is informed and believes, and thereon alleges, that some of the said injuries are reasonably certain to
19 be permanent in character.

20 92. As a direct and proximate result of LUCERO's workplace assaultive conduct and
21 WALMART's actionable workplace acts and omissions, including its failure to protect Plaintiff after
22 receiving actual notice of such conduct, Plaintiff has sustained and continues to suffer severe and serious
23 emotional and physical distress, including, but not limited to, emotional trauma, physical manifestations
24 of emotional distress, personal injuries, pain and suffering, personal inconvenience, sickness and illness,
25 all to Plaintiff's damages in an amount to be shown according to proof.

26 93. The conduct of LUCERO in assaulting Plaintiff, and the conduct of WALMART in
27 knowingly enabling, condoning, authorizing and/or ratifying LUCERO's workplace assaultive conduct
28 after receiving actual notice thereof, subjected Plaintiff to cruel and unjust hardship in conscious

1 disregard of Plaintiff's rights, as it was anticipated by Defendants that Plaintiff would suffer damages in
2 the foreseeable future. Plaintiff is informed and believes, and based thereon alleges, that Defendants'
3 conduct against Plaintiff was done with an intent to cause injury to Plaintiff. Moreover, LUCERO's
4 malicious, fraudulent and/or oppressive conduct, and WALMART's authorization or ratification of the
5 workplace conduct through its officers, directors or managing agents, were the result of unlawful,
6 malicious, or oppressive policies and conduct. As a consequence of the aforesaid oppressive, malicious,
7 and despicable conduct, Plaintiff is entitled to an award of punitive damages against Defendants in a
8 sum to be shown according to proof at trial pursuant to *Civil Code* § 3294.

9 94. Plaintiff has incurred and continues to incur legal expenses and Attorney's fees which she
10 is entitled to recover pursuant to *Civil Code* § 52.1(i) and/or *Code of Civil Procedure* § 1021.5.

11 **SIXTH CAUSE OF ACTION**

12 **BATTERY**

13 **(Against WALMART, LUCERO and DOES 1-20)**

14 95. As a separate and distinct cause of action, Plaintiff complains and realleges all the
15 allegations contained in this complaint and incorporates them by reference into this cause of action as
16 though fully set forth herein, excepting those allegations which are inconsistent with this cause of action.

17 96. At all times herein, California *Civil Code* § 43 provides that "every person has, subject to
18 the qualifications and restrictions provided by law, the right of protection from bodily restraint or harm,
19 from personal insult, from defamation, and from injury to [his] personal relations." At all times,
20 WALMART failed to provide a workplace free from violence and bodily harm, thereby denying
21 Plaintiff protection in any way against assault, battery, violence and/or continued risks of workplace
22 violence in direct violation of California *Civil Code* § 43.

23 97. At all times, WALMART's refusal to take corrective action and provide protection from
24 assault, battery and/or potential continued acts of threatened workplace violence, including additional
25 assaults and/or batteries, violates the law because Plaintiff was acting during the course and scope of her
26 employment when she was subjected to such unlawful conduct.
27
28

1 98. LUCERO attacked, assaulted and battered Plaintiff and is directly liable for the harmful
2 and offensive contacts he intentionally inflicted upon her. In doing the acts herein alleged, LUCERO
3 acted with the intent to cause harmful and offensive contacts and did cause such harmful or offensive
4 contacts. Said offensive contact included, but was not limited to, LUCERO repeatedly pushing, kicking,
5 striking, intentionally bumping into and otherwise physically contacting Plaintiff, including while
6 Plaintiff was performing her duties at WALMART. At no time did Plaintiff solicit or consent to such
7 harmful contacts and/or battery. As to WALMART, its alleged liability arises from LUCERO's harmful
8 and offensive workplace contacts and WALMART's knowing authorization, enabling and/or ratification
9 of such workplace conduct after receiving actual notice thereof.

10 99. As alleged herein, WALMART, by and through its managers and Human Resources
11 personnel, encouraged, enabled and/or ratified the conduct of LUCERO by allowing LUCERO's
12 threatening, violent and battering conduct in the workplace to proceed despite advance knowledge of the
13 workplace misconduct and prior abuse and violence Plaintiff reported, which made further workplace
14 harm foreseeable, and by failing to supervise, control and discipline LUCERO so as to prevent such
15 workplace acts from continuing and reoccurring.

16 100. By the aforesaid acts and conduct of LUCERO, together with WALMART's actionable
17 workplace acts, omissions and ratification of LUCERO's workplace conduct, Plaintiff has been directly
18 and legally caused to suffer actual damages pursuant to California *Civil Code* § 3333, including, but not
19 limited to, medical bills, attorneys' fees, and other pecuniary loss not presently ascertained, for which
20 Plaintiff will seek leave of Court to amend when ascertained.

21 101. As a direct and proximate result of LUCERO's harmful and offensive workplace contacts
22 and WALMART's actionable workplace conduct after receiving notice thereof, Plaintiff has sustained
23 and continues to suffer severe and serious emotional and physical distress, including, but not limited to,
24 emotional trauma, physical manifestations of emotional distress, personal injuries, physical injuries, pain
25 and suffering, personal inconvenience, sickness and illness, all to Plaintiff's damages in an amount to be
26 shown according to proof.

27 102. As a further direct and legal result of LUCERO's workplace conduct and WALMART's
28 failure to protect Plaintiff from further workplace contact after receiving actual notice, Plaintiff has been

1 caused, and did suffer, and continues to suffer, severe and permanent emotional and mental distress,
2 anguish, humiliation, embarrassment, fright, shock, pain, discomfort, and anxiety. The exact nature and
3 extent of said injuries is presently unknown to Plaintiff, who will pray leave of Court to assert the same
4 when they are ascertained. As to WALMART, the injuries alleged herein arise from the workplace
5 conduct and employment-related acts and omissions attributed to WALMART, rather than solely from
6 LUCERO's private, off-duty conduct.

7 103. The conduct of LUCERO in battering Plaintiff, and the conduct of WALMART in
8 knowingly encouraging, enabling, authorizing and/or ratifying LUCERO's workplace battery after
9 receiving actual notice thereof, subjected Plaintiff to cruel and unjust hardship in conscious disregard of
10 Plaintiff's rights, as it was anticipated by Defendants that Plaintiff would suffer damages in the
11 foreseeable future. Plaintiff is informed and believes, and based thereon alleges, that Defendants'
12 conduct against Plaintiff was done with an intent to cause injury to Plaintiff. Moreover, LUCERO's
13 malicious, fraudulent and/or oppressive conduct, and WALMART's authorization or ratification of the
14 workplace conduct through its officers, directors or managing agents, were the result of unlawful,
15 malicious, or oppressive policies and conduct. As a consequence of the aforesaid oppressive, malicious,
16 and despicable conduct, Plaintiff is entitled to an award of punitive damages against Defendants in a
17 sum to be shown according to proof at trial pursuant to *Civil Code* § 3294.

18 104. Plaintiff has incurred and continues to incur legal expenses and Attorney's fees which she
19 is entitled to recover pursuant to *Civil Code* § 52.1(i) and/or *Code of Civil Procedure* § 1021.5.

