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Attorneys for PLAINTIFFS
OBED VILLATORO and CLEMENCIA
MARTINEZ, individually, and on behalf of
all other aggrieved employees

Per local Rule, This case is assigned to
Judge Douglas, Danielle K, for all purposes.

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF CONTRA COSTA

OBED VILLATORO and CLEMENCIA
MARTINEZ, individually, and on behalf of all
other aggrieved employees

Plaintiffs,

vs.

WAL-MART ASSOCIATES, INC., a
Delaware corporation; and DOES 1 through
50, inclusive,

Defendants.

CASE NO. C24-03451

**COMPLAINT FOR VIOLATION OF
THE CALIFORNIA LABOR CODE
PRIVATE ATTORNEYS GENERAL
ACT OF 2004**

[California Labor Code § 2698, *et seq.*]

DEMAND FOR JURY TRIAL

SUMMONS ISSUED

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5. PLAINTIFFS, on behalf of themselves and all other aggrieved current and former non-exempt employees of DEFENDANTS in the State of California at any time during the four years preceding the filing of this action, and continuing while this action is pending, brings this representative action to recover, among other things, wages and penalties from unpaid wages earned and due, including but not limited to unpaid minimum wages, unpaid and illegally calculated overtime compensation, illegal meal and rest period policies, failure to pay all wages due to discharged and quitting employees, failure to indemnify employees for necessary expenditures and/or losses incurred in discharging their duties, failure to provide accurate itemized wage statements, failure to maintain required records, and interest, attorneys' fees, costs, and expenses.

DEFENDANTS

6. PLAINTIFFS is informed and believes, and thereon alleges, that DEFENDANT WAL-MART ASSOCIATES, INC. is, and at all times relevant hereto was, a Delaware corporation. PLAINTIFFS is further informed and believes, and thereon alleges, that DEFENDANT WAL-MART ASSOCIATES, INC., is authorized to conduct business in the State of California, and does conduct business in the State of California. Specifically, DEFENDANT WAL-MART ASSOCIATES, INC. maintains offices and facilities and conducts business in, and engages in illegal payroll practices or policies in, the County of CONTRA COSTA, State of California.

7. The true names and capacities of DOES 1 through 50, inclusive, are unknown to PLAINTIFFS at this time, and PLAINTIFFS therefore sue such DOE Defendants under fictitious names. PLAINTIFFS are informed and believe, and thereon alleges, that each Defendant designated as a DOE is in some manner highly responsible for the occurrences alleged herein, and that PLAINTIFFS and other aggrieved employees' injuries and damages, as alleged herein, were proximately caused by the conduct of such DOE Defendants. PLAINTIFFS will seek leave of the court to amend this Complaint to allege their true names and capacities of such DOE Defendants when ascertained.

8. At all relevant times herein, DEFENDANTS were the joint employers of

1 PLAINTIFFS and other aggrieved employees. PLAINTIFFS are informed and believe, and
2 thereon alleges, that at all times material to this complaint DEFENDANTS were the alter egos,
3 divisions, affiliates, integrated enterprises, joint employers, subsidiaries, parents, principals,
4 related entities, co-conspirators, authorized agents, partners, joint venturers, and/or guarantors,
5 actual or ostensible, of each other. Each Defendant was completely dominated by his, her or its
6 co-Defendant, and each was the alter ego of the other.

7 9. At all relevant times herein, PLAINTIFFS and other aggrieved employees were
8 employed by DEFENDANTS under employment agreements that were partly written, partly oral,
9 and partly implied. In perpetrating the acts and omissions alleged herein, DEFENDANTS, and
10 each of them, acted pursuant to, and in furtherance of, their policies and practices of not paying
11 PLAINTIFFS and other aggrieved employees all wages earned and due, through methods and
12 schemes which include, but are not limited to, failing to pay overtime premiums; failing to
13 provide rest and meal periods; failing to properly maintain records; failing to provide accurate
14 itemized statements for each pay period; failing to properly compensate PLAINTIFFS and other
15 aggrieved employees for necessary expenditures; and requiring, permitting or suffering the
16 employees to work off the clock, in violation of the California Labor Code and the applicable
17 Welfare Commission ("IWC") Orders.

