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County of Alameda

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Attorneys for Plaintiff DYLAN DAWSON

and all other Aggrieved Employees

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF ALAMEDA

DYLAN DAWSON, on behalf of himself and in
a representative capacity on behalf of all other
aggrieved employees;

Plaintiff,

v.

WAL-MART.COM USA, LLC, a California
limited liability company; WAL-MART
ASSOCIATES, INC.; WALMART, INC.; and
DOES 1 through 10, inclusive;

Defendants.

Case No.: **25CV107037**

REPRESENTATIVE ACTION

COMPLAINT AND JURY DEMAND

- 1. WHISTLEBLOWER RETALIATION**
(Labor Code § 1102.5); and
- 2. VIOLATIONS OF THE PRIVATE**
ATTORNEYS GENERAL ACT OF 2004
(Labor Code §§ 2698, et seq.).

DEMAND FOR JURY TRIAL

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I. INTRODUCTION

1. This is an individual whistleblower action under California Labor Code section 1102.5 and a representative action under Labor Code section 2698, *et seq.*, brought by Plaintiff DYLAN DAWSON (“Plaintiff”) against Defendants WAL-MART.COM USA, LLC, WAL-MART ASSOCIATES, INC., and WALMART, INC. (collectively, “Walmart”).

2. Defendants are collectively a multinational retail corporation and its subsidiaries that operate through the United States and California.

3. With respect to the whistleblower claim, the first two weeks of his employment, Plaintiff learned that his supervisor, Kimberly Hamilton, was directing contractors to work off the clock, log hours that they did not work, and that she was approving falsified timecards from the contracting agency. Plaintiff believed that this activity was illegal.

4. Plaintiff reported this illegal activity to multiple individuals with authority over him or authority to investigate the activity, including members of Walmart’s Human Resources department and Associate Relations department. However, nothing was done to address it.

5. Walmart retaliated against Plaintiff for reporting illegal activity by forcing him to find a new position or resign and terminating him when he was unable to find a new position.

6. Walmart further retaliated against Plaintiff by placing him on an “ineligible for rehire” list and rescinding a later offer of employment.

7. Plaintiff also brings a representative action on behalf of all current and former Managers, Program Managers, Project Managers, and Operations Managers who worked for Walmart at Walmart Connect, Walmart’s media and advertising arm in the State of California from October 30, 2023 through the present (“Aggrieved Employees”).

8. Walmart has required Plaintiff and Aggrieved Employees to use their personal cellular devices to download and use an authentication application called Microsoft Authenticator on their personal cell phones to perform their job duties. Walmart has failed to reimburse Plaintiff and Aggrieved Employees for expenses incurred through this use of their personal cell phones.

9. Plaintiff therefore seeks relief under the California Labor Code for whistleblower retaliation, lost past and future wages, emotional distress damages, and attorneys' fees and costs pursuant to Labor Code section 1102.5.

10. Plaintiff also seeks civil penalties for failure to reimburse business expenses pursuant to the Private Attorneys General Act, Labor Code sections 2698 *et seq.* (“PAGA”).

II. VENUE AND JURISDICTION

11. Venue is proper in this judicial district, pursuant to Code of Civil Procedure section 395.5. Walmart regularly conducts business in the County of Alameda and Aggrieved Employees performed work in the County of Alameda. The unlawful acts alleged herein have occurred in and have a direct effect on Plaintiff and those similarly situated within the State of California and the County of Alameda.

III. PARTIES

A. PLAINTIFF

12. Plaintiff and Aggrieved Employees are current or former employees who worked for Walmart at Walmart Connect as Managers, Program Managers, Project Managers, and Operations Managers. Walmart employed Plaintiff and Aggrieved Employees on an exempt, salaried basis at some time during the period beginning October 30, 2023, to the present (the “PAGA Period”).

13. Plaintiff is a resident of California and former employee who worked for Walmart as a Manager at Walmart Connect during the relevant time periods herein. Plaintiff performed work for Defendant at its San Bruno, California office location.

B. WAL-MART.COM USA, LLC.

14. Defendant WAL-MART.COM USA, LLC is a California limited liability company headquartered in San Bruno, California. Upon information and belief, WAL-MART.COM USA, LLC is a wholly owned subsidiary of Defendant WALMART, INC., and operates Defendant WALMART, INC.'s online retail stores in the County of Alameda.