20
21 **SEVENTH CAUSE OF ACTION**

22 **VIOLATION OF *CIVIL CODE* § 51.7**

23 **(Against WALMART, LUCERO and DOES 1-20)**

24 105. As a separate and distinct cause of action, Plaintiff complains and realleges all the
25 allegations contained in this complaint and incorporates them by reference into this cause of action as
26 though fully set forth herein, excepting those allegations which are inconsistent with this cause of action.

27 106. At all times herein, California *Civil Code* § 43 provides that "every person has, subject to
28 the qualifications and restrictions provided by law, the right of protection from bodily restraint or harm,

1 from personal insult, from defamation, and from injury to her personal relations.”

2 107. At all times relevant hereto, *Civil Code* § 51.7 was in full force and effect, and binding on
3 Defendants, including WALMART, LUCERO and DOES 1-20, and provides that all persons within the
4 jurisdiction of this state have the right to be free from any violence, or intimidation by threat of violence,
5 committed against their persons or property because of political affiliation, or on account of any
6 characteristic listed or defined in subdivision (b) or (e) of Section 51 [inclusive of sex and/or gender], or
7 because another person perceives them to have one or more of those characteristics. The identification in
8 this subdivision of particular bases of discrimination is illustrative rather than restrictive.

9 108. At all times, LUCERO’s acts of violence and intimidation by threat of violence against
10 Plaintiff because of her sex and/or gender violated *Civil Code* § 51.7. WALMART’s alleged liability
11 arises from its conduct after receiving actual notice of LUCERO’s workplace violence and intimidation,
12 including its knowing refusal to take effective corrective action and its encouragement, enabling,
13 authorization and/or ratification of LUCERO’s continued workplace conduct. Plaintiff was acting during
14 the course and scope of her employment when she was subjected to such workplace conduct. As
15 described herein, LUCERO engaged in acts of assault and battery against Plaintiff in the workplace
16 because of her sex and/or gender. Thereafter, WALMART failed to provide a workplace free from
17 violence and bodily harm as related to Plaintiff’s sex and/or gender, despite actual notice of LUCERO’s
18 violent and threatening workplace conduct, thereby denying Plaintiff protection against violence and
19 continued risks of workplace violence pertaining to her sex and/or gender, all in direct violation of
20 California *Civil Code* §§ 43 & 51.7.

21 109. The Constitution and laws of both the United States and California protect the rights of
22 an individual to be employed and work in an environment free of workplace violence, threats of
23 violence and/or harassment. As alleged hereinabove, LUCERO violated Plaintiff’s rights by directly
24 committing violence and intimidation by threat of violence against her because of her sex and/or gender.
25 WALMART and DOES 1-20 further violated and interfered with Plaintiff’s rights by knowingly
26 permitting, encouraging, enabling and/or ratifying LUCERO’s workplace conduct after receiving actual
27 notice thereof and by punishing Plaintiff for reporting and resisting that conduct. WALMART and
28 DOES 1-20 retaliated against and wrongfully terminated Plaintiff, at least in part, for reporting, resisting

1 and/or complaining of LUCERO's unlawful assault, battery and other violent acts in the workplace.

2 110. As a direct and proximate result of LUCERO's violence and intimidation by threat of
3 violence and WALMART's actionable workplace and employment-related conduct, Plaintiff has
4 suffered and continues to suffer actual, consequential and incidental financial losses, including without
5 limitation, loss of income, earnings, salary and benefits, and the intangible loss of employment related
6 opportunities in her field and damage to her professional reputation, the exact amount of which is not yet
7 known and will be shown according to proof at the time of trial. Plaintiff also claims such amounts as
8 damages pursuant to *Civil Code* §§ 3287, 3288 and/or any other laws providing for prejudgment interest,
9 all in an amount according to proof.

10 111. As a direct and proximate result of LUCERO's workplace violence and intimidation and
11 WALMART's failure to protect Plaintiff after notice, retaliation and termination, Plaintiff has sustained
12 and continues to suffer severe and serious emotional distress and physical injuries, including, but not
13 limited to, emotional trauma, physical manifestations of emotional distress, personal injuries, pain and
14 suffering, personal inconvenience, humiliation, anxiety, depression, embarrassment, loss of enjoyment,
15 sickness and illness, etc., all to Plaintiff's damages in an amount to be shown according to proof. As to
16 WALMART, Plaintiff's emotional-distress damages arise from the actionable workplace and
17 employment-related conduct alleged herein.

18 112. The conduct of LUCERO in committing violence and intimidation by threat of violence
19 against Plaintiff because of her sex and/or gender, and the conduct of WALMART and DOES 1-20 in
20 knowingly encouraging, enabling, authorizing and/or ratifying LUCERO's workplace conduct after
21 actual notice thereof, subjected Plaintiff to cruel and unjust hardship in conscious disregard of Plaintiff's
22 rights, as it was anticipated by Defendants that Plaintiff would suffer damages in the foreseeable future.
23 Plaintiff is informed and believes, and based thereon alleges, that Defendants' conduct against Plaintiff
24 was done with an intent to cause injury to Plaintiff. Moreover, LUCERO's malicious, fraudulent and/or
25 oppressive conduct, and WALMART's authorization or ratification of the workplace and employment-
26 related conduct through its officers, directors or managing agents, were the result of the application of
27 unlawful, malicious or oppressive policies and procedures. As a consequence of the aforesaid
28 oppressive, malicious, and despicable conduct, Plaintiff is entitled to an award of punitive damages in a

1 sum to be shown according to proof pursuant to *Civil Code* § 3294.

2 113. Plaintiff has incurred and continues to incur legal expenses and Attorney's fees which she
3 is entitled to recover pursuant to *Civil Code* § 52.1(i) and/or *Code of Civil Procedure* § 1021.5.

4
5 **EIGHTH CAUSE OF ACTION**

6 **VIOLATION OF *CIVIL CODE* § 52.1**

7 **(Against WALMART, LUCERO and DOES 1-20)**

8 114. As a separate and distinct cause of action, Plaintiff complains and realleges all the
9 allegations contained in this complaint and incorporates them by reference into this cause of action as
10 though fully set forth herein, excepting those allegations which are inconsistent with this cause of action.

11 115. At all times relevant hereto, *Civil Code* § 52.1, also known as the Tom Bane Civil Rights
12 Act (the "Bane Act"), was in full force and effect, and binding on Defendants, and each of them. The
13 Bane Act provides that "Any individual whose exercise or enjoyment of rights secured by the
14 Constitution or laws of the United States, or of rights secured by the Constitution or laws of this state,
15 has been interfered with, or attempted to be interfered with ... may institute and prosecute in their own
16 name and on their own behalf a civil action for damages ... to protect the peaceable exercise or
17 enjoyment of the right or rights secured."