18 10. PLAINTIFFS are informed and believe, and thereon allege, that each and every
19 one of the acts and omissions alleged herein were performed by, and/or attributable to, all
20 DEFENDANTS, each acting as agents and/or employees, and/or under the direction and control
21 of, each of the other DEFENDANTS, and that said acts and failures to act were within the course
22 and scope of said agency, employment and/or direction and control.

23 11. Pursuant to California Labor Code § 558.1, DEFENDANTS and any person acting
24 on behalf of any of the DEFENDANTS, are liable for violating, or causing to violate, any
25 provision regulating minimum wages or hours and days of work in any order of the Industrial
26 Welfare Commission, or Labor Code §§ 203, 226, 226.7, 1193.6, 1194, or 2802.

27 12. As a direct and proximate result of the unlawful actions of DEFENDANTS,
28 PLAINTIFFS and other aggrieved employees have suffered, and continue to suffer, from loss of

1 earnings in amounts as yet unascertained, but subject to proof at trial, and within the jurisdiction
2 of this Court.

3 **PAGA REPRESENTATIVE ACTION ALLEGATIONS**

4 13. Pursuant to the California Private Attorneys General Act of 2004 (“PAGA”), Labor
5 Code §§ 2698-2699.5, PLAINTIFFS brings this action on behalf of themselves and all current
6 and former non-exempt aggrieved employees of DEFENDANTS in the State of California at any
7 time within the period beginning one (1) year and sixty-five (65) days prior to the filing of this
8 action, and ending at the time this action settles or proceeds to final judgment (“PENALTY
9 PERIOD”)

10 14. Pursuant to California Labor Code §§ 2699.3, PLAINTIFFS gave written notice by
11 online filing on June 28, 2024 and September 24, 2024 to the California Labor and Workforce
12 Development Agency (“LWDA”) and by certified mail to DEFENDANTS of the specific
13 provisions of the California Labor Code and IWC Wage Orders alleged to have been violated,
14 including the facts and theories to support the alleged violations. More than sixty-five (65) days
15 have passed and the LWDA has not provided notice to PLAINTIFFS that it intends to investigate
16 the alleged violations.

17 15. Therefore, PLAINTIFFS have complied with all of the requirements set forth in
18 California Labor Code § 2699.3 to commence a representative action under PAGA.

19 **FACTUAL ALLEGATIONS**

20 **Failure to Provide Required Meal Periods**

21 **[Cal. Labor Code §§ 226.7, 510, 512, 1194, 1197; IWC Wage Order No. 7-2001, § 11]**

22 **(Against all DEFENDANTS)**

23 16. PLAINTIFFS incorporate herein by specific reference, as though fully set forth,
24 the allegations in the foregoing paragraphs.

25 17. During the PENALTY PERIOD, as part of DEFENDANTS’ illegal payroll
26 policies and practices to deprive their non-exempt employees all wages earned and due,
27 DEFENDANTS required, permitted or otherwise suffered PLAINTIFFS and other aggrieved
28 employees to take less than the 30-minute meal period, or to work through them, and have failed

1 to otherwise provide the required meal periods to PLAINTIFFS and other aggrieved employees
2 pursuant to California Labor Code § 226.7, 512 and IWC Order No. 7-2001, § 11, including but
3 not limited to engaging in a pattern and practice of adjusting the timekeeping entries of
4 PLAINTIFFS and other aggrieved employees so as to make it appear PLAINTIFFS and other
5 aggrieved employees received compliant meal periods when in fact they did not.

6 18. DEFENDANTS further violated California Labor Code §§ 226.7 and IWC Wage
7 Order No. 7-2001, § 11 by failing to compensate PLAINTIFFS and other aggrieved employees
8 who were not provided with a meal period, in accordance with the applicable wage order, one
9 additional hour of compensation at each employee's regular rate of pay for each workday that a
10 meal period was not provided.

