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Attorneys for Plaintiff CHRISTINA ROMERO,
on behalf of herself and current and former aggrieved employees

Assigned for All Purposes
Judge Lon F. Hurwitz
Dept. CX103

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF ORANGE

CHRISTINA ROMERO, on behalf of herself and
current and former aggrieved employees

Plaintiff,

vs.

BSH HOME APPLIANCES CORP.; and DOES
1 to 100, inclusive,

Defendants.

Case No.: 30-2024-01386303-CU-OE-CXC

PAGA ACTION

**PLAINTIFF CHRISTINA
ROMERO'S COMPLAINT FOR:**

- CIVIL PENALTIES PURSUANT
TO THE PRIVATE ATTORNEYS
GENERAL ACT OF 2004
("PAGA"), LABOR CODE
SECTIONS 2698, ET SEQ.**

COMES NOW Plaintiff CHRISTINA ROMERO ("Plaintiff"), on behalf of herself and
current and former aggrieved employees, who alleges and complains against Defendants BSH
HOME APPLIANCES CORP.; and DOES 1 to 100, inclusive (collectively "Defendants") as
follows:

I. INTRODUCTION

1. This is a Private Attorneys General Act of 2004, Labor Code §§ 2698, *et seq.*
("PAGA") representative action brought by Plaintiff on behalf of the State of California, herself
and other current and former aggrieved employees of Defendants who worked as hourly non-
exempt employees in California during the relevant time period seeking civil penalties associated

1 with Defendants' violation of the Labor Code based on Defendants' failure to pay wages for all
2 hours worked at the employees' minimum wage rate or overtime rate, failure to provide all legally
3 required and legally compliant meal and rest periods, failure to provide complete and accurate
4 wage statements, failure to timely pay all unpaid wages following separation of employment.
5 Plaintiff seeks on a representative basis, following notice to the Labor and Workforce
6 Development Agency, civil penalties, reasonable attorneys' fees pursuant to Labor Code section
7 2699(g)(1) and costs brought on behalf of Plaintiff, the State of California, and others aggrieved.

8 **II. JURISDICTION AND VENUE**

9 2. This Court has jurisdiction over the claims of Plaintiff and all other current and
10 former aggrieved California-based hourly non-exempt employees because Plaintiff's lawsuit seeks
11 civil penalties on behalf of herself, all other current and former aggrieved California-based hourly
12 non-exempt employees, and the State of California in excess of twenty-five thousand dollars
13 (\$25,000); Defendants employed Plaintiff and all other current and former aggrieved California-
14 based hourly non-exempt employees; and the injuries to Plaintiff and all other current and former
15 aggrieved California-based hourly non-exempt employees occurred in locations throughout
16 California, including but not limited to Orange County at 1901 Main Street, Suite 600, Irvine,
17 California 92614.

18 **III. PARTIES**

19 3. Plaintiff brings this action as a representative of the Labor and Workforce
20 Development Agency on behalf of herself and other current and former employees subject to
21 violations of the Labor Code. The named Plaintiff and the persons on whose behalf this action is
22 filed include current, former and/or future employees of Defendants who work, worked, or will
23 work for Defendants as direct employees as well as temporary employees employed through temp
24 agencies as hourly non-exempt employees in California. At all times mentioned herein, the
25 currently named Plaintiff is and was domiciled and a resident and citizen of California and was
26 employed by Defendants in an hourly position at Defendants' location in Irvine from
27 approximately January 13, 2020, until on or about September 14, 2023.

28 4. Plaintiff is informed and believes and thereon alleges that Defendant BSH HOME

1 APPLIANCES CORP. is authorized to do business within the State of California and is doing
2 business in the State of California and/or that Defendants DOES 1-50 are, and at all times relevant
3 hereto were persons acting on behalf of Defendant BSH HOME APPLIANCES CORP. in the
4 establishment of, or ratification of, the aforementioned illegal wage and hour practices or policies.
5 Defendant BSH HOME APPLIANCES CORP. operates in Orange County and employed Plaintiff
6 and aggrieved employees in Orange County, including but not limited to, at 1901 Main Street,
7 Suite 600, Irvine, California 92614.

