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Attorneys for Plaintiff, Sohil Nader, individually,
and on behalf of all others similarly situated.

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

SOHIL NADER, individually and on behalf
of all others similarly situated,

Plaintiffs,

v.

COSTCO WHOLESALE
CORPORATION.; and DOES 1 through
20, inclusive,

Defendants.

Case No. CV-24-006198

*Assigned for All Purposes to:
Judge John R. Mayne; Dept. 21*

SECOND AMENDED COMPLAINT FOR:
1. Enforcement of Labor Code § 2698 *et seq.*
("PAGA")

1 Plaintiff Sohil Nader, individually and on behalf of others similarly situated, alleges as
2 follows:

3 **NATURE OF ACTION AND INTRODUCTORY STATEMENT**

4 1. Plaintiff Sohil Nader (“Plaintiff”) brings this representative action pursuant to the
5 Private Attorneys General Act of 2004, Cal. Lab. Code. § 2698 *et seq.*, against defendants Costco
6 Wholesale Corporation and DOES 1 through 20, inclusive (collectively, “Defendants”), on
7 Plaintiff’s own behalf and on behalf of persons who are and were employed by any or all
8 Defendants as non-exempt employees throughout California.

9 2. Defendants provide services or goods throughout California.

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

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

- 16 (a) failing to pay all wages (including minimum wages and overtime wages);
- 17 (b) failing to provide lawful meal periods or compensation in lieu thereof;
- 18 (c) failing to authorize or permit lawful rest breaks or provide compensation in
19 lieu thereof;
- 20 (d) failing to reimburse necessary business-related costs;
- 21 (e) failing to provide accurate itemized wage statements;
- 22 (f) failing to pay wages timely during employment; and
- 23 (g) failing to pay all wages due upon separation of employment.

24 5. Plaintiff seeks monetary relief against Defendants on behalf of Plaintiff and all
25 others similarly situated in California for violations of Labor Code §§ 201, 202, 203, 204, 210,
26 226, 226.3, 226.7, 246, 510, 512, 558, 1174, 1174.5, 1182.12, 1194, 1194.2, 1197, 1197.1, 1198,
27 2800, and 2802, and Code of California Civil Procedure § 1021.5.

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

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

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

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

GENERAL ALLEGATIONS

18. At all relevant times mentioned herein, Defendants employed Plaintiff and other California residents as non-exempt employees throughout California. In or around 2019, Defendants hired Plaintiff. In or around March 2020, Defendants transferred Plaintiff to its Laguna Niguel, California store location to work as a Pharmacy Service Assistant in the pharmacy department. In April of 2023 through March of 2024, Defendants paid Plaintiff a base rate of \$27.60 per hour. In March of 2024, Defendants began to pay Plaintiff a base rate of \$28.20 per

1 hour. Plaintiff worked fulltime for Defendants and was typically scheduled to work eight-hour
2 shifts.

3 19. Defendants continue to employ non-exempt employees within California.

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

8 21. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
9 should have known that Plaintiff and aggrieved employees were entitled to receive wages for all
10 time worked (including minimum wages and overtime wages) and that they were not receiving all
11 wages earned for work that was required to be performed, including the completion of post-shift
12 duties. For example, when Plaintiff was scheduled to work on Saturdays, Defendants required
13 Plaintiff to perform post-shift duties without compensation, including attending to customers who
14 needed to pick-up prescriptions from the pharmacy department, performing safety evaluations for
15 the storage of medicine and the pharmacy department, locking the medicine cabinets and securing
16 the pharmacy department, turning off all work stations in the pharmacy department, and moving
17 delivery totes from the inside to the outside of the pharmacy. In violation of the Labor Code and
18 IWC Wage Orders, Plaintiff and aggrieved employees were not paid all wages (including
19 minimum wages and overtime wages) for all hours worked at the correct rate and within the correct
20 time.