18 116. The Constitution and laws of both the United States and California protect the rights of
19 an individual to be employed and work in an environment free of workplace violence and harassment.
20 As alleged hereinabove, LUCERO intentionally interfered with, and attempted to interfere with,
21 Plaintiff's rights to bodily security, personal safety and freedom from unlawful workplace violence
22 through threats, intimidation, coercion, assault, battery and physically intimidating workplace conduct.
23 LUCERO acted with the specific intent to intimidate and control Plaintiff and interfere with her
24 reporting of and resistance to his conduct. WALMART, after receiving actual notice of LUCERO's
25 workplace conduct, knowingly permitted, enabled, authorized and/or ratified the threatening and
26 coercive workplace environment and intentionally punished Plaintiff for reporting and resisting it.
27 Plaintiff was wrongfully terminated for reporting and/or complaining of LUCERO's assaultive,
28 battering, threatening and harassing conduct and for attempting to exercise and enjoy her rights to bodily

1 security, personal safety and a workplace free from unlawful violence and intimidation. Through threats,
2 intimidation and/or coercion, including LUCERO's direct workplace conduct and WALMART's
3 intentional retaliation, suspension, removal of Plaintiff from the workplace, publication of accusations of
4 theft and/or gross misconduct and termination of her employment, Defendants intentionally interfered
5 with, and attempted to interfere with, Plaintiff's exercise and enjoyment of rights secured by California
6 law, which was unlawful under the Bane Act.

7 117. As a direct and proximate result of Defendants' conduct, Plaintiff has suffered and
8 continues to suffer actual, consequential and incidental financial losses, including without limitation,
9 loss of income, earnings, salary and benefits, and the intangible loss of employment related
10 opportunities in her field and damage to her professional reputation, the exact amount of which is not yet
11 known and will be shown according to proof at the time of trial. Plaintiff also claims such amounts as
12 damages pursuant to *Civil Code* §§ 3287, 3288 and/or any other laws providing for prejudgment interest.

13 118. As a direct and proximate result of LUCERO's threatening, intimidating and coercive
14 workplace conduct and WALMART's actionable workplace and employment-related conduct, Plaintiff
15 has sustained and continues to suffer severe and serious emotional distress and physical injuries,
16 including, but not limited to, emotional trauma, physical manifestations of emotional distress, personal
17 injuries, pain and suffering, personal inconvenience, sickness and illness, all to Plaintiff's damages in an
18 amount according to proof. As to WALMART, Plaintiff's emotional-distress damages arise from
19 WALMART's ratification of the workplace conduct, retaliation, investigation, suspension, defamatory
20 accusations and termination, rather than solely from LUCERO's private, off-duty conduct.

21 119. The conduct of LUCERO in intentionally interfering with Plaintiff's rights through
22 threats, intimidation and coercion, and the conduct of WALMART in knowingly enabling, authorizing
23 and/or ratifying LUCERO's workplace conduct and intentionally retaliating against Plaintiff for
24 reporting and resisting it, subjected Plaintiff to cruel and unjust hardship in conscious disregard of
25 Plaintiff's rights, as it was anticipated by Defendants that Plaintiff would suffer damages in the
26 foreseeable future. Plaintiff is informed and believes, and based thereon alleges, that Defendants'
27 conduct against Plaintiff was done with an intent to cause injury to Plaintiff. Moreover, LUCERO's
28 malicious, fraudulent and/or oppressive conduct, and WALMART's authorization, adoption or

1 ratification of the workplace and employment-related conduct through its officers, directors or managing
2 agents, were the result of the application of unlawful, malicious or oppressive policies and procedures.
3 As a consequence of the aforesaid oppressive, malicious, and despicable conduct, Plaintiff is entitled to
4 an award of punitive damages in a sum to be shown according to proof pursuant to *Civil Code* § 3294.

5 120. Plaintiff has incurred and continues to incur legal expenses and attorneys' fees which she
6 is entitled to recover pursuant to *Civil Code* § 52.1(i).

7
8 **NINTH CAUSE OF ACTION**

9 **WRONGFUL TERMINATION IN VIOLATION OF PUBLIC POLICY**

10 **(Against WALMART and DOES 1-20)**

11 121. As a separate and distinct cause of action, Plaintiff complains and realleges all the
12 allegations contained in this complaint and incorporates them by reference into this cause of action as
13 though fully set forth herein, excepting those allegations which are inconsistent with this cause of action.

14 122. At all relevant times mentioned in this complaint, Article I, Section 8 of the California
15 Constitution was in full force and effect and binding on Defendants. California law prohibits termination
16 or other adverse employment actions against employees for reasons that violate public policy.
17 Specifically, here, California requires that employers refrain from terminating a person and/or employee
18 for being part of a protected class and/or for engaging in protected activity, including but not limited to
19 those described under *Government Code* § 12940, *California Penal Code* §§ 240 & 242, *Labor Code* §§
20 98.6, 232.5, 1102.5 & 6310, *Civil Code* §§ 43, 51.7 & 52.1 and other related criminal, civil and
21 administrative statutes, regulations and/or laws, including those promulgated and/or enforced by the
22 Occupational Safety and Health Administration. These laws, statutes and their interpretative regulations
23 inure to the benefit of the public at large, and embody fundamental public policy of the State of
24 California and/or the United States.

25 123. At all relevant times mentioned in this complaint, *Government Code* § 12940, *California*
26 *Penal Code* §§ 240 & 242, *Labor Code* §§ 98.6, 232.5, 1102.5 & 6310, *Civil Code* §§ 43, 51.7 & 52.1
27 and other related criminal, civil and administrative statutes, regulations and/or laws, including those
28 promulgated and/or enforced by the Occupational Safety and Health Administration, were in full force

1 and effect and binding on Defendants, making it unlawful to discriminate and/or retaliate against an
2 employee based on, among other protected acts, the employee complaining/reporting about Defendants'
3 working conditions and/or unlawful activities in the workplace. During Plaintiff's employment with
4 Defendants, Plaintiff complained and/or reported about LUCERO's sex- and gender-based harassment,
5 stalking, intimidation, assault, battery and workplace violence, as well as WALMART's unlawful and
6 unsafe working conditions, including the defective and excessively heavy gate. Plaintiff further
7 submitted written complaints, requested protection and a workable transfer, and, through counsel, filed
8 and served a statutory PAGA notice concerning suspected *Labor Code*, wage-and-hour and
9 occupational-safety violations. Due to Plaintiff's protected activities, as described herein, Defendants
10 made the decision to wrongfully terminate Plaintiff without a legitimate reason, but based on the false
11 pretext that Plaintiff had recently consumed and/or stolen previously opened merchandise and thereby
12 engaged in gross misconduct, despite knowing that the disclosed incident had occurred approximately
13 nine years earlier. At all times, Defendants' wrongful termination of Plaintiff's employment violated
14 California statutes and/or common law that inure to the benefit of the public at large and are a statement
15 of California public policy, including, but not limited to, *Government Code* § 12940, *California Penal*
16 *Code* §§ 240 & 242, *Labor Code* §§ 98.6, 232.5, 1102.5 & 6310, *Civil Code* §§ 43, 51.7 & 52.1 and
17 other related criminal, civil and administrative statutes, regulations and/or laws, including those
18 promulgated and/or enforced by the Occupational Safety and Health Administration. Thus, Plaintiff is
19 informed and believes and thereon alleges that Defendants violated public policy by wrongfully
20 terminating her employment for reasons that violate public policy of the State of California.

