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As a Private Attorney General on behalf of the State of California

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF ALAMEDA

Carlos Ayala, as a Private Attorney
General on behalf of the State of
California,

Plaintiff,

vs.

Tapestry, Inc.; Kate Spade LLC dba Kate
Spade New York; Stuart Weitzman LLC;
Does 1 through 20, Inclusive,

Defendants.

Case No. **24CV083570**

**REPRESENTATIVE ACTION COMPLAINT
FOR:**

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

1 Plaintiff Carlos Ayala, as a Private Attorney General on behalf of the State of California,
2 hereby alleges as follows:

3 **NATURE OF ACTION AND INTRODUCTORY STATEMENT**

4 1. Plaintiff Carlos Ayala (“Plaintiff”) brings this representative action against Defendant
5 Tapestry, Inc. (“Defendant Tapestry”), Defendant Kate Spade LLC dba Kate Spade New York
6 (“Defendant Kate Spade”), Defendant Stuart Weitzman, LLC (“Defendant Stuart Weitzman”), and
7 Does 1 through 20, inclusive (collectively, the “Defendants”) pursuant to the Private Attorneys
8 General Act of 2004, California Labor Code §§ 2698, *et seq.*, (“PAGA”) on behalf of himself
9 individually, the State of California as a Private Attorney General, and regarding all other aggrieved
10 employees – defined as all individuals who performed work for Defendants in the state of California
11 from one (1) year before the date Plaintiff gave notice of these claims to the California Labor &
12 Workforce Development Agency (“LWDA”), plus any applicable tolling, to the date of trial.

13 2. Defendant Tapestry, Inc. is a luxury fashion corporation and holding company doing
14 business in the state of California.

15 3. Defendant Kate Spade LLC dba Kate Spade New York is a corporate subsidiary of
16 Defendant Tapestry and a luxury fashion company doing business in the state of California.

17 4. Defendant Stuart Weitzman LLC is a corporate subsidiary of Defendant Tapestry and
18 a luxury shoe company doing business in the state of California.

19 5. Through this action, Plaintiff alleges that Defendants have engaged in a systematic
20 pattern of wage and hour violations under the California Labor Code (“Labor Code”).

21 6. Plaintiff is informed and believes, and thereon alleges, that during the relevant time
22 period, Defendants had a consistent policy of violating state wage and hour laws by, among other
23 things:

- 24 (a) misclassifying its employees as exempt;
- 25 (b) failing to pay minimum wages for all hours worked;
- 26 (c) failing to pay overtime wages for all hours worked;
- 27 (d) failing to provide lawful meal periods or compensation in lieu thereof;
- 28 (e) failing to authorize or permit lawful rest breaks or provide compensation in

lieu thereof;

(f) failing to timely pay all earned wages;

(g) failing to pay all wages due upon separation of employment;

(h) failing to reimburse all business expenses;

(i) failing to maintain accurate records of hours worked; and

(j) failing to provide accurate itemized wage statements.

7. Plaintiff brings this representative action seeking monetary relief against Defendants on behalf of himself, other aggrieved employees, and the State of California to recover, among other things, penalties, attorneys' fees, costs, and expenses pursuant to the PAGA.

JURISDICTION AND VENUE

8. The monetary relief sought by Plaintiff exceeds the minimal jurisdictional limits of the Superior Court and will be established according to proof at trial.

9. The Superior 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 statute under which this action is brought does not specify any other basis for jurisdiction.

10. The Superior 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.

11. Venue is proper in this Court because, upon information and belief, Defendants transact business in this county, aggrieved employees under the PAGA work in this county, and acts and omissions alleged herein took place in this county.

THE PARTIES

12. Plaintiff is a citizen of California. Plaintiff worked for Defendants in California during the relevant time periods as alleged herein.

13. Plaintiff is informed and believes, and thereon alleges, that Defendants are

1 corporations doing business throughout the state of California and, at all times hereinafter
2 mentioned, are an employer as defined in and subject to the California Labor Code and Industrial
3 Welfare Commission (“IWC”) Wage Orders, whose employees are and were engaged throughout
4 this county and the state of California.

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

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

12 16. Plaintiff is informed and believes, and thereon alleges, that each defendant acted in
13 all respects pertinent to this action as the agent of the other defendant, carried out a joint scheme,
14 business plan, or policy in all respects pertinent hereto, and the acts of each defendant are legally
15 attributable to the other defendant. Furthermore, Defendants in all respects acted as the employer
16 and/or joint employer of Plaintiff and other aggrieved employees.

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

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

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

GENERAL ALLEGATIONS

20. Defendants are luxury retail clothing and accessories companies that have conducted business in the state of California during the relevant time period.

21. Plaintiff was employed as a Store Manager, or other similar position, by Defendants during the relevant time period.

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

23. Plaintiff is informed and believes, and thereon alleges, that Defendants misclassified Plaintiff and other aggrieved employees as exempt because Plaintiff and other aggrieved employees were not "primarily engaged in" and/or did not spend 50 percent or more of their time performing "duties and responsibilities involv[ing] the management of the enterprise . . . or of a customarily recognized subdivision or department thereof." Cal. Code Regs., tit. 8, 11040(A)(1).