11 19. DEFENDANTS further violated California Labor Code §§ 226.7, 510, 1194,
12 1197, and IWC Wage Order No. 7-2001 by failing to compensate PLAINTIFFS and other
13 aggrieved employees for all hours worked during their meal periods.

14 **Failure to Provide Required Rest Periods**

15 **[Cal. Labor Code §§ 226.7, 512; IWC Wage Order No. 7-2001, § 12]**

16 **(Against all DEFENDANTS)**

17 20. PLAINTIFFS incorporate herein by specific reference, as though fully set forth,
18 the allegations in the foregoing paragraphs.

19 21. At all times relevant herein, as part of DEFENDANTS' illegal payroll policies and
20 practices to deprive their non-exempt employees all wages earned and due, DEFENDANTS
21 failed to provide rest periods to PLAINTIFFS and other aggrieved employees as required under
22 California Labor Code §§ 226.7 and 512, and IWC Wage Order No. 7-2001, § 12.

23 22. DEFENDANTS further violated California Labor Code § 226.7 and IWC Wage
24 Order No. 7-2001, § 12 by failing to pay PLAINTIFFS and other aggrieved employees who were
25 not provided with a rest period, in accordance with the applicable wage order, one additional hour
26 of compensation at each employee's regular rate of pay for each workday that a rest period was
27 not provided.

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1 **Failure to Pay Overtime Wages**

2 **[Cal. Labor Code §§ 510, 1194, 1198; IWC Wage Order No. 7-2001, § 3]**

3 **(Against all DEFENDANTS)**

4 23. PLAINTIFFS incorporate herein by specific reference, as though fully set forth,
5 the allegations in the foregoing paragraphs.

6 24. Pursuant to California Labor Code §§ 510, 1194, 1198, and IWC Wage Order No.
7 7-2001, § 3, DEFENDANTS are required to compensate PLAINTIFFS and other aggrieved
8 employees for all overtime, which is calculated at one and one-half (1 ½) times the regular rate of
9 pay for all hours worked in excess of eight (8) hours per day and/or forty (40) hours per week,
10 and for the first eight (8) hours on the seventh consecutive workday, with double time for all
11 hours worked in excess of twelve (12) hours in any workday and for all hours worked in excess of
12 eight (8) hours on the seventh consecutive day of work in any workweek.

13 25. PLAINTIFFS and other aggrieved employees are current and former non-exempt
14 employees entitled to the protections of California Labor Code §§ 510, 1194, 1198, and IWC
15 Wage Order No. 7-2001. During the PENALTY PERIOD, DEFENDANTS failed to compensate
16 PLAINTIFFS and other aggrieved employees for all overtime hours worked as required under the
17 foregoing provisions of the California Labor Code and IWC Wage Order by, among other things:
18 failing to pay overtime at one and one-half (1½) or double the regular rate of pay as provided by
19 California Labor Code §§ 510, 1194, 1198, and IWC Wage Order No. 7-2001, § 3; requiring,
20 permitting or suffering PLAINTIFFS and other aggrieved employees to work off the clock;
21 requiring, permitting or suffering PLAINTIFFS and other aggrieved employees to work through
22 meal and rest breaks; illegally and inaccurately recording time in which PLAINTIFFS and other
23 aggrieved employees worked; failing to properly maintain PLAINTIFFS' and other aggrieved
24 employees' records; failing to provide accurate itemized wage statements to PLAINTIFFS for
25 each pay period; and other methods to be discovered.

26 26. In violation of California law, DEFENDANTS have knowingly and willfully
27 refused to perform their obligations to compensate PLAINTIFFS and other aggrieved employees
28 for all wages earned and all hours worked. As a proximate result, PLAINTIFFS and other

1 aggrieved employees have suffered, and continue to suffer, substantial losses related to the use
2 and enjoyment of such wages, lost interest on such wages, and expenses and attorneys' fees in
3 seeking to compel DEFENDANTS to fully perform their obligations under state law, all to their
4 respective damages in amounts according to proof at time of trial, and within the jurisdiction of
5 this Court.