21 124. As a direct and proximate result of Defendants' conduct, Plaintiff has suffered and
22 continues to suffer actual, consequential and incidental financial losses, including without limitation,
23 loss of income, earnings, salary and benefits, and the intangible loss of employment related
24 opportunities in her field and damage to her professional reputation, the exact amount of which is not yet
25 known and will be shown according to proof at the time of trial. Plaintiff also claims such amounts as
26 damages pursuant to *Civil Code* §§ 3287, 3288 and/or any other laws providing for prejudgment interest.

27 125. As a direct and proximate result of Defendants' conduct, Plaintiff has sustained and
28 continues to suffer severe and serious emotional distress and physical injuries, including, but not limited

1 to, emotional trauma, physical manifestations of emotional distress, personal injuries, pain and suffering,
2 personal inconvenience, humiliation, anxiety, depression, embarrassment, loss of enjoyment, sickness
3 and illness, etc. all to Plaintiff's damages in an amount shown according to proof at trial.

4 126. The conduct of Defendants in wrongfully terminating Plaintiff subjected Plaintiff to cruel
5 and unjust hardship in conscious disregard of Plaintiff's rights, as it was anticipated by Defendants that
6 Plaintiff would suffer damages in the foreseeable future. Plaintiff is informed and believes, and based
7 thereon alleges, that Defendants' conduct against Plaintiff was done with an intent to cause injury to
8 Plaintiff. Moreover, the malicious, fraudulent and/or oppressive conduct was engaged in, authorized or
9 ratified by officers, directors or managing agents of the company and/or was the result of the application
10 of unlawful, malicious or oppressive policies. As a consequence of the aforesaid oppressive, malicious,
11 and despicable conduct, Plaintiff is entitled to an award of punitive damages against Defendants in a
12 sum to be shown according to proof at trial.

13 127. Plaintiff has incurred and continues to incur legal expenses and attorneys' fees which she
14 is entitled to recover pursuant to *Code of Civil Procedure* §1021.5.

15
16 **TENTH CAUSE OF ACTION**

17 **RETALIATION AND/OR WRONGFUL TERMINATION**

18 **IN VIOLATION OF *LABOR CODE* § 98.6**

19 **(Against WALMART and DOES 1-20)**

20 128. As a separate and distinct cause of action, Plaintiff complains and realleges all the
21 allegations contained in this complaint and incorporates them by reference into this cause of action as
22 though fully set forth herein, excepting those allegations which are inconsistent with this cause of action.

23 129. California *Labor Code* § 98.6 provides that an employer shall not "in any manner
24 discriminate, retaliate, or take any adverse action against any employee or applicant for employment"
25 because the employee engaged in protected conduct delineated in the *Labor Code*, including filing or
26 pursuing a bona fide complaint or claim relating to rights under the *Labor Code*.

27 130. As alleged herein, and in violation of California *Labor Code* § 98.6, WALMART and
28 DOES 1-20, and each of them, retaliated against Plaintiff and/or wrongfully terminated her

1 employment, whether in part or in whole, because Plaintiff reported WALMART's suspected wage-and-
2 hour violations to the Department of Industrial Relations, filed a prior PAGA notice, initiated a wage-
3 and-hour action on behalf of herself and other similarly situated WALMART employees, and otherwise
4 exercised rights protected under the *Labor Code*. In response to Plaintiff's protected activities,
5 WALMART subjected Plaintiff to a pretextual investigation, suspended her, confiscated her badge,
6 removed her from the workplace, published and maintained accusations that she had engaged in theft
7 and/or gross misconduct, refused to reinstate her, and terminated her employment on or around
8 September 10, 2025, thereby violating California *Labor Code* § 98.6.

9 131. As a direct, legal, and/or proximate result of WALMART's conduct, Plaintiff has
10 suffered and continues to suffer actual, consequential and incidental financial losses, including without
11 limitation, loss of income, earnings, salary and benefits, and the intangible loss of employment related
12 opportunities in her field and damage to her professional reputation, the exact amount of which is not yet
13 known and will be shown according to proof at the time of trial. Plaintiff also claims such amounts as
14 damages pursuant to *Civil Code* §§ 3287, 3288 and/or any other laws providing for prejudgment interest.

15 132. As a direct and proximate result of WALMART's retaliatory investigation, suspension,
16 removal of Plaintiff from the workplace, accusations of theft and/or gross misconduct, refusal to
17 reinstate her, and termination of her employment, Plaintiff has sustained and continues to suffer severe
18 and serious emotional distress and physical injuries, including, but not limited to, emotional trauma,
19 physical manifestations of emotional distress, personal injuries, pain and suffering, personal
20 inconvenience, humiliation, anxiety, depression, embarrassment, loss of enjoyment, sickness and illness,
21 etc. all to Plaintiff's damages in an amount shown according to proof at trial.

22 133. The conduct of WALMART in retaliating against Plaintiff and/or wrongfully terminating
23 her subjected Plaintiff to cruel and unjust hardship in conscious disregard of Plaintiff's rights, as it was
24 anticipated by WALMART that Plaintiff would suffer damages in the foreseeable future. Plaintiff is
25 informed and believes, and based thereon alleges, that WALMART's conduct against Plaintiff was done
26 with an intent to cause injury to Plaintiff. Moreover, the malicious, fraudulent, and/or oppressive
27 conduct was engaged in, authorized, or ratified by officers, directors, or managing agents of the
28 company and/or was the result of unlawful, malicious, or oppressive policies. As a consequence of the

1 aforesaid oppressive, malicious, and despicable conduct, Plaintiff is entitled to an award of punitive
2 damages against WALMART in a sum to be shown according to proof at trial pursuant to *Civil Code* §
3 3294.

4 134. In addition to all lost wages, work benefits, incidental damages, consequential damages,
5 general damages and special damages owed by WALMART due to its unlawful conduct, pursuant to
6 *Labor Code* § 98.6(b)(3), Plaintiff is owed a civil penalty of \$10,000.

7 135. As a result of the wrongful acts of WALMART, Plaintiff has been forced to hire
8 attorneys to prosecute her claims herein, and has incurred and is expected to continue to incur attorneys'
9 fees and costs in connection therewith. As a result, pursuant to *Labor Code* §§ 2699(g) and 2699.5,
10 and/or *Code of Civil Procedure* § 1021.5, Plaintiff is entitled to recover attorneys' fees and costs.

11
12 **ELEVENTH CAUSE OF ACTION**
13 **RETALIATION AND/OR WRONGFUL TERMINATION**
14 **IN VIOLATION OF *LABOR CODE* § 1102.5**
15 **(Against WALMART and DOES 1-20)**

16 136. As a separate and distinct cause of action, Plaintiff complains and realleges all the
17 allegations contained in this complaint and incorporates them by reference into this cause of action as
18 though fully set forth herein, excepting those allegations which are inconsistent with this cause of action.