8 5. Plaintiff is informed and believes and thereon alleges that Defendants DOES 1
9 through 50 are corporations, or are other business entities or organizations of a nature unknown to
10 Plaintiff that employed Plaintiff and aggrieved California non-exempt employees, permitted
11 Plaintiff and aggrieved employees to work, and exercised control over the wages, hours and
12 working conditions of employment of Plaintiff and aggrieved employees.

13 6. Plaintiff is informed and believes and thereon alleges that Defendants DOES 51
14 through 100 are individuals unknown to Plaintiff. Each of the individual defendants is sued
15 individually and in his or her capacity as an agent, shareholder, owner, representative, manager,
16 supervisor, independent contractor and/or employee of each defendant who violated or caused to
17 be violated the minimum wage and overtime provisions of the Labor Code and/or any provision of
18 the Industrial Welfare Commission's wage orders regulating hours and days of work.

19 7. Plaintiff is unaware of the true names of Defendants DOES 1 through 100. Plaintiff
20 sues said defendants by said fictitious names, and will amend this complaint when the true names
21 and capacities are ascertained or when such facts pertaining to liability are ascertained, or as
22 permitted by law or by the Court. Plaintiff is informed and believes that each of the fictitiously
23 named defendants is in some manner responsible for the events and allegations set forth in this
24 complaint.

25 8. Plaintiff makes the allegations in this complaint without any admission that, as to
26 any particular allegation, Plaintiff bears the burden of pleading, proving, or persuading and
27 Plaintiff reserves all of Plaintiff's right to plead in the alternative.

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1 **FIRST CAUSE OF ACTION**

2 **CIVIL PENALTIES PURSUANT TO THE PRIVATE ATTORNEYS GENERAL ACT OF**
3 **2004, LABOR CODE SECTIONS 2698, ET SEQ.**

4 **(Against all Defendants by Plaintiff)**

5 9. Plaintiff incorporates all paragraphs above as though fully set forth herein.

6 10. During Plaintiff's employment and continuing through the present, Plaintiff alleges
7 Defendants violated Labor Code sections 201, 202, 203, 204, 226, 226.7, 510, 512, 1194, 1197,
8 and the applicable Wage Orders.

9 11. Specifically, Defendants have committed the following violations of California
10 Labor Code:

11 12. **Failure to pay wages for all hours worked at the legal minimum wage:**
12 Defendants employed many of their employees, including Plaintiff, as hourly non-exempt
13 employees. In California, an employer is required to pay hourly employees for all "hours worked,"
14 which includes all time that an employee is under control of the employer and all time the
15 employee is suffered and permitted to work. This includes the time an employee spends, either
16 directly or indirectly, performing services which inure to the benefit of the employer.

17 13. Labor Code sections 1194 and 1197 require an employer to compensate employees
18 for all "hours worked" at least at a minimum wage rate of pay as established by the IWC and the
19 Wage Orders.

20 14. In this case, Plaintiff and other current and former aggrieved California-based
21 hourly non-exempt employees worked more minutes per shift than Defendants credited them with
22 having worked. Specifically, Defendants failed to pay Plaintiff and other current and former
23 aggrieved California-based hourly non-exempt employees all wages at the applicable minimum
24 wage for all hours worked due to Defendants' policies, practices, and/or procedures including, but
25 not limited to,

26 (a) Plaintiff and other current and former aggrieved California-based hourly non-
27 exempt employees who worked remotely were not paid for the time spent setting up their remote
28 workstations with computer equipment and accessories supplied by Defendants; and

1 (b) Plaintiff and other current and former aggrieved California-based hourly non-
2 exempt employees who worked remotely were not paid for the time they spent booting up their
3 computers, accessing Defendants' VPN system, and logging into Defendants' VPN system prior
4 to clocking in for the start of their shift.

5 15. Therefore, Defendants suffered, permitted, and required Plaintiff and other current
6 and former aggrieved California-based hourly non-exempt employees to be subject to Defendants'
7 control without paying wages for that time. This resulted in Plaintiff and other current and former
8 aggrieved California-based hourly non-exempt employees working time for which they were not
9 compensated any wages, in violation of Labor Code sections 1194 and 1197 and the applicable
10 Wage Order.