24. Plaintiff is informed and believes, and thereon alleges, that Defendants misclassified Plaintiff and other aggrieved employees as exempt because Plaintiff and other aggrieved employees were not "primarily engaged in" and/or did not spend 50 percent or more of their time performing "office or non-manual work directly related to management policies or general business operations of his/her employer or his employer's customers." Cal. Code Regs., tit. 8, 11040(A)(2).

25. Plaintiff is informed and believes, and thereon alleges, that Defendants misclassified Plaintiff and other aggrieved employees as exempt because Plaintiff and other aggrieved employees were not "primarily engaged in" and/or did not spend 50 percent or more of their time "in the practice of one of the following recognized professions: law, medicine, dentistry, optometry, architecture, engineering, teaching, or accounting" or "in an occupation commonly recognized as a learned or artistic profession." Cal. Code Regs., tit. 8, 11040(A)(3)(a)-(b).

26. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or should have known that Plaintiff and other aggrieved employees were entitled to receive wages for all hours worked and that they were not receiving all wages earned for work that was required to be

1 performed. In violation of the Labor Code and IWC Wage Orders, Plaintiff and other aggrieved
2 employees were not paid wages (including minimum, regular, and overtime wages) as a result of
3 Defendants misclassifying Plaintiff and other aggrieved employees as exempt. Defendants failed to
4 properly track and pay all overtime hours worked by Plaintiff and other aggrieved employees,
5 including for off-the-clock work that Defendants required its employees to perform during meal
6 periods and rest breaks, and exit searches performed after Plaintiff and other aggrieved employees’
7 shifts ended. *See Ornelas v. Tapestry, Inc.* (N.D. Cal. 2021) 2021 U.S. Dist. LEXIS 148327, at *6
8 (“Time spent by an employee ‘on the employer’s premises waiting for, and undergoing, required
9 exit searches of packages, bags, or [jackets] voluntarily brought to work for personal convenience
10 by employees’ is compensable time under the control clause of Wage Order 7.”) (quoting *Frlekin v.*
11 *Apple, Inc.* (2020) 8 Cal. 5th 1038, 1042). Because Plaintiff and other aggrieved employees
12 frequently worked shifts of eight hours or more, this unpaid time qualified for overtime premium
13 payment.

14 27. Plaintiff is informed and believes, and thereon alleges, Defendants failed to provide
15 Plaintiff and other aggrieved employees timely, uninterrupted, off-duty meal periods of no less than
16 thirty (30) minutes before their fifth (5th) hour of work. Plaintiff and other aggrieved employees
17 would also often be required to work through meal periods. These policies, among others, have
18 resulted in a denial of these employees’ rights to 30-minute meal periods in violation of California
19 law.

20 28. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
21 should have known that Plaintiff and other aggrieved employees were entitled to receive all required
22 meal periods or payment of one (1) additional hour of pay at Plaintiff and other aggrieved
23 employees’ regular rate of pay when they did not receive a timely meal period. In violation of the
24 Labor Code and IWC Wage Orders, Plaintiff and other aggrieved employees did not receive all
25 timely meal periods or payment of one (1) additional hour of pay at Plaintiff and other aggrieved
26 employees’ regular rate of pay when they did not receive timely, uninterrupted meal periods.

27 29. Plaintiff is informed and believes, and thereon alleges, Defendants failed to provide
28 Plaintiff and other aggrieved employees timely, uninterrupted, on-the-clock rest periods of no less

1 than ten (10) minutes for every four (4) hours worked, or every major fraction thereof. Instead,
2 Defendants would often require Plaintiff and other aggrieved employees to work through their rest
3 periods. These policies, among others, have resulted in a denial of these employees' rights to a 10-
4 minute rest period in violation of California law.

5 30. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
6 should have known that Plaintiff and other aggrieved employees were entitled to receive all rest
7 breaks or payment of one (1) additional hour of pay at Plaintiff and other aggrieved employees'
8 regular rate of pay when a rest break was missed. In violation of the Labor Code and IWC Wage
9 Orders, Plaintiff and other aggrieved employees did not receive all rest breaks or payment of one (1)
10 additional hour of pay at Plaintiff and other aggrieved employees' regular rate of pay when a rest
11 break was missed.

12 31. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
13 should have known that Plaintiff and other aggrieved employees were entitled to timely payment of
14 wages due upon separation of employment. In violation of the Labor Code, Plaintiff and other
15 aggrieved employees did not receive payment of all wages within permissible time periods.

16 32. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
17 should have known that Plaintiff and other aggrieved employees were entitled to reimbursement for
18 necessary expenditures incurred in connection with the performance and execution of their job
19 duties. In violation of the California Labor Code, Plaintiff and other aggrieved employees did not
20 receive adequate reimbursement for necessary business expenses, including, but not limited to,
21 reimbursement for use of their personal cellular devices and home internet to communicate with
22 other employees and remain responsive to work-related e-mails and text messages.