19 137. At all times herein mentioned, California *Labor Code* §§ 1102.5 *et seq.* were in full force
20 and effect and were binding on Defendants. Under *Labor Code* § 1102.5(a), it is unlawful for any
21 employer, or any person acting on its behalf to "make, adopt, or enforce any rule, regulation, or policy
22 preventing an employee from disclosing information to a government or law enforcement agency, to a
23 person with authority over the employee, or to another employee who has authority to investigate,
24 discover, or correct the violation or noncompliance, or from providing information to, or testifying
25 before, any public body conducting an investigation, hearing, or inquiry, if the employee has reasonable
26 cause to believe that the information discloses a violation of state or federal statute, or a violation of or
27 noncompliance with a local, state, or federal rule or regulation. . . ."

1 138. At all times herein mentioned, under *Labor Code* § 1102.5(b), an employer, or any person
2 acting on its behalf, “shall not retaliate against an employee for disclosing information, or because the
3 employer believes that the employee disclosed or may disclose information, to a government. . . agency
4 [or] to a person with authority over the employee. . . if the employee has reasonable cause to believe that
5 the information discloses a violation of state or federal statute, or a violation of. . . a local, state, or federal
6 rule or regulation. . . .”

7 139. At all times herein mentioned, under *Labor Code* § 1102.5(c), an employer, or any person
8 acting on its behalf, “shall not retaliate against an employee for refusing to participate in an activity that
9 would result in a violation of state or federal statute, or a violation of or noncompliance with a local,
10 state, or federal rule or regulation.”

11 140. As fully elaborated above, while within the course and scope of her duties as
12 WALMART’s employee, Plaintiff was subjected to unsolicited, unlawful physical violence, including
13 assault and battery as defined by *Penal Code* §§ 240 & 242, as well as other unsafe and unlawful
14 working conditions. At all times herein mentioned, Plaintiff reasonably believed LUCERO’s
15 harassment, stalking, intimidation, assault, battery and workplace violence, and WALMART’s unsafe
16 working conditions, wage-and-hour practices and failure to take corrective action, to be in violation of
17 local, state, and federal laws and regulations, including California *Penal Code* §§ 240 & 242,
18 *Government Code* § 12940, *Labor Code* §§ 232.5 & 6310, *Civil Code* §§ 43, 51.7 & 52.1 and other
19 related criminal, civil and administrative statutes, regulations and/or laws, including those promulgated
20 and/or enforced by the Occupational Safety and Health Administration. Based on such reasonable
21 beliefs, Plaintiff resisted, reported to and complained to WALMART’s Human Resources personnel and
22 management about conduct which she believed to be in violation of California *Penal Code* §§ 240 &
23 242, *Government Code* § 12940, *Labor Code* §§ 232.5 & 6310, *Civil Code* §§ 43, 51.7 & 52.1 and other
24 related criminal, civil and administrative statutes, regulations and/or laws, including those promulgated
25 and/or enforced by the Occupational Safety and Health Administration relating to workplace safety
26 and/or prohibition of violence and harassment in the workplace. Plaintiff also, through counsel,
27 disclosed suspected wage-and-hour, warehouse-quota and occupational-safety violations to the Labor
28 and Workforce Development Agency and WALMART by filing and serving a written PAGA notice

1 pursuant to *Labor Code* § 2699.3. In response, and as a direct result of Plaintiff's reports, complaints,
2 disclosures and/or WALMART's belief that Plaintiff had disclosed or would further disclose such
3 violations to a governmental agency, WALMART subjected Plaintiff to a pretextual investigation,
4 suspended her, confiscated her badge, removed her from the workplace, published accusations of theft
5 and/or gross misconduct, refused to reinstate her and wrongfully terminated her employment in direct
6 violation of California *Labor Code* § 1102.5 et seq.

7 141. As a direct and proximate result of Defendants' conduct, Plaintiff has suffered and
8 continues to suffer actual, consequential and incidental financial losses, including without limitation,
9 loss of income, earnings, salary and benefits, and the intangible loss of employment related
10 opportunities in her field and damage to her professional reputation, the exact amount of which is not yet
11 known and will be shown according to proof at the time of trial. Plaintiff also claims such amounts as
12 damages pursuant to *Civil Code* §§ 3287, 3288 and/or any other laws providing for prejudgment interest.

13 142. As a direct and proximate result of Defendants' conduct, Plaintiff has sustained and
14 continues to suffer severe and serious emotional distress and physical injuries, including, but not limited
15 to, emotional trauma, physical manifestations of emotional distress, personal injuries, pain and suffering,
16 personal inconvenience, sickness and illness, all to Plaintiff's damages in an amount according to proof.

17 143. The conduct of Defendants in retaliating against Plaintiff and wrongfully terminating her
18 subjected Plaintiff to cruel and unjust hardship in conscious disregard of Plaintiff's rights, as it was
19 anticipated by Defendants that Plaintiff would suffer damages in the foreseeable future. Plaintiff is
20 informed and believes, and based thereon alleges, that Defendants' conduct against Plaintiff was done
21 with an intent to cause injury to Plaintiff. Moreover, the malicious, fraudulent, and/or oppressive conduct
22 was engaged in, authorized, or ratified by officers, directors, or managing agents of the company and/or
23 was the result of unlawful, malicious, or oppressive policies. As a consequence of the aforesaid
24 oppressive, malicious, and despicable conduct, Plaintiff is entitled to an award of punitive damages
25 against Defendants in a sum to be shown according to proof at trial pursuant to *Civil Code* § 3294.

26 144. As a proximate result of the wrongful acts of Defendants, Plaintiff has been forced to hire
27 attorneys to prosecute her claims herein and has incurred and is expected to continue to incur attorneys'
28

1 fees and costs in connection therewith. As a result, pursuant to *Labor Code* § 1102.5(j), Plaintiff is
2 entitled to recover attorneys' fees and costs.

3 145. As a result of the wrongful acts of Defendants, Plaintiff has been forced to hire attorneys
4 to prosecute her claims herein, and has incurred and is expected to continue to incur attorneys' fees and
5 costs in connection therewith. As a result, pursuant to *Labor Code* §§ 2699(g) and 2699.5, and/or *Code*
6 *of Civil Procedure* §1021.5, Plaintiff is entitled to recover attorneys' fees and costs.

7
8 **TWELFTH CAUSE OF ACTION**
9 **RETALIATION AND/OR WRONGFUL TERMINATION**
10 **IN VIOLATION OF LABOR CODE § 6310**
11 **(Against WALMART and DOES 1-20)**

12 146. As a separate and distinct cause of action, Plaintiff complains and realleges all the
13 allegations contained in this complaint and incorporates them by reference into this cause of action as
14 though fully set forth herein, excepting those allegations which are inconsistent with this cause of action.

15 147. At all times herein mentioned, California *Labor Code* § 6310 was in full force and effect,
16 and was binding on Defendants. Under *Labor Code* § 6310, it is unlawful for an employer to discharge
17 or discriminate against an employee in any manner because the employee made any oral or written
18 complaint to his or her employer regarding the employee's belief that the employer is unlawfully
19 committing health or safety violations in the workplace.