11 16. **Failure to pay wages for overtime hours worked at the overtime rate of pay:**
12 Defendants employed many of their employees, including Plaintiff, as hourly non-exempt
13 employees. In California, an employer is required to pay hourly employees for all "hours worked,"
14 which includes all time that an employee is under control of the employer and all time the
15 employee is suffered and permitted to work. This includes the time an employee spends, either
16 directly or indirectly, performing services that inure to the benefit of the employer.'

17 17. Labor Code sections 510 and 1194 require an employer to compensate employees a
18 higher rate of pay for hours worked in excess of eight (8) hours in a workday, in excess of forty
19 (40) hours in a workweek, and on any seventh consecutive day of work in a workweek:

20 Any work in excess of eight (8) hours in one workday, any work in excess of forty (40)
21 hours in any one (1) workweek, and the first eight (8) hours worked on the seventh day of
22 work in any one (1) workweek, shall be compensated at the rate of no less than one-and-
23 one-half (1.5) times the regular rate of pay for an employee. Any work in excess of twelve
24 (12) hours in one (1) day shall be compensated at the rate of no less than twice the regular
rate of pay for an employee. In addition, any work in excess of eight (8) hours on any
seventh day of a workweek shall be compensated at the rate of no less than twice the
regular rate of pay of an employee.

25 Labor Code section 510.

26 18. In this case, Defendants failed to pay Plaintiff and other current and former
27 aggrieved California-based hourly non-exempt employees overtime wages for all overtime hours
28 worked due to Defendants' policies, practices, and/or procedures including, but not limited to,

1 (a) Plaintiff and other current and former aggrieved California-based hourly non-
2 exempt employees who worked remotely were not paid for the time spent setting up their remote
3 workstations with computer equipment and accessories supplied by Defendants; and

4 (b) Plaintiff and other current and former aggrieved California-based hourly non-
5 exempt employees who worked remotely were not paid for the time they spent booting up their
6 computers, accessing Defendant's VPN system, and logging into Defendants' VPN system prior
7 to clocking in for the start of their shift.

8 19. Overtime is based upon an employee's regular rate of pay. "The regular rate at
9 which an employee is employed shall be deemed to include all remuneration for employment paid
10 to, or on behalf, of the employee." See Division of Labor Standards Enforcement – Enforcement
11 Policies and Interpretations Manual, Section 49.1.2.

12 20. In this case, Plaintiff alleges that when she and other current and former aggrieved
13 California-based hourly non-exempt employees earned overtime wages, Defendants failed to pay
14 them overtime wages at the proper overtime rate of pay due to Defendants' failure to include all
15 remuneration when calculating the overtime rate of pay. Specifically, Defendants maintained a
16 policy, practice, and/or procedure of failing to include all remuneration including but not limited
17 to, annual bonus pay, for example, when calculating Plaintiff's and other current and former
18 aggrieved California-based hourly non-exempt employees' regular rate of pay for the purpose of
19 paying overtime.

20 21. The foregoing policies, practices, and/or procedures resulted in time during each
21 workday that Plaintiff and other current and former aggrieved California-based hourly non-exempt
22 employees were under the control of Defendants but were not compensated. To the extent that the
23 foregoing uncompensated time occurred when Plaintiff and other current and former aggrieved
24 California-based hourly non-exempt employees worked more than eight (8) hours in a workday,
25 more than forty (40) hours in a workweek, and/or seven (7) days in a workweek, Defendants failed
26 to pay them at their overtime rate of pay for overtime hours worked, in violation of Labor Code
27 sections 510 and 1194 and the applicable Wage Order.

28 22. **Failure to pay meal period premium wages at the regular rate of**

1 **compensation:** Plaintiff and other current and former aggrieved California-based hourly non-
2 exempt employees regularly worked shifts of more than five (5) hours in length and shifts of more
3 than ten (10) hours in length.

4 23. California law requires an employer to authorize or permit an employee an
5 uninterrupted meal period of no less than thirty (30) minutes in which the employee is relieved of
6 all duties and the employer relinquishes control over the employee's activities prior to the
7 employee's sixth hour of work. Labor Code sections 226.7, 512; Wage Order 4 at §11; *Brinker*
8 *Rest. Corp. v. Super Ct. (Hohnbaum)* (2012) 53 Cal.4th 1004. An employer may not employ an
9 employee for a work period of more than ten (10) hours per day without providing the employee
10 with a second such meal period of not less than thirty (30) minutes prior to the start of the eleventh
11 hour of work. *Id.* If the employee is not relieved of all duty during a meal period, the meal period
12 shall be considered an "on duty" meal period and counted as time worked. A paid "on duty" meal
13 period is only permitted when: (1) the nature of the work prevents an employee from being
14 relieved of all duty; and (2) the parties have a written agreement agreeing to on-duty meal periods.

