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Assigned for All Purposes

Judge Randall J. Sherman

Cx-105

Attorneys for Plaintiff Xuan-Mai Nguyen, individually,
and on behalf of all others similarly situated.

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF ORANGE

XUAN-MAI NGUYEN, individually and
on behalf of all others similarly situated,

Plaintiff,

vs.

NORDSTROM INC.; and DOES 1 through
20, inclusive,

Defendants.

Case No. **30-2024-01383627-CU-OE-CXC**

**COMPLAINT FOR VIOLATION OF THE
CALIFORNIA LABOR CODE PRIVATE
ATTORNEYS GENERAL ACT OF 2004
(CAL. LAB. CODE §§ 2698, ET SEQ.)**

1 Plaintiff Xuan-Mai Nguyen alleges as follows:

2 **NATURE OF ACTION AND INTRODUCTORY STATEMENT**

3 1. Plaintiff Xuan-Mai Nguyen (“Plaintiff”) brings this representative action against
4 defendants Nordstrom Inc.; and DOES 1 through 20, inclusive (collectively, “Defendants”), on
5 behalf of the State of California and aggrieved employees who are and were employed by
6 Defendants in California as non-exempt employees paid in whole or in part on a commission
7 basis.

8 2. Defendants provides goods or services in California.

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

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

- 15 (a) failing to pay all wages at the correct rate (including minimum wages);
16 (b) failing to pay all wages owed to employees who earned commissions
17 and/or were paid on a draw basis for time spent in rest breaks and/or
18 recovery periods, and non-productive time;
19 (c) failing to provide accurate itemized wage statements; and
20 (d) failing to pay all wages due upon separation of employment.

21 5. Plaintiff seeks monetary relief against Defendants on behalf of himself and all
22 others aggrieved employees in California to recover civil penalties pursuant to Labor Code §§
23 2698 *et seq.*, attorneys’ fees, and costs.

24 **JURISDICTION AND VENUE**

25 6. This is a representative action pursuant to Private Attorneys General Act of 2004
26 (Cal. Lab. Code §§ 2698, *et seq.*)(“PAGA”). The civil penalties sought by Plaintiff exceeds the
27 minimal jurisdictional limits of the Superior Court and will be established according to proof at
28 trial.

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

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

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

THE PARTIES

10. Plaintiff is a resident of California and worked for Defendants in California during the relevant time periods as alleged herein.

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

12. Plaintiff is unaware of the true names or capacities of the defendants sued herein under the fictitious names DOES 1 through 20, but will seek leave of this Court to amend this Complaint and serve such fictitiously named defendants once their names and capacities become known.

13. Plaintiff is informed and believes, and thereon alleges, that DOES 1 through 20 are or were the partners, agents, owners, shareholders, managers, or employees of Defendants at all relevant times.

14. Plaintiff is informed and believes, and thereon alleges, that each defendant acted in all respects pertinent to this action as the agent of the other defendant, carried out a joint

1 scheme, business plan, or policy in all respects pertinent hereto, and the acts of each defendant
2 are legally attributable to the other defendant. Furthermore, defendants in all respects acted as
3 the employer and/or joint employer of Plaintiff and the aggrieved employees.

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

9 16. At all relevant times, Defendants, and each of them, acted within the scope of
10 such agency or employment, or ratified each and every act or omission complained of herein.
11 At all relevant times, Defendants, and each of them, aided and abetted the acts and omissions of
12 each and all the other Defendants in proximately causing the damages herein alleged.

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

16 **GENERAL ALLEGATIONS**

17 18. At all relevant times mentioned herein, Defendants employed Plaintiff and other
18 California residents as non-exempt employees paid in whole or in part on a commission basis at
19 Defendants' California business location(s).

20 19. Defendant employed Plaintiff as a non-exempt employee paid in whole or in
21 part on a commission basis at Defendants' California business location.

22 20. Defendants continue to employ non-exempt employees paid in whole or in part
23 on a commission basis within California.

24 21. Plaintiff is informed and believes, and thereon alleges, that at all times herein
25 mentioned, Defendants were advised by skilled lawyers, employees, and other professionals
26 who were knowledgeable about California's wage and hour laws, employment and personnel
27 practices, and the requirements of California law.
28

1 22. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
2 should have known that Plaintiff and other aggrieved employees were entitled to receive wages
3 for all time worked (including minimum wages) and that they were not receiving all wages
4 earned for work that was required to be performed. In violation of the Labor Code and IWC
5 Wage Orders, Plaintiff and other aggrieved employees were not paid all wages (including
6 minimum wages) at the proper rates when Defendants failed to properly compensate Plaintiff
7 and other aggrieved employees who earned commissions and/or were paid on a draw basis.

8 23. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
9 should have known they had a duty to separately compensate Plaintiff and other aggrieved
10 employees who earned commissions and/or were paid on a draw basis for time spent in rest
11 breaks or other non-productive time. In violation of the Labor Code, Defendants did not pay all
12 wages owed.