20 148. At all times herein mentioned, Plaintiff believed WALMART to be in violation of a
21 variety of workplace safety regulations, including California *Penal Code* §§ 240 & 242, *Civil Code* §§
22 43 & 52.1, *Labor Code* §§ 6400, 6402 and 6404, and other related criminal, civil and administrative
23 statutes, regulations and/or laws, including those promulgated and/or enforced by the Occupational
24 Safety and Health Administration relating to workplace safety and/or prohibition of violence and unsafe
25 conditions in the workplace. Based on this good faith and reasonable belief, Plaintiff complained to
26 WALMART's Human Resources personnel and management regarding LUCERO's stalking,
27 intimidation, assault, battery and workplace violence, as well as the defective and excessively heavy gate
28 and other unsafe working conditions at WALMART's facility. Plaintiff warned WALMART that

1 somebody would be injured if employees continued to be required to lift the defective gate and, through
2 counsel, later filed with the Labor and Workforce Development Agency and served WALMART with a
3 written PAGA notice alleging workplace-safety violations, including excessively heavy module doors,
4 restricted restroom access and unsafe workplace temperatures. In response, and, at least in part, as a
5 result of her complaints and/or WALMART's anticipation that she would make or pursue further
6 complaints, WALMART subjected Plaintiff to a pretextual investigation, suspended her, confiscated her
7 badge, removed her from the workplace, published false and misleading accusations of theft and/or gross
8 misconduct, refused to reinstate her, and wrongfully terminated Plaintiff based on false, illegitimate and
9 defamatory reasons, all in violation of California *Labor Code* § 6310.

10 149. As a direct, legal, and/or proximate result of the aforesaid acts of Defendants, Plaintiff
11 has suffered actual, consequential, and incidental financial losses, including, without limitation, loss of
12 income, earnings, salary and benefits, and the intangible loss of employment-related opportunities in her
13 field and damage to her professional reputation, all in an amount subject to proof at the time of trial.
14 Plaintiff claims such amounts as damages, including all prejudgment interest on the same.

15 150. As a direct and proximate result of Defendants' conduct, Plaintiff has suffered and
16 continues to suffer actual, consequential and incidental financial losses, including without limitation,
17 loss of income, earnings, salary and benefits, and the intangible loss of employment related opportunities
18 in her field and damage to her professional reputation, the exact amount of which is not yet known and
19 will be shown according to proof at the time of trial. Plaintiff also claims such amounts as damages
20 pursuant to *Civil Code* §§ 3287, 3288 and/or any other laws providing for prejudgment interest.

21 151. As a direct and proximate result of Defendants' conduct, Plaintiff has sustained and
22 continues to suffer severe and serious emotional distress and physical injuries, including, but not limited
23 to, emotional trauma, physical manifestations of emotional distress, personal injuries, pain and suffering,
24 personal inconvenience, sickness and illness, all to Plaintiff's damages in an amount according to proof

25 152. The conduct of Defendants in retaliating against Plaintiff and wrongfully terminating her.
26 subjected Plaintiff to cruel and unjust hardship in conscious disregard of Plaintiff's rights, as it was
27 anticipated by Defendants that Plaintiff would suffer damages in the foreseeable future. Plaintiff is
28 informed and believes, and based thereon alleges, that Defendants' conduct against Plaintiff was done

1 with an intent to cause injury to Plaintiff. Moreover, the malicious, fraudulent, and/or oppressive conduct
2 was engaged in, authorized, or ratified by officers, directors, or managing agents of the company and/or
3 was the result of unlawful, malicious, or oppressive policies. As a consequence of the aforesaid
4 oppressive, malicious, and despicable conduct, Plaintiff is entitled to an award of punitive damages
5 against Defendants in a sum to be shown according to proof at trial pursuant to *Civil Code* § 3294.

6 153. As a result of the wrongful acts of Defendants, Plaintiff has been forced to hire attorneys
7 to prosecute her claims herein, and has incurred and is expected to continue to incur attorneys' fees and
8 costs in connection therewith. As a result, pursuant to *Labor Code* §§ 2699(g) and 2699.5, and/or *Code*
9 *of Civil Procedure* §1021.5, Plaintiff is entitled to recover penalties, attorneys' fees and costs.

10 **THIRTEENTH CAUSE OF ACTION**

11 **DEFAMATION**

12 **(Against WALMART, BITTLE and DOES 1-20)**

13 154. As a separate and distinct cause of action, Plaintiff complains and realleges all the
14 allegations contained in this complaint and incorporates them by reference into this cause of action as
15 though fully set forth herein, excepting those allegations which are inconsistent with this cause of action.

16 155. During Plaintiff's employment and thereafter, WALMART and BITTLE made, both in
17 writing and verbally, certain untrue statements about Plaintiff, including, but not limited to, that Plaintiff
18 had engaged in gross misconduct by recently consuming and/or stealing previously opened merchandise,
19 and other untrue statements. Moreover, WALMART and BITTLE knowingly made these false and
20 misleading accusations against Plaintiff, including by omitting that the disclosed conduct had occurred
21 approximately nine years earlier, all as part of WALMART's and BITTLE's malicious and intentional
22 retaliation against Plaintiff for her complaints regarding LUCERO's harassment, violence and
23 intimidation and WALMART's unsafe and unlawful working conditions.

24 156. At all times, each of WALMART and BITTLE knew their statements regarding
25 Plaintiff's alleged conduct and supposed violations of policy to be false and/or materially misleading
26 and disparaging of Plaintiff. Despite the knowledge of the falsity and/or misleading nature of such
27 statements, WALMART and BITTLE published these false statements to each other, as well as other
28

1 employees of WALMART, and, worse, relied on these intentionally false and disparaging statements to
2 retaliate against and wrongfully terminate Plaintiff. At all times, WALMART and BITTLE maliciously
3 made such false statements against Plaintiff as an act of intentional retaliation meant to punish Plaintiff
4 for her complaints regarding, and resistance to, LUCERO's harassment, violence and intimidation and
5 WALMART's unsafe and unlawful working conditions.

6 157. WALMART and BITTLE made, drafted and executed communications supporting
7 Plaintiff's unjustified wrongful termination, based on communications which published the false and
8 misleading statements that Plaintiff had recently consumed and/or stolen previously opened
9 merchandise, among other knowingly false accusations. At all times, WALMART's and BITTLE's
10 published rationales for wrongfully terminating Plaintiff were false and pretextual rationales meant to
11 disguise Defendants' malice and related retaliatory motives. At the time of Plaintiff's suspension and
12 wrongful termination, each of WALMART and BITTLE knew that Plaintiff had not recently consumed
13 or stolen merchandise, that the disclosed conduct had occurred approximately nine years earlier, that
14 Plaintiff had not repeated the conduct and that Plaintiff had no disciplinary history for theft, dishonesty
15 or similar misconduct. Regardless, and despite knowing the falsity and misleading nature of their
16 statements, Defendants maliciously and fraudulently published them anyway, all to the direct harm of
17 Plaintiff.