21 22. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
22 should have known that Plaintiff and aggrieved employees were entitled to receive all required
23 meal periods or payment of one (1) additional hour of pay at Plaintiff's and aggrieved employees'
24 regular rate of pay when they did not receive a timely, uninterrupted meal period. For example,
25 when Plaintiff and Aggrieved employees worked over five hours and were entitled to a meal
26 period, Defendants did not provide a meal period because Defendants required Plaintiff and
27 Aggrieved employees to work through their meal periods, including by tending to customers
28 waiting in line for their prescriptions and responding to supervisors' and other employees' work-

1 related questions that were made to plaintiff and aggrieved employees' personal cell phones.
2 Defendants also failed to provide coverage for employees to take timely meal periods, and
3 interrupted their meal periods, resulting in meal periods that were missed, late, short, and/or
4 interrupted. In violation of the Labor Code and IWC Wage Orders, Plaintiff and aggrieved
5 employees did not receive all meal periods or payment of one (1) additional hour of pay at
6 Plaintiff's and aggrieved employees' regular rate of pay when they did not receive a timely,
7 uninterrupted meal period.

8 23. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
9 should have known that Plaintiff and aggrieved employees were entitled to receive all rest breaks
10 or payment of one (1) additional hour of pay at Plaintiff's and aggrieved employees' regular rate
11 of pay when a rest break was late, missed, or interrupted. Plaintiff is informed and believes, and
12 thereon alleges, that Defendants' policy and practice of understaffing its locations resulted in a
13 lack of rest period coverage and impeded Plaintiff and Aggrieved employees from taking all
14 timely, uninterrupted meal periods to which they were entitled. When Plaintiff and Aggrieved
15 employees were entitled to a ten-minute rest break, Defendants required Plaintiff and Aggrieved
16 employees to work through their rest breaks and/or interrupted their rest breaks, including by
17 requiring Plaintiff and Aggrieved employees to tend to customers waiting in line for their
18 prescriptions and responding to supervisors' and other employees' work-related questions. In
19 violation of the Labor Code and IWC Wage Orders, Plaintiff and aggrieved employees did not
20 receive all rest breaks or payment of one (1) additional hour of pay at Plaintiff's and aggrieved
21 employees' regular rate of pay when a rest break was missed, late, or interrupted.

22 24. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
23 should have known that Plaintiff and aggrieved employees were entitled to reimbursement and/or
24 indemnification for all necessary business expenditures or losses as a direct consequence of the
25 discharge of their duties, or of their obedience to the directions of Defendants Plaintiff is informed
26 and believes, and thereon alleges, that Defendants required Plaintiff and Aggrieved employees to
27 use their personal cell phones to communicate with their supervisors. However, Defendants did
28 not reimburse Plaintiff and Aggrieved employees for the costs and expenses incurred with the use

1 of their personal cell phones for work. For example, as described above, Plaintiff's supervisors
2 often called him on his personal cell phone while he was on a lunch break to ask him to return to
3 work. In violation of the Labor Code and IWC Wage Orders, Plaintiff and aggrieved employees
4 incurred necessary business expenses or losses, but were not reimbursed nor indemnified of such
5 expenses or losses that were incurred as a direct consequence of the discharge of their duties, or of
6 their obedience to the directions of Defendants.

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

21 26. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
22 should have known that the aggrieved employees were entitled to timely payment of wages due
23 upon separation of employment. In violation of the Labor Code, the aggrieved employees did not
24 receive payment of all wages within the permissible time periods. Specifically, Defendants failed
25 to pay all unpaid wages as explained herein upon employees' separation.

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

3 28. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
4 should have known that the aggrieved employees were entitled to have holiday pay and other
5 additional nondiscretionary compensation incorporated in the regular rate of pay for any paid sick
6 leave, overtime, vacation pay, rest period premiums, and/or meal period premiums earned in the
7 same pay period(s). In violation of the Labor Code, the aggrieved employees did not receive
8 payment of paid sick leave, overtime, vacation pay, rest period premiums, and/or meal period
9 premiums at the required regular rate of pay. An example of additional nondiscretionary
10 compensation that Defendants failed to incorporate in the regular rate of pay includes Defendants'
11 payments to Plaintiff labeled "Holiday Pay" in Plaintiff's wage statements.