15 24. If an employer fails to provide an employee a meal period in accordance with the
16 law, the employer must pay the employee one (1) hour of pay at the employee's regular rate of pay
17 for each workday that a legally required and compliant meal period was not provided. Labor Code
18 section 226.7; Wage Order 4 at §11.

19 25. In this case, Defendants failed to authorize or permit legally required and compliant
20 meal periods to Plaintiff and other current and former aggrieved California-based hourly non-
21 exempt employees due to Defendants' policies, practices, and/or procedures.

22 26. Additionally, Plaintiff alleges that Defendants maintained a policy, practice, and/or
23 procedure of failing to compensate Plaintiff and other current and former aggrieved California-
24 based hourly non-exempt employees one (1) hour of pay at their regular rate of pay for each
25 workday that Plaintiff and other current and former aggrieved California-based hourly non-exempt
26 employees did not receive legally required and compliant meal periods, in violation of Labor Code
27 section 226.7.

28 27. Here, Plaintiff and other current and former aggrieved California-based hourly non-

1 exempt employees worked shifts long enough to entitle them to meal periods and/or meal
2 premium wages at the regular rate of compensation under California law. Nevertheless, on
3 occasions when Defendants paid Plaintiff and other current and former aggrieved California-based
4 hourly non-exempt employees a “premium” wage for late, missed, short, on-premise, on-duty,
5 and/or interrupted meal periods, Defendants failed to pay the one (1) additional hour of pay at
6 Plaintiff’s and other current and former aggrieved California-based hourly non-exempt employees’
7 regular rate of compensation. Specifically, Defendants maintained a policy, practice, and/or
8 procedure of failing to include all remuneration including but not limited to, annual bonus pay, for
9 example, when calculating Plaintiff’s and other current and former aggrieved California-based
10 hourly non-exempt employees’ regular rate of pay for the purpose of paying meal period premium
11 wages.

12 28. Defendants’ foregoing policies, practices, and/or procedures resulted in Plaintiff
13 and other current and former aggrieved California-based hourly non-exempt employees not
14 receiving wages to compensate them for workdays during which Defendants did not provide them
15 with meal periods in compliance with California law.

16 29. **Failure to pay rest period premiums at the regular rate of compensation:**
17 Plaintiff and other current and former aggrieved California-based hourly non-exempt employees
18 regularly worked shifts of more than three-and-a-half (3.5) hours.

19 30. California law requires every employer to authorize and permit an employee a rest
20 period of ten (10) net minutes for every four (4) hours worked or major fraction thereof. Labor
21 Code section 226.7; Wage Order 4 at §12. Under California law, “[e]mployees are entitled to 10
22 minutes’ rest for shifts from three and one-half to six hours in length, 20 minutes for shifts of more
23 than six hours up to 10 hours, 30 minutes for shifts of more than 10 hours up to 14 hours, and so
24 on.” *Brinker Restaurant Corp. v. Sup. Ct. (Hohnbaum)* (2012) 53 Cal.4th 1004, 1029; Labor Code
25 section 226.7; Wage Order 4 at §12. Rest periods, insofar as practicable, shall be in the middle of
26 each work period. Wage Order 4 at §12. Additionally, the rest period requirement “obligates
27 employers to permit – and authorizes employees to take – off-duty rest periods.” *Augustus v. ABM*
28 *Security Services, Inc.*, (2016) 5 Cal.5th 257, 269. That is, during rest periods employers must

1 relieve employees of all duties and relinquish control over how employees spend their time. *Id.*

2 31. If the employer fails to authorize or permit a required rest period, the employer
3 must pay the employee one (1) hour of pay at the employee's regular rate of pay for each workday
4 the employer did not authorize or permit a legally required rest period. Labor Code section 226.7;
5 Wage Order 4 at § 12.