18 158. On information and belief, WALMART and BITTLE caused to be published false and
19 unprivileged communications to third parties which directly, and intentionally, injured Plaintiff in her
20 respective personal, business and professional reputation. On information and belief, WALMART and
21 BITTLE made knowing and intentional untrue and misleading statements to third parties, including non-
22 managerial employees of WALMART who had no legitimate need to know such information.
23 WALMART and BITTLE made, drafted, executed and/or caused to be published written documents and
24 communications related to Plaintiff's suspension and wrongful termination which falsely stated and/or
25 implied that Plaintiff was suspended and wrongfully terminated because she had recently consumed
26 and/or stolen previously opened merchandise and had thereby engaged in gross misconduct, when, in
27 fact, the disclosed conduct had occurred approximately nine years earlier and Plaintiff had not repeated
28 it. Thus, Plaintiff was actually wrongfully terminated as an act of intentional retaliation meant to punish

1 Plaintiff for her complaints regarding, and resistance to, LUCERO's harassment, violence and
2 intimidation and WALMART's unsafe and unlawful working conditions.

3 159. Such statements made by WALMART and BITTLE, as listed above, were patently false
4 and/or materially misleading, and known to be false and/or misleading at the time they were made.
5 WALMART and BITTLE had no reasonable basis for believing the defamatory statements and
6 implications to be true, and, in fact, knew the statements and implications to be false. Regardless,
7 WALMART and BITTLE published these false statements knowingly. As a result of publishing said
8 statements and as further acts of retaliation, WALMART and BITTLE then relied on such false and
9 misleading statements to suspend and wrongfully terminate Plaintiff, damaging Plaintiff as a result.

10 160. With actual knowledge of the falsity and/or misleading nature of the statements made, as
11 described herein, WALMART and BITTLE published the defamatory statements to third parties
12 nonetheless, evidencing such statements were made with actual malice. To the extent any defamatory
13 statements were or could have been protected by a qualified privilege, WALMART's and BITTLE's
14 actual malice, retaliatory motives and conduct, and over-publication despite knowledge of the falsity
15 and/or misleading nature of such statements, all as described herein, destroyed any such qualified
16 privilege the statements may otherwise enjoy.

17 161. The parties, including WALMART, its managers, Human Resources personnel,
18 employees and/or decision makers, hearing such statements, understood them, and believed them to be
19 true, because of the authoritative credibility of WALMART and BITTLE, and because of Plaintiff's
20 status as an employee who was investigated by BITTLE and employed and supervised by WALMART.

21 162. The false statements published by WALMART and BITTLE were libelous on their face
22 and/or slanderous per se pursuant to California *Civil Code* §§ 45a and 46(1) and (3).

23 163. As a direct and proximate result of Defendants' conduct, Plaintiff has suffered and
24 continues to suffer actual, consequential and incidental financial losses, including without limitation,
25 loss of income, earnings, salary and benefits, and the intangible loss of employment related
26 opportunities in her field and damage to her professional reputation, the exact amount of which is not yet
27 known and will be shown according to proof at the time of trial. Plaintiff also claims such amounts as
28 damages pursuant to *Civil Code* §§ 3287, 3288 and/or other statutes providing for prejudgment interest.

164. As a direct, legal, and/or proximate result of Defendants' conduct, Plaintiff has sustained and continues to suffer emotional injuries, emotional distress and physical injuries, including related emotional and physical trauma, pain and suffering, personal injury, personal inconvenience, sickness and illness, *etc.*, all to Plaintiff's damages in an amount to be shown according to proof at trial.

165. The conduct of Defendants in fraudulently publishing false and defamatory statements to third parties, as described herein, subjected Plaintiff to cruel and unjust hardship in conscious disregard of Plaintiff's rights, as it was anticipated by Defendants that Plaintiff would suffer damages in the foreseeable future. Plaintiff is informed and believes, and based thereon alleges, that Defendants' conduct against Plaintiff, as described herein, was done with an intent to cause injury to the Plaintiff. Moreover, the malicious, fraudulent and/or oppressive conduct was engaged in, authorized or ratified by officers, directors or managing agents of the corporation and/or was the result of the application of unlawful, malicious or oppressive policies and procedures. As a consequence of the aforesaid oppressive, malicious, and despicable conduct, Plaintiff is entitled to an award of punitive damages in a sum to be shown according to proof.

FOURTEENTH CAUSE OF ACTION

INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS

(Against WALMART, LUCERO and DOES 1-20)

166. As a separate and distinct cause of action, Plaintiff complains and realleges all the allegations contained in this complaint and incorporates them by reference into this cause of action as though fully set forth herein, excepting those allegations which are inconsistent with this cause of action.

167. At all times after receiving Plaintiff's complaints, WALMART, its managers and/or supervisors, ratified the workplace conduct of WALMART's employees, including LUCERO, who targeted Plaintiff for the purpose of intentionally inflicting emotional distress upon her. WALMART knowingly retained and/or continued to employ such individuals, including LUCERO, after receiving actual notice of his workplace stalking, following, intimidation, unwanted physical contact, simulated spitting and other threatening conduct, ratifying his behavior which targeted Plaintiff for the purpose of harming Plaintiff, despite that WALMART knew, or with reasonable care should have known, that

1 LUCERO was intentionally inflicting emotional distress upon Plaintiff through his workplace conduct.

2 168. Defendants, inclusive of WALMART and LUCERO, among others, knew that such
3 intentionally harmful workplace conduct was outside the normal incidents of Plaintiff's employment,
4 knew it was occurring and knew they had the ability to prevent it, but, instead, knowingly permitted
5 and/or engaged in such intentional acts to continue, all to Plaintiff's express detriment, harm to
6 Plaintiff's physical and emotional health and safety, and Plaintiff's emotional distress and physical
7 harm. At all times, LUCERO intentionally followed, stalked, intimidated, physically confronted and
8 made unwanted physical contact with Plaintiff in the workplace. After receiving actual notice thereof,
9 WALMART knowingly permitted, enabled, authorized and/or ratified that workplace conduct and
10 separately subjected Plaintiff to a pretextual investigation, suspension, removal from the workplace,
11 false and defamatory accusations of theft and/or gross misconduct and termination.

12 169. Defendants' conduct, as described herein, was extreme and outrageous, under any
13 circumstances. LUCERO's repeated workplace stalking, intimidation, unwanted physical contact and
14 threats, viewed in light of the history of violence known to Plaintiff and reported to WALMART, were
15 intended to cause Plaintiff fear and emotional distress. WALMART's knowing decision to permit that
16 workplace conduct to continue after repeated notice, followed by its pretextual investigation, defamatory
17 accusations, suspension and termination of Plaintiff, constituted separate extreme and outrageous
18 employment-related conduct. Moreover, WALMART and LUCERO each performed such conduct with
19 full knowledge that such conduct would cause Plaintiff emotional distress and physical injury. Thus, at
20 all times, WALMART's and LUCERO's conduct was willful and intentional for the purpose of causing
21 Plaintiff emotional distress.