13 24. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
14 should have known that Plaintiff and other aggrieved employees were entitled to receive
15 itemized wage statements that accurately showed the following information pursuant to the
16 Labor Code: (1) gross wages earned; (2) total hours worked by the employee; (3) the number of
17 piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate
18 basis; (4) all deductions, provided that all deductions made on written orders of the employee
19 may be aggregated and shown as one item; (5) net wages earned; (6) the inclusive dates of the
20 period for which the employee is paid; (7) the name of the employee and only the last four
21 digits of his or her social security number or an employee identification number other than a
22 social security number; (8) the name and address of the legal entity that is the employer; and
23 (9) all applicable hourly rates in effect during the pay period and the corresponding number of
24 hours worked at each hourly rate by the employee. In violation of the Labor Code, Plaintiff and
25 other aggrieved employees were not provided with accurate itemized wage statements, due to
26 the violations described above.

27 25. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
28 should have known that the aggrieved employees were entitled to timely payment of wages due

1 upon separation of employment. In violation of the Labor Code, the aggrieved employees did
2 not receive payment of all wages within permissible time periods due to the violations
3 described above.

4 26. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
5 should have known they had a duty to compensate Plaintiff and other aggrieved employees, and
6 Defendants had the financial ability to pay such compensation but willfully, knowingly, and
7 intentionally failed to do so in order to increase Defendants' profits.

8 27. Therefore, Plaintiff brings this lawsuit seeking civil penalties against
9 Defendants.

10 **FIRST CAUSE OF ACTION**

11 **ENFORCEMENT OF LABOR CODE §§ 2698 *ET SEQ.* ("PAGA")**

12 28. Plaintiff re-alleges and incorporates by reference the previous paragraphs as
13 though fully set forth herein.

14 29. Pursuant to Labor Code § 2699(a), any provision of the Labor Code that provides
15 for a civil penalty to be assessed and collected by the Labor and Workforce Development Agency
16 ("LWDA") or any of its departments, divisions, commissions, boards, agencies, or employees for
17 violation of the Labor Code may, as an alternative, be recovered through a civil action brought by
18 an aggrieved employee on behalf of himself or herself and other current or former employees
19 pursuant to the procedures specified in Labor Code § 2699.3.

20 30. For all provisions of the Labor Code except those for which a civil penalty is
21 specifically provided, Labor Code § 2699(f) imposes upon Defendants a civil penalty of one
22 hundred dollars (\$100) for each aggrieved employee per pay period for the initial violation and
23 two hundred dollars (\$200) for each aggrieved employee per pay period for each subsequent pay
24 period in which Defendants violated these provisions of the Labor Code.

25 31. Defendants' conduct violates numerous Labor Code sections, including, but not
26 limited to, the following:

27 (a) violation of Labor Code §§ 201, 202, 203, 204, 210, 510, 1182.12, 1194, 1197,
28 1197.1, and 1198 for failure to timely pay all earned wages (including minimum wage)

owed to Plaintiff and other aggrieved employees during employment and upon separation of employment as herein alleged;

(b) violation of Labor Code § 226.2 for failure to pay all wages due to commission and/or draw-based workers for time spent during rest and/or recovery periods, and non-productive time as herein alleged;

(c) violation of Labor Code §§ 226 and 226.3 for failure to provide accurate itemized wage statements to Plaintiff and other aggrieved employees as herein alleged due to the violations described above.

32. Plaintiff is an “aggrieved employee” because she was employed by the alleged violator and had one or more of the violations committed against her, and therefore is properly suited to represent the interests of all other aggrieved employees.

33. Plaintiff has exhausted the procedural requirements under Labor Code § 2699.3 as to Defendants and is therefore able to pursue a claim for penalties on behalf of herself and all other aggrieved employees under PAGA.

34. Pursuant to Labor Code §§ 2699(a), 2699.3 and 2699.5, Plaintiff is entitled to recover civil penalties in addition to other remedies, for violation of the Labor Code sections cited above.

35. For bringing this action, Plaintiff is entitled to attorneys’ fees and costs incurred herein.

PRAYER FOR RELIEF

Plaintiff, on her own behalf and on behalf of all others similarly situated, prays for relief and judgment against Defendants, jointly and severally, as follows:

1. For civil penalties against Defendants on behalf of all aggrieved employees and the LWDA pursuant to Labor Code § 2698, *et seq.*;

2. For reasonable attorneys’ fees, costs of suit, and interest to the extent permitted by law, including, but not limited to, Code of Civil Procedure § 1021.5 and Labor Code § 2698 *et seq.*; and;

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

Dated: March 4, 2024

AEGIS LAW FIRM, PC

By: 

Jessica L. Campbell
Attorneys for Plaintiff