6 **Failure to Pay Minimum Wages**

7 **[Cal Labor Code §§ 1194, 1197; IWC Wage Order No. 7-2001, § 4]**

8 **(Against all DEFENDANTS)**

9 27. PLAINTIFFS incorporate herein by specific reference, as though fully set forth,
10 the allegations in the foregoing paragraphs.

11 28. Pursuant to California Labor Code §§ 1194, 1197, and IWC Wage Order No. 7-
12 2001, § 4, payment to an employee of less than the applicable minimum wage for all hours
13 worked in a payroll period is unlawful.

14 29. During the PENALTY PERIOD, DEFENDANTS failed to pay PLAINTIFFS and
15 other aggrieved employees minimum wages for all hours worked by, among other things:
16 requiring, permitting or suffering PLAINTIFFS and other aggrieved employees to work off the
17 clock; requiring, permitting or suffering PLAINTIFFS and other aggrieved employees to work
18 through meal and rest breaks; illegally and inaccurately recording time in which PLAINTIFFS
19 and other aggrieved employees worked; failing to properly maintain PLAINTIFFS' and other
20 aggrieved employees' records; failing to provide accurate itemized wage statements to
21 PLAINTIFFS and other aggrieved employees for each pay period; and other methods to be
22 discovered.

23 **Failure to Pay All Wages Due to Discharged and Quitting Employees**

24 **[Cal. Labor Code §§ 201, 202, 203]**

25 **(Against all DEFENDANTS)**

26 30. PLAINTIFFS incorporate herein by specific reference, as though fully set forth,
27 the allegations in the foregoing paragraphs.

28 31. Pursuant to California Labor Code § 201, 202, and 203, DEFENDANTS are

1 required to pay all earned and unpaid wages to an employee who is discharged. California Labor
2 Code § 201 mandates that if an employer discharges an employee, the employee's wages accrued
3 and unpaid at the time of discharge are due and payable immediately.

4 32. Furthermore, pursuant to California Labor Code § 202, DEFENDANTS are
5 required to pay all accrued wages due to an employee no later than 72 hours after the employee
6 quits his or her employment, unless the employee provided 72 hours previous notice of his or her
7 intention to quit, in which case the employee is entitled to his or her wages at the time of quitting.

8 33. California Labor Code § 203 provides that if an employer willfully fails to pay, in
9 accordance with California Labor Code §§ 201 and 202, any wages of an employee who is
10 discharged or who quits, the employer is liable for waiting time penalties in the form of continued
11 compensation to the employee at the same rate for up to 30 workdays.

12 34. During the PENALTY PERIOD, DEFENDANTS have willfully failed to pay
13 accrued wages and other compensation to PLAINTIFFS and other aggrieved employees in
14 accordance with California Labor Code §§ 201 and 202.

15 35. As a result, PLAINTIFFS and other aggrieved employees are entitled to all
16 available statutory penalties, including the waiting time penalties provided in California Labor
17 Code § 203, together with interest thereon, as well as other available remedies.

18 **Failure to Furnish Accurate Itemized Wage Statements**

19 **[Cal. Labor Code §§ 226; IWC Wage Order No. 7-2001, § 7]**

20 **(Against all DEFENDANTS)**

21 36. PLAINTIFFS incorporate herein by specific reference, as though fully set forth,
22 the allegations in the foregoing paragraphs.

23 37. During the PENALTY PERIOD, DEFENDANTS routinely failed to provide
24 PLAINTIFFS and other aggrieved employees with timely, accurate, and itemized wage
25 statements in writing showing each employee's gross wages earned, total hours worked, the
26 number of piece-rate units earned and any applicable piece rate, all deductions made, net wages
27 earned, the name and address of the legal entity or entities employing PLAINTIFFS and other
28 aggrieved employees, the inclusive dates of the period for which the employee is paid, only the

1 last four digits of the employees social security number or an employee identification number
2 other than a social security number, and all applicable hourly rates in effect during each pay
3 period and the corresponding number of hours worked at each hourly rate, in violation of
4 California Labor Code § 226 and IWC Wage Order No. 7-2001, § 7.