6 32. In this case, Plaintiff and other current and former aggrieved California-based
7 hourly non-exempt employees regularly worked shifts of more than three-and-a-half (3.5) hours.
8 Nevertheless, on occasions when Defendants did pay Plaintiff and other current and former
9 aggrieved California-based hourly non-exempt employees a "premium" wage for late, missed,
10 short, on-premise, on-duty, and/or interrupted rest periods, Defendants failed to pay the one (1)
11 additional hour of pay at Plaintiff's and other current and former aggrieved California-based
12 hourly non-exempt employees' regular rate of compensation. Specifically, Defendants maintained
13 a policy, practice, and/or procedure of failing to include all remuneration including but not limited
14 to, annual bonus pay, for example, when calculating Plaintiff's and other current and former
15 aggrieved California-based hourly non-exempt employees' regular rate of pay for the purpose of
16 paying rest period premiums.

17 33. Additionally, Plaintiff alleges that Defendants maintained a policy, practice, and/or
18 procedure of failing to compensate Plaintiff and other current and former aggrieved California-
19 based hourly non-exempt employees with one (1) hour of pay at their regular rate of pay for each
20 workday they did not receive legally required and compliant rest periods, in violation of Labor
21 Code section 226.7.

22 34. Defendants' foregoing policies, practices, and/or procedures resulted in Plaintiff
23 and other current and former aggrieved California-based hourly non-exempt employees not
24 receiving wages to compensate them for workdays in which Defendants did not provide them with
25 rest periods in compliance with California law.

26 35. **Failure to timely pay earned wages during employment:** In California, wages
27 must be paid at least twice during each calendar month on days designated in advance by the
28 employer as regular paydays, subject to some exceptions. Labor Code section 204(a). Wages

1 earned between the 1st and 15th days, inclusive, of any calendar month must be paid between the
2 16th and the 26th day of that month and wages earned between the 16th and the last day,
3 inclusive, of any calendar month must be paid between the 1st and 10th day of the following
4 month. *Id.* Other payroll periods such as those that are weekly, biweekly, or semimonthly, must be
5 paid within seven (7) calendar days following the close of the payroll period in which wages were
6 earned. Labor Code section 204(d).

7 36. As a derivative of Plaintiff's claims above, Plaintiff alleges that Defendants failed
8 to timely pay Plaintiff's and other current and former aggrieved California-based hourly non-
9 exempt employees' earned wages (including minimum wages, overtime wages, meal period
10 premium wages and/or rest period premium wages), in violation of Labor Code section 204.
11 Defendants' aforementioned policies, practices, and/or procedures resulted in their failure to pay
12 Plaintiff's and other current and former aggrieved California-based hourly non-exempt employees'
13 their earned wages within the applicable time frames outlined in Labor Code section 204.

14 37. **Failure to provide complete and accurate wage statements:** Labor Code section
15 226, subdivision (a). Labor Code section 226(a) provides, *inter alia*, that, upon paying an
16 employee his or her wages, the employer must "furnish each of his or her employees ... an
17 itemized statement in writing showing (1) gross wages earned, (2) total hours worked by the
18 employee, except for any employee whose compensation is solely based on a salary and who is
19 exempt from payment of overtime under subdivision (a) of Section 515 or any applicable order of
20 the Industrial Welfare Commission, (3) the number of piece-rate units earned and any applicable
21 piece rate if the employee is paid on a piece-rate basis, (4) all deductions, provided, that all
22 deductions made on written orders of the employee may be aggregated and shown as one item, (5)
23 net wages earned, (6) the inclusive dates of the pay period for which the employee is paid, (7) the
24 name of the employee and his or her social security number, (8) the name and address of the legal
25 entity that is the employer, and (9) all applicable hourly rates in effect during the pay period and
26 the corresponding number of hours worked at each hourly rate by the employee."

27 38. As a derivative of Plaintiff's allegations above, Defendants' failure to pay Plaintiff
28 and other current and former aggrieved California-based hourly non-exempt employees all wages

1 earned (including minimum wages, overtime wages, meal period premium wages, and/or rest
2 period premium wages) rendered Plaintiff's and other current and former aggrieved California-
3 based hourly non-exempt employees' wage statements inaccurate, in violation of Labor Code
4 section 226.