23 33. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
24 should have known that Plaintiff and other aggrieved employees were entitled to receive itemized
25 wage statements that accurately showed their gross and net wages earned, total hours worked, and
26 all applicable hourly rates in effect and the number of hours worked at each hourly rate in accordance
27 with California law, among the other items required by Labor Code section 226. However,
28 Defendants failed to accurately provide the information required by Labor Code section 226. For

1 example, Defendants failed to list the total hours worked and the applicable hourly rates on the wage
2 statements of Plaintiff and other aggrieved employees. Moreover, by failing to accurately track
3 Plaintiff and other aggrieved employees' time and account for work performed off-the-clock during
4 meal periods, rest periods and after Plaintiff and other aggrieved employees' shifts had ended,
5 Defendants did not provide wage statements accurately reflecting the gross and net wages earned.
6 Thus, in violation of the Labor Code, Plaintiff and other aggrieved employees were not provided
7 with accurate itemized wage statements.

8 **FIRST CAUSE OF ACTION**

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

10 34. Plaintiff hereby re-alleges and incorporates by reference all paragraphs above as
11 though fully set forth herein.

12 35. Pursuant to Labor Code § 2699(a), any provision of the Labor Code that provides for
13 a civil penalty to be assessed and collected by the LWDA or any of its departments, divisions,
14 commissions, boards, agencies, or employees for violation of the Code may, as an alternative, be
15 recovered through a civil action brought by an aggrieved employee on behalf of themselves and as
16 a Private Attorney General on behalf of the State of California, for both their own claims and the
17 claims of other current or former employees pursuant to the procedures specified in Labor Code §
18 2699.3.

19 36. For all provisions of the Labor Code except those for which a civil penalty is
20 specifically provided, Labor Code § 2699(f) imposes upon Defendants a penalty of one hundred
21 dollars (\$100.00) for each aggrieved employee per pay period for the initial violations and two
22 hundred dollars (\$200.00) for each aggrieved employee per pay period for each subsequent pay
23 period in which Defendants violated these provisions of the Labor Code.

24 37. Defendants' conduct with respect to Plaintiff and other aggrieved employees violates
25 numerous Labor Code sections including, but not limited to, the following:

- 26 (a) Violation of Labor Code §§ 201-204, 210, 218, 226.7, 256, 510, 512, 1194,
27 1194.2, 1197, 1197.1, 1198, 1199(c), 2699, and the IWC Wage Orders for failure
28 to timely pay all earned wages (including minimum and overtime wages) owed

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

3 (b) Violation of Labor Code §§ 226.7, 512, 1198 and IWC Wage Orders for failure
4 to provide meal periods and rest breaks to Plaintiff and other aggrieved employees
5 and failure to pay premium wages for missed meal periods and rest breaks as
6 herein alleged;

7 (c) Violation of Labor Code §§ 1174 and 1174.5 for failure to maintain accurate and
8 complete records showing the hours worked daily by Plaintiff and other aggrieved
9 employees as herein alleged;

10 (d) Violation of Labor Code §§ 2800, 2802, and 2804 and IWC Wage Orders for
11 failure to reimburse Plaintiff and other aggrieved employees for all reasonable
12 and necessary business expenses as herein alleged; and

13 (e) Violation of Labor Code § 226 for failure to provide accurate itemized wage
14 statements to Plaintiff and other aggrieved employees as herein alleged.

15 38. Plaintiff is an “aggrieved employee” because he was employed by the alleged
16 violators and had one or more of the alleged violations committed against him and, therefore, is
17 properly suited to represent the interests of all other aggrieved employees.

18 39. On May 10, 2024, Plaintiff submitted notice to the LWDA and Defendants. To date,
19 the LWDA has not provided notice of its intent to investigate. Plaintiff has exhausted the procedural
20 requirements under Labor Code § 2699.3 as to Defendants and is therefore able to pursue a claim
21 for penalties on behalf of himself and the State of California regarding the claims of other aggrieved
22 employees as a Private Attorney General under the PAGA.

23 40. Pursuant to Labor Code §§ 2699(a), 2699.3 and 2699.5, Plaintiff is entitled to recover
24 civil penalties for violations of the Labor Code sections cited above.

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

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1 **PRAYER FOR RELIEF**

2 WHEREFORE, Plaintiff, individually and as a Private Attorney General on behalf of
3 the State of California and as a representative for all aggrieved employees, prays for judgment
4 against Defendants as follows:

- 5 1. For civil penalties against Defendants on behalf of all aggrieved employees;
6 2. For reasonable attorneys' fees and costs of suit to the extent permitted by law,
7 including pursuant to California Labor Code §§ 2699(g) and California Code of Civil Procedure §
8 1021.5; and
9 3. For such other relief as the Court deems just and proper.

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11 Dated: July 16, 2024

LEBE LAW, APLC

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14 By: _____


Jonathan M. Lebe
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Ryan C. Ely

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17 Attorneys for Plaintiff Carlos Ayala, as a Private
18 Attorney General on Behalf of the State of California
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