5 38. During the PENALTY PERIOD, DEFENDANTS knowingly and intentionally
6 failed to provide PLAINTIFFS and other aggrieved employees with timely, accurate, and
7 itemized wage statements in accordance with California Labor Code § 226(a).

8 **Failure to Maintain Required Records**

9 **[Cal. Labor Code §§ 226, 1174; IWC Wage Order No. 7-2001, § 7]**

10 **(Against all DEFENDANTS)**

11 39. PLAINTIFFS incorporate herein by specific reference, as though fully set forth,
12 the allegations in the foregoing paragraphs.

13 40. During the PENALTY PERIOD, as part of DEFENDANTS' illegal payroll
14 policies and practices to deprive PLAINTIFFS and other aggrieved employees of all wages
15 earned and due, DEFENDANTS knowingly and intentionally failed to maintain records as
16 required under California Labor Code §§ 226, 1174, and IWC Wage Order No. 7-2001, § 7,
17 including but not limited to the following records: total daily hours worked by each employee;
18 applicable rates of pay; all deductions; meal periods; time records showing when each employee
19 begins and ends each work period; and accurate itemized statements.

20 41. DEFENDANTS further failed to maintain records of the true and actual
21 timekeeping entries of PLAINTIFFS and other aggrieved employees, in violation of Labor Code
22 §§ 226 and 1174 and IWC Wage Order No. 7-2001, § 7, by engaging in a pattern and practice of
23 adjusting the timekeeping entries of PLAINTIFFS and other aggrieved employees so as to make
24 it appear PLAINTIFFS and other aggrieved employees received compliant meal periods when in
25 fact they did not.

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1 **Failure to Indemnify Employees for Necessary Expenditures**

2 **Incurred in Discharge of Duties**

3 **[Cal. Labor Code § 2802]**

4 **(Against all DEFENDANTS)**

5 42. PLAINTIFFS incorporate herein by specific reference, as though fully set forth,
6 the allegations in the foregoing paragraphs.

7 43. California Labor Code § 2802(a) requires an employer to indemnify an employee
8 for all necessary expenditures or losses incurred by the employee in direct consequence of the
9 discharge of his or her duties, or of his or her obedience to the directions of the employer.

10 44. During the PENALTY PERIOD, DEFENDANTS knowingly and willfully failed
11 to indemnify PLAINTIFFS and other aggrieved employees for all business expenses and/or losses
12 incurred in direct consequence of the discharge of their duties while working under the direction
13 of DEFENDANTS, including but not limited to expenses for uniforms, cell phone usage, tools,
14 and other employment-related expenses, in violation of California Labor Code § 2802.

15 **FIRST CAUSE OF ACTION**

16 **VIOLATION OF THE PRIVATE ATTORNEYS GENERAL ACT**

17 **[Labor Code § 2698, *et seq.*]**

18 **(Against All DEFENDANTS)**

19 45. PLAINTIFFS incorporate herein by specific reference, as though fully set forth,
20 the allegations in the foregoing paragraphs.

21 46. PLAINTIFFS are “aggrieved employee” within the meaning of Labor Code §
22 2699(c), and a proper representative to bring a civil action on behalf of herself and other current
23 and former non-exempt employees of DEFENDANTS pursuant to the procedures specified in
24 Labor Code § 2699.3, because PLAINTIFFS was employed by DEFENDANTS and one or more
25 of the alleged Labor Code violations was committed against PLAINTIFFS during the PENALTY
26 PERIOD.

27 47. Pursuant to Labor Code §§ 2698-2699.5, PLAINTIFFS seek to recover civil
28 penalties from DEFENDANTS in a representative action for the violations set forth above,

1 including but not limited to violations of Labor Code §§ 201, 202, 203, 204, 226(a), 226.7, 510,
2 512, 1174(d), 1194, 1197, 1198, 2802. PLAINTIFFS and other aggrieved employees are also
3 entitled to an award of reasonable attorneys' fees and costs pursuant to California Labor Code
4 § 2699(g)(1).