1 **C. WAL-MART ASSOCIATES, INC.**

2 15. Defendant WAL-MART ASSOCIATES, INC. is a Delaware corporation with its
3 headquarters located in Bentonville, Arkansas. The entity name “Wal-Mart Associates, Inc.” is the
4 entity listed on Plaintiff’s wage statements. Upon information and belief, Defendant WAL-MART
5 ASSOCIATES, INC. does business as “Walmart, Inc.” and “Wal-Mart.com USA, LLC.” WAL-
6 MART ASSOCIATES, INC. regularly conducts business in the State of California and the County
7 of Alameda.

8 **D. WALMART, INC.**

9 16. Defendant WALMART, INC. is a multinational retail corporation that operates
10 throughout the United States and California. Defendant WALMART, INC. is a Delaware
11 corporation with its headquarters located in Bentonville, Arkansas. WALMART, INC. regularly
12 conducts business in the State of California and the County of Alameda.

13 **E. CURRENTLY UNKNOWN DEFENDANTS**

14 17. The true names and capacities, whether individual, corporate, associate, agent, or
15 otherwise, of the Defendants named herein as DOES 1 through 10 are unknown to Plaintiff, who
16 therefore sues said Defendants by such fictitious names under Code of Civil Procedure section 474.
17 Plaintiff is informed and believes, and thereon alleges, that each such fictitiously named Defendant
18 is legally responsible in some manner for the unlawful acts referred to herein, and that the damages
19 as alleged herein were proximately caused by their conduct. Plaintiff will seek leave of court to
20 amend this Complaint to reflect the true names and capacities of the persons designated hereinafter
21 as DOES when such identities become known.

22 **IV. EXHAUSTION OF ADMINISTRATIVE REMEDIES**

23 18. On October 30, 2024, Plaintiff gave electronic and written notice by certified mail
24 of Walmart’s violations of various provisions of the California Labor Code as alleged in this
25 complaint to the LWDA and to Defendants.
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19. The LWDA has not provided notice pursuant to Labor Coe section 2699.3(a)(2)(A), and 65 calendar days have passed since the postmark date of Plaintiff's LWDA notice. Therefore, Plaintiff is entitled to commence a civil action pursuant to Labor Code section 2699.

V. STATEMENT OF FACTS

20. Walmart is a multinational retail corporation that operates throughout the United States and California. Walmart employed Plaintiff and Aggrieved Employees as Managers, Program Managers, Project Managers, and Operations Managers for Walmart Connect, Walmart's media and advertising platform. Defendants classified these employees as exempt, salaried employees.

21. Plaintiff was employed by Walmart as a Manager of Creative Operations within the Marketing Operations for the Brand Strategy team at Walmart Connect from August 14, 2023, to January 5, 2024.

A. WHISTLEBLOWER RETALIATION

22. During Plaintiff's first two weeks of work, he discovered that his supervisor, Kimberly Hamilton, was directing two contractors to work off the clock and to log hours they did not work. Plaintiff also believed that Ms. Hamilton was approving falsified timecards showing the inflated hours worked by contractors.

23. Plaintiff reported this illegal activity to Ms. Hamilton's supervisor, Renee Fisher, during a Zoom meeting on August 28, 2023. Plaintiff also requested that he be transferred to another team.

24. Ms. Fisher directed Plaintiff to draft a high-level overview of his concerns, but to omit details regarding contractor violations, saying that they would be addressed through another avenue.

25. Ms. Fisher told Plaintiff that she had shared his concerns with Ms. Hamilton, even though Plaintiff believed their conversation had been confidential.

1 26. Plaintiff filed a report with a Human Resources Resolution Specialist via Walmart's
2 intranet on August 30, 2023, reporting that he had brought workplace violations to the attention of
3 his supervisors.

4 27. Plaintiff also reported the unlawful conduct that his supervisor had been engaging in
5 with the two contractors to a member of Walmart's Associate Relations Department on August 31,
6 2023. During this conversation, he explicitly stated that he believed Ms. Hamilton's conduct was
7 unlawful given his 15 years of experience managing contractors, including two years managing
8 contractors on another team at Walmart in a prior position from 2019 to 2021. Plaintiff followed up
9 this conversation by filing a Human Resources ticket through Walmart's intranet.

10 28. On or around September 1, 2023, Plaintiff was reassigned to report to Ms. Fisher
11 rather than Ms. Hamilton.

12 29. On September 28, 2023, Plaintiff met with a Global Investigator in Walmart's
13 Workplace Investigation unit and discussed in further detail his belief that Ms. Hamilton's
14 practices were illegal and counter to Walmart's internal policies.