12 29. Upon Plaintiff's hiring, Defendants promised to pay Plaintiff "Holiday Pay" only
13 if Plaintiff worked at least half of his last scheduled work day preceding a holiday and his first
14 scheduled work day following the holiday. Defendants announced that such holidays included
15 New Year's Day, Easter, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and
16 Christmas Day. Generally, Defendants' store locations were closed and Plaintiff did not work on
17 the aforementioned holidays. If Plaintiff did not work on a holiday, Plaintiff would only be eligible
18 for Defendants' "Holiday Pay" if Plaintiff worked at least half of his last scheduled work day
19 preceding a holiday and his first scheduled work day following the holiday. If Plaintiff was eligible
20 for "Holiday Pay" when he did not work on a holiday, Defendants' promised to pay Plaintiff
21 "Holiday Pay" at Plaintiff's straight time.

22 30. Plaintiff saw that holiday weeks were busy for Defendants and also when
23 employees wanted to take time off. Plaintiff is informed and believes, and thereon alleges, that
24 Defendants conditioned their "Holiday Pay" payments on employees working their last scheduled
25 work day preceding a holiday and their first scheduled work day following the holiday to ensure
26 adequate staffing during holiday weeks. Plaintiff is informed and believes, and thereon alleges,
27 that for Defendants, an employee who comes to work as scheduled during busy weeks is more
28 valuable than an employee who takes unplanned time off during these weeks. By conditioning

1 “Holiday Pay” payments on coming to work on an employee’s last scheduled work day preceding
2 a holiday and first scheduled work day following a holiday, Defendants incentivized employees to
3 come to work these specific days and therefore to be reliable employees during weeks that are
4 exceptionally busy. Under these circumstances, Defendants’ “Holiday Pay” policy is not a true
5 holiday policy because Defendants’ “Holiday Pay” policy requires an employee to work days
6 before and after the holiday and therefore functions as an attendance bonus to encourage
7 employees to work as scheduled during holiday weeks. Defendants’ “Holiday Pay” does not
8 compensate employees when no work is performed nor when no work is performed due to a
9 holiday. Defendants’ “Holiday Pay” does not compensate employees for working on holidays nor
10 because employees worked on holidays. Instead, Defendants’ “Holiday Pay” compensates
11 employees for working on their last scheduled work day preceding a holiday and first scheduled
12 work day following a holiday and because they worked on their last scheduled work day preceding
13 a holiday and first scheduled work day following a holiday .

14 31. Although Defendants’ “Holiday Pay” payments to Plaintiff and aggrieved
15 employees are labeled with the word “holiday,” this label is not determinative of whether
16 Defendants’ “Holiday Pay” is a nondiscretionary bonus under the Fair Labor Standards Act (the
17 “FLSA”). *See Woodworth v. Loma Linda University Medical Center*, 93 Cal.App.5th 1038 (2023)
18 (The label assigned to a bonus does not conclusively determine whether a bonus is discretionary
19 Instead, FLSA's terms and the facts specific to the bonus at issue determine whether bonuses
20 are excludable discretionary bonuses.) (Internal quotations and citations omitted.). Based on the
21 circumstances specific to Defendants’ “Holiday Pay,” Defendants’ “Holiday Pay” qualifies as a
22 nondiscretionary bonus under the FLSA. Defendants “Holiday Pay” does not meet any statutory
23 exclusion under the FLSA. As such, Defendants were required to incorporate their “Holiday Pay”
24 payments in Plaintiff’s and aggrieved employees’ regular rate of pay but failed to do so in violation
25 of the Labor Code.