5 48. Pursuant to Labor Code § 2699(a), PLAINTIFFS seek civil penalties for
6 DEFENDANTS' violations of Labor Code provisions for which a civil penalty is specifically
7 provided, including but not limited to the following:

8 a. Pursuant to Labor Code § 210, for violations of Labor Code § 204,
9 DEFENDANTS are subject to a civil penalty in the amount of one hundred
10 dollars (\$100) for the initial violation for each failure to pay each employee
11 and two hundred dollars (\$200) per employee for violations in subsequent
12 pay periods.

13 b. Pursuant to Labor Code § 226.3, for violations of Labor Code § 226(a),
14 DEFENDANTS are subject to a civil penalty in the amount of two hundred
15 and fifty dollars (\$250) per aggrieved employee for the initial pay period
16 where a violation occurs and one thousand dollars (\$1,000) per aggrieved
17 employee for violations in subsequent pay periods.

18 c. Pursuant to Labor Code § 558(a), "[a]ny employer or other person acting
19 on behalf of an employer who violates, or causes to be violated, a section
20 of this chapter or any provision regulating hours and days of work in any
21 order of the Industrial Welfare Commission," including Labor Code §§ 510
22 and 512, shall be subject to a civil penalty, in addition to any other penalty
23 provided by law, of fifty dollars (\$50) for initial violations for each
24 underpaid employee for each pay period for which the employee was
25 underpaid and one hundred dollars (\$100) for each subsequent violation for
26 each underpaid employee for each pay period for which the employee was
27 underpaid.

28 d. Pursuant to Labor Code § 1174.5, for violations of Labor Code § 1174(d),

1 DEFENDANTS are subject to a civil penalty of five hundred dollars
2 (\$500).

- 3 e. Pursuant to Labor Code § 1197.1, an employer who pays or causes to be
4 paid to any employee a wage less than the minimum fixed by an order of
5 the commission, shall be subject to a civil penalty as follows: for any initial
6 violation that is intentionally committed, one hundred dollars (\$100) for
7 each underpaid employee for each pay period for which the employee is
8 underpaid; and for each subsequent violation of the same offense, two
9 hundred fifty dollars (\$250) for each underpaid employee for each pay
10 period for which the employee is underpaid regardless of whether the
11 initial violation was intentionally committed.

12 49. Labor Code § 2699(f) provides that for all Labor Code violations for which a civil
13 penalty is not specifically provided, the following civil penalties are established: one hundred
14 dollars (\$100) for each aggrieved employee per pay period for the initial violation and two
15 hundred dollars (\$200) for each aggrieved employee per pay period for each subsequent violation.
16 PLAINTIFFS seek such civil penalties under Labor Code § 2699(f) for DEFENDANTS'
17 violations of Labor Code provisions for which a civil penalty is not specifically provided,
18 including but not limited to Labor Code §§ 201, 202, 203, 226.7, 1194, 1197, 1198, and 2802.

19 **PRAYER FOR RELIEF**

20 **WHEREFORE**, PLAINTIFFS, individually and on behalf of all other persons similarly
21 situated, respectfully prays for relief against DEFENDANTS and DOES 1 through 50, inclusive,
22 and each of them, as follows:

23 1. For civil penalties according to proof, including but not limited to all penalties
24 authorized by California Labor Code §§ 2698-2699.5;

25 2. For reasonable attorneys' fees and costs pursuant to California Labor Code
26 §§ 218.5, 1194, 2699, 2802, California Civil Code § 1021.5, and any other applicable provisions
27 providing for attorneys' fees and costs;

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3. For such further relief that the Court may deem just and proper.

DATED: December 19, 2024

Respectfully submitted,

MATERN LAW GROUP, PC

By:



MATTHEW J. MATERN
MIKAEL H. STAHLE
Attorneys for PLAINTIFFS
OBED VILLATORO and CLEMENCIA
MARTINEZ, individually, and on behalf of
all other aggrieved employees

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DATED: December 19, 2024

MATERN LAW GROUP, PC

Mike Stahl

MATTHEW J. MATERN
MIKAEL H. STAHL
OBED VILLATORO and CLEMENCIA
MARTINEZ, individually, and on behalf of
all other aggrieved employees