15 30. On October 3, 2023, Plaintiff asked to oversee the contractors' timecards but was
16 denied access even though they were supposed to be his direct reports according to his job
17 description.

18 31. Walmart closed the investigation into Plaintiff's complaint on October 4, 2023,
19 stating that no illegal activity had been found.

20 32. On November 1, 2023, Ms. Fisher informed Plaintiff that, because of his Human
21 Resources complaints, he was being either reassigned to report to Ms. Hamilton, that he had 45
22 days to find a new role on a different team at Walmart, or be forced to resign.

23 33. Plaintiff chose the 45-day job search option and applied to several internal positions.
24 However, he was unable to find a new comparable role.

25 34. Walmart terminated Plaintiff on January 5, 2024.

26 35. Plaintiff continued to apply to positions at Walmart from the time of his termination
27 until July 2024. On July 8, 2024, Plaintiff received and accepted an offer for a contract position at
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1 Walmart. Plaintiff signed a contract with Walmart’s contracting agency and began the onboarding
2 process with a prospective start date of July 17, 2024.

3 36. On July 9, 2024, Walmart rescinded his contract, on the basis that he had been
4 designated as “ineligible for rehire.”

5 **B. LABOR CODE SECTION 2802 VIOLATIONS**

6 37. Walmart required Plaintiff and Aggrieved Employees to use their personal cell
7 phones in direct consequence of the discharge of their duties.

8 38. Plaintiff and Aggrieved Employees were required to download the Microsoft
9 Authenticator application on their personal cell phones to use two-factor authentication to log in to
10 work accounts. Plaintiff and Aggrieved Employees were required to use the two-factor
11 authentication app multiple times a day to log in to their emails and for other purposes as a
12 necessary part of their job.

13 39. Walmart required Plaintiff to use the Microsoft Authenticator app approximately
14 five times per workday. Plaintiff is informed and believes that all other Aggrieved Employees used
15 two-factor authentication multiple times every day to perform required job duties.

16 40. Plaintiff and Aggrieved Employees were also required to download and use
17 Walmart’s in-house phone applications to their personal cell phones. These apps were necessary to
18 access resources required to complete their job duties such as Walmart’s intranet and secure web
19 browser, work email accounts, and work calendars.

20 41. Walmart required Plaintiff to use these apps during his employment to perform his
21 job duties. Plaintiff is informed and believes that all other Aggrieved Employees were also required
22 to download Walmart’s in-house phone apps to their personal cell phones to perform necessary job
23 duties.

24 42. Plaintiff and Aggrieved Employees were also required to use their personal cell
25 phones to communicate with supervisors and co-workers on a regular basis. Walmart’s Device
26 Setup Guide states that employees are required to have mobile devices that accept text and/or SMS
27 messages as part of their employment.

1 43. Plaintiff received text messages and phone calls on his personal cell phone from his
2 supervisors and co-workers throughout his employment, including group texts to discuss work-
3 related matters. Plaintiff was also required to download third-party enterprise tools such as Slack
4 on his personal cell phone to communicate with supervisors and co-workers. Plaintiff is informed
5 and believes that all other Aggrieved Employees also received text and SMS messages, phone
6 calls, and third-party app messages on their personal cell phones from supervisors and co-workers
7 on a regular basis.

8 44. Walmart knew that Plaintiff and Aggrieved Employees were required to use their
9 personal cell phones for business-related expenses. However, Walmart did not reimburse Plaintiff
10 and all other Aggrieved Employees in California for business-related expenses related to the use of
11 their cell phones.

12 45. Walmart denied Plaintiff's request for reimbursement for the use of his personal cell
13 phone to complete required job duties. Specifically, Plaintiff requested reimbursement for the use
14 of his personal cell phone for work related purposes. His supervisor then informed him that there
15 was no budget for reimbursement of cell phone use. Plaintiff is informed and believes that all other
16 Aggrieved Employees have also been denied reimbursement for the use of their personal cell
17 phones to complete necessary job duties.

18 46. Walmart does not provide Plaintiff and Aggrieved Employees with a cellular device
19 to use Microsoft Authenticator or provide an alternative way to access essential work software and
20 email to perform their job duties.

21 47. Walmart has not reimbursed or indemnified Plaintiff and Aggrieved Employees for
22 the out-of-pocket expenses incurred as a result of the work-related use of their personal cell
23 phones.

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1 **VI. CAUSES OF ACTION**

2 **FIRST CAUSE OF