22 170. As a direct and proximate result of LUCERO's direct workplace conduct and
23 WALMART's actionable workplace and employment-related conduct, Plaintiff has suffered and
24 continues to suffer actual, consequential and incidental financial losses, including without limitation,
25 loss of income, earnings, salary and benefits, and the intangible loss of employment related
26 opportunities in her field and damage to her professional reputation, the exact amount of which is not yet
27 known and will be shown according to proof at the time of trial. Plaintiff also claims such amounts as
28 damages pursuant to *Civil Code* §§ 3287, 3288 and/or any other laws providing for prejudgment interest.

1 171. As a direct and proximate result of LUCERO's workplace stalking, intimidation,
2 unwanted physical contact and threats, and WALMART's knowing failure to protect Plaintiff after
3 notice, ratification of the workplace conduct, pretextual investigation, suspension, defamatory
4 accusations and termination, Plaintiff has sustained and continues to suffer severe and serious emotional
5 distress and physical injuries, including, but not limited to, emotional trauma, physical manifestations of
6 emotional distress, personal injuries, pain and suffering, personal inconvenience, humiliation, anxiety,
7 depression, embarrassment, loss of enjoyment, sickness and illness, etc. all to Plaintiff's damages in an
8 amount shown according to proof at trial. As to WALMART, Plaintiff's emotional-distress damages
9 arise from the workplace and employment-related conduct attributable to WALMART, rather than
10 solely from LUCERO's private, off-duty conduct.

11 172. The conduct of LUCERO in intentionally inflicting emotional distress upon Plaintiff
12 through his workplace stalking, intimidation, threats and unwanted physical contact subjected Plaintiff
13 to cruel and unjust hardship in conscious disregard of Plaintiff's rights, as it was anticipated by
14 LUCERO that Plaintiff would suffer damages in the foreseeable future. Plaintiff is informed and
15 believes, and based thereon alleges, that LUCERO's conduct against Plaintiff was done with an intent to
16 cause injury to Plaintiff. Moreover, WALMART's own extreme and outrageous workplace and
17 employment-related conduct, and its knowing authorization, adoption and/or ratification of LUCERO's
18 workplace conduct after notice, was engaged in, authorized or ratified by officers, directors or managing
19 agents of WALMART, was a result of knowing negligent retention and supervision, and/or was the
20 result of the application of unlawful, malicious or oppressive policies and procedures. As a consequence
21 of the aforesaid oppressive, malicious, and despicable conduct, Plaintiff is entitled to an award of
22 punitive damages in a sum to be shown according to proof at trial.

23 173. Plaintiff has incurred and continues to incur legal expenses and attorneys' fees which she
24 is entitled to recover pursuant to *Code of Civil Procedure* §1021.5.

FIFTEENTH CAUSE OF ACTION
PRIVATE ATTORNEYS GENERAL ACT
(Against WALMART and DOES 1-20)

174. As a separate and distinct cause of action, Plaintiff complains and realleges all the allegations contained in this complaint and incorporates them by reference into this cause of action as though fully set forth herein, excepting those allegations which are inconsistent with this cause of action.

175. Under Labor Code § 2699, Plaintiff, as an aggrieved employee, may bring an action against WALMART, acting as a proxy for the State of California, seeking statutory civil penalties for WALMART's violations of the California Labor Code committed against Plaintiff.

176. Plaintiff was an aggrieved employee within the meaning of *Labor Code* § 2699(a), as WALMART committed multiple California *Labor Code* violations against her, as previously pleaded in this Complaint, including retaliating against and wrongfully terminating Plaintiff after she complained of unsafe and unlawful working conditions, reported criminal conduct by a coworker, filed a prior PAGA notice, initiated a wage-and-hour action, and otherwise exercised rights protected by the *Labor Code*, in violation of *Labor Code* §§ 98.6, 232.5, 1102.5 and 6310.

177. On or around January 19, 2026, more than 65 calendar days before filing this Complaint, Plaintiff gave written notice by online filing with the Labor and Workforce Development Agency and provided notice via certified mail and return receipt requested to WALMART of the specific provisions of the California *Labor Code* that WALMART violated, including *Labor Code* §§ 98.6, 232.5, 1102.5 and 6310, together with the facts and theories supporting those alleged violations, thereby satisfying the requirements of *Labor Code* § 2699.3.

178. As of the filing of this Complaint, Plaintiff has not received any response from the Labor and Workforce Development Agency indicating its intent to investigate or pursue an action against WALMART regarding the alleged violations. Consequently, Plaintiff may now commence a civil action pursuant to *Labor Code* § 2699.3.

179. As a direct and proximate result of WALMART's Labor Code violations as set forth in this Complaint, Plaintiff is entitled to recover all applicable statutory civil penalties for WALMART's violations of Labor Code §§ 98.6, 232.5, 1102.5 and 6310, including the civil penalties provided under

1 Labor Code §§ 98.6(b)(3) and 1102.5(f), any applicable civil penalties recoverable for violations of
2 Labor Code §§ 232.5 and 6310, and any civil penalties authorized under Labor Code § 2699(f) for
3 violations for which the Labor Code does not otherwise provide a civil penalty.

4 180. Plaintiff is also entitled to reasonable attorneys' fees and costs pursuant to Labor Code §
5 2699(k)(1), and any recovered civil penalties shall be distributed in the manner required by Labor Code
6 § 2699(m).

7
8 **REQUEST FOR JURY TRIAL**

9 Plaintiff requests a trial by jury.

10
11 **PRAYER FOR RELIEF**

12 **WHEREFORE**, Plaintiff prays for judgment against all Defendants, including DOES 1-20, as
13 follows:

- 14 1. For general damages, in the amount of no less than \$5,000,000, according to proof;
- 15 2. For special damages, in the amount of no less than \$5,000,000, according to proof;
- 16 3. For actual, consequential, and incidental damages, in the amount of no less than
17 \$5,000,000, according to proof;
- 18 4. For past and/or future economic damages, including all past and/or future lost earnings,
19 wages, and/or benefits, in the amount of no less than \$5,000,000, according to proof;
- 20 5. For past and/or future non-economic damages, including all past and/or future physical
21 injuries, emotional distress, pain, suffering, physical trauma, etc., in the amount of no less than
22 \$5,000,000, according to proof;
- 23 6. For punitive and exemplary damages, in amount sufficient to adequately punish
24 Defendants, and each of them, so to deter any future unlawful conduct by them, according to proof;
- 25 7. For all compensation and/or statutory penalties owed, including as required under *Labor*
26 *Code*;
- 27 8. For declaratory and/or injunctive relief, where appropriate;
- 28 9. For prejudgment interest, according to proof;

- 1 10. For reasonable attorneys' fees and costs of suit incurred herein through the date of final
2 judgment;
3 11. For experts' costs and fees incurred herein through the date of final judgment; and
4 12. For such other and further relief as the Court may deem just and proper.
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7 Dated: August 24, 2026


MELAD N. HADDAD, ESQ.
EMPLOYEE JUSTICE LEGAL GROUP, P.C.
Attorneys for Plaintiff, Tess Eileen Chrisman