5 **39. Failure to pay employees all wages due at time of termination/resignation:** An
6 employer is required to pay all unpaid wages timely after an employee's employment ends. The
7 wages are due immediately upon termination (Labor Code section 201) or within seventy-two (72)
8 hours of resignation (Labor Code section 202).

9 40. As a derivative of Plaintiff's allegations above, because Defendants failed to pay
10 Plaintiff and other current and former aggrieved California-based hourly non-exempt employees
11 all their earned wages (including minimum wages, overtime wages, meal period premium wages,
12 and/or rest period premium wages), Defendants failed to pay those employees timely after each
13 employee's termination and/or resignation, in violation of Labor Code sections 201, 202, and 203.

14 41. Labor Code sections 2699, subdivisions (a) and (g) authorize an aggrieved
15 employee, on behalf of himself or herself and other current or former employees, to bring a civil
16 action to recover civil penalties against all Defendants pursuant to the procedures specified in
17 Labor Code section 2699.3.

18 42. Plaintiff has complied with the procedures for bringing suit specified in Labor
19 Code section 2699.3. On January 10, 2024, Plaintiff filed a PAGA Claim Notice with the LWDA
20 and provided notice to Defendants by certified mail which provided notice of the specific
21 provisions of the Labor Code alleged to have been violated, including the facts and theories to
22 support the violations alleged.

23 43. Pursuant to Labor Code section 2699.3, the LWDA must give written notice by
24 certified mail to the parties that it intends to investigate the alleged violations of the Labor Code
25 within 60 days of the date of the complainant's written notice. The LWDA failed to provide the
26 parties notice within 60 days of the date of Plaintiff's PAGA Claim Notice that the LWDA intends
27 to investigate Plaintiff's claims.

28 44. Pursuant to Labor Code sections 2699(a) and (f), Plaintiff is entitled to recover civil

penalties for Defendants' violations of Labor Code sections 201, 202, 203, 204, 226, 226.7, 510, 512, 1194, and 1197, During Plaintiff's employment and continuing through the present, preceding Plaintiff sending the initial PAGA Claim Notice to the LWDA to the present, in the following amounts:

a. For violations of Labor Code sections 201, 202, 203, 204, 226.7, and 512; one hundred dollars (\$100) for each aggrieved employee per pay period for the initial violation and two hundred dollars (\$200) for each aggrieved employee per pay period for each subsequent violation [penalty amounts established by Labor Code section 2699(f)(2)].

b. For violations of Labor Code section 226, two hundred fifty dollars (\$250) for each employee for each pay period for the initial violation, and for each subsequent violation, one thousand dollars (\$1000) for each underpaid employee for each pay period [penalty amounts established by Labor Code section 226.3].

c. For violations of Labor Code section 510, fifty dollars (\$50) for each employee for each pay period for the initial violation, and for each subsequent violation, one hundred dollars (\$100) for each underpaid employee for each pay period [penalty amounts established by Labor Code section 558].

d. For violations of Labor Code section 1194 and 1197, one hundred dollars (\$100) for each underpaid employee for each pay period for the initial violation, and for each subsequent violation, two hundred fifty dollars (\$250) for each underpaid employee for each pay period [penalty amounts established by Labor Code section 1197.1].

45. Pursuant to Labor Code section 2699(g), Plaintiff is entitled to an award of reasonable attorneys' fees and costs in connection with her claims for civil penalties.

PRAYER FOR RELIEF

WHEREFORE, PLAINTIFF, ON BEHALF OF HERSELF AND ON OTHER AGGRIEVED EMPLOYEES, PRAYS AS FOLLOWS:

ON THE FIRST CAUSE OF ACTION:

1. That Defendants be found to have violated the provisions of the Labor Code and the IWC Wages Orders as to the Plaintiff and aggrieved employees;

2. For any and all legally applicable penalties during the relevant statute of limitations subject to any permissible tolling, including but not limited to those recoverable under the California Labor Code, including but not limited to section 2699(f);

3. For attorneys' fees and costs of suit, including but not limited to those recoverable under California Labor Code section 2699(g); and

4. For such and other further relief, in law and/or equity, as the Court deems just or appropriate

Dated: March 18, 2024

Respectfully submitted,
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By:



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