26 32. For example, in the pay period July 3, 2023 to July 16, 2023, Defendants paid
27 Plaintiff “Holiday Pay” in the amount of \$218.04. Plaintiff earned this “Holiday Pay” in this pay
28 period because Plaintiff worked at least half of his last scheduled work day on July 3, 2023 and

1 because he worked on his scheduled work day on July 5, 2023, the days preceding and following
2 the holiday of Independence Day on July 4, 2023, respectively. Timekeeping records for Plaintiff
3 show that Plaintiff recorded about 7.80 hours worked on July 3, 2023 and about 7.78 hours worked
4 on July 5, 2023. In the same pay period, Defendants paid Plaintiff 8 hours of paid sick leave, but
5 Defendants failed to incorporate the “Holiday Pay” in the regular rate of pay for purposes of
6 Plaintiff’s paid sick leave in violation of the Labor Code.

7 33. As another example of additional nondiscretionary compensation that Defendants
8 failed to incorporate in the regular rate of pay includes payments to Plaintiff labeled “Extra Check-
9 Hourly” in Plaintiff’s wage statements. Plaintiff is informed and believes, and thereon alleges, that
10 Plaintiff earned “Extra Check-Hourly” payments to reward him for his performance based on the
11 number of hours he worked. For example, on October 6, 2023, Defendants paid Plaintiff “Extra-
12 Check Hourly” in the amount of \$2,750.00. As identified by his wage statement, this payment was
13 earned during the period of March 13, 2023 through September 17, 2023. Plaintiff’s wage
14 statements show that during the period of March 13, 2023 through September 17, 2023, Plaintiff
15 was paid about 24.33 hours of paid sick leave. However, Defendants failed to pay Plaintiff a true-
16 up to account for the resulting owed sick leave wages at the regular rate of pay, incorporating the
17 “Extra-Check Hourly” payments, in violation of the Labor Code.

18 34. Therefore, Plaintiff brings this lawsuit seeking civil penalties, attorneys’ fees, and
19 costs.

20 FIRST CAUSE OF ACTION

21 **ENFORCEMENT OF LABOR CODE §§ 2698 ET SEQ. (“PAGA”)**

22 35. Plaintiff hereby re-alleges and incorporate by reference the previous paragraphs as
23 though fully set forth herein.

24 36. Pursuant to Labor Code § 2699(a), any provision of the Labor Code that provides
25 for a civil penalty to be assessed and collected by the Labor and Workforce Development Agency
26 (“LWDA”) or any of its departments, divisions, commissions, boards, agencies, or employees for
27 violation of the Labor Code may, as an alternative, be recovered through a civil action brought by
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1 an aggrieved employee on behalf of himself or herself and other current or former employees
2 pursuant to the procedures specified in Labor Code § 2699.3.

3 37. For all provisions of the Labor Code except those for which a civil penalty is
4 specifically provided, Labor Code § 2699(f) imposes upon Defendants a penalty of one hundred
5 dollars (\$100.00) for each aggrieved employee per pay period for the initial violation and two
6 hundred dollars (\$200.00) for each aggrieved employee per pay period for each subsequent pay
7 period in which Defendants violated these provisions of the Labor Code.

8 38. Defendants' conduct violates numerous Wage Order and Labor Code sections,
9 including, but not limited to, the following:

- 10 a. violation of Labor Code §§ 201, 202, 203, 204, 210, 246, 510, 558,
11 1182.12, 1194, 1194.2, 1197, 1197.1, and 1198 for failure to timely pay all
12 earned wages (including minimum wage and overtime wages) owed to
13 Plaintiff and other aggrieved employees during employment and upon
14 separation of employment as herein alleged;
- 15 b. violation of Labor Code §§ 226.7 and 512 for failure to provide meal
16 periods to Plaintiff and other aggrieved employees and failure to pay
17 premium wages for missed meal periods as herein alleged;
- 18 c. violation of Labor Code § 226.7 for failure to permit rest breaks to Plaintiff
19 and other aggrieved employees and failure to pay premium wages for
20 missed rest periods as herein alleged;
- 21 d. violation of Labor Code §§ 226 and 226.3 for failure to provide accurate
22 itemized wage statements to Plaintiff and other aggrieved employees as
23 herein alleged;
- 24 e. violation of Labor Code §§ 1174 and 1174.5 for failure to maintain
25 accurate and complete records showing, among other things, the hours
26 worked daily by and the wages paid to aggrieved employees; and
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1 f. violation of Labor Code §§ 2800 and 2802 for failure to reimburse Plaintiff
2 and other aggrieved employees for necessary business expenses as herein
3 alleged.

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

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

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

13 42. For bringing this action, Plaintiff is entitled to attorney’s fees and costs incurred
14 herein.

15 **PRAYER FOR RELIEF**

16 On Plaintiff’s own behalf and on behalf of all others similarly situated, Plaintiff prays for
17 relief and judgment against Defendants, jointly and severally, as follows:

- 18 1. For civil penalties;
- 19 2. For reasonable attorneys’ fees, costs of suit, and interest to the extent permitted by
20 law, including, but not limited to, Code of Civil Procedure § 1021.5 and Labor Code §§ 2698 *et*
21 *seq.*;
- 22 3. For such other relief as the Court deems just and proper.
- 23
- 24

25 Dated: February 19, 2025

AEGIS LAW FIRM, PC

26
27 By: 

Elizabeth Robles
Attorneys for Plaintiff

CERTIFICATE OF SERVICE

I, the undersigned, am employed in the County of Orange, State of California. I am over the age of 18 and not a party to the within action; am employed with Aegis Law Firm PC and my business address is 9811 Irvine Center Drive, Suite 100, Irvine, California 92618.

On February 19, 2025, I served the foregoing document(s) entitled:

• SECOND AMENDED COMPLAINT FOR:

on all the appearing and/or interested parties in this action by delivering ☐ the original
☒ a true copy thereof on the party(ies) addressed below as follows:

David D. Jacobson Seyfarth Shaw LLP 2029 Century Park East, Suite 3500 Los Angeles, California 90067-3021 T (310) 277-7200 F (310) 201-5219 Attorneys for Defendants: COSTCO WHOLESALE CORPORATION	DJacobson@seyfarth.com MKopp@seyfarth.com LNinelist@seyfarth.com DJacobson@seyfarth.com estamler@seyfarth.com lschwartz@seyfarth.com lalocke@seyfarth.com LWhitley@seyfarth.com mtorresmasferrer@seyfarth.com
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- ☐ **(BY MAIL)** I am readily familiar with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid at Irvine, California in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postage cancellation date or postage meter date is more than one day after date of deposit for mailing this affidavit. (*Cal Code Civ. Proc.* § 1013(a); *Fed. R. Civ. Proc.* 5(a); *Fed. R. Civ. Proc.* 5(c).)
- ☐ **(BY OVERNIGHT MAIL)** I am personally and readily familiar with the business practice of Aegis Law Firm PC for collection and processing correspondence for overnight delivery, and I caused such document(s) described herein to be deposited for delivery to a facility regularly maintained Federal Express for overnight delivery. (*Cal Code Civ. Proc.* § 1013(c); *Fed. R. Civ. Proc.* 5(c).)
- ☒ **(BY ELECTRONIC TRANSMISSION)** I caused said document(s) to be served via electronic transmission via the above listed email addresses on the date below. (*Cal. Code Civ. Proc.* § 1010.6(6); *Fed. R. Civ. Proc.* 5(b)(2)(E); *Fed. R. Civ. Proc.* 5(b)(3).)
- ☐ **(BY PERSONAL SERVICE)** I delivered the foregoing document by hand delivery to the addressed named above. (*Cal Code Civ. Proc.* § 1011; *Fed. R. Civ. Proc.* 5(b)(2)(A).)

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on February 19, 2025, at Irvine, California.

Laila Shams
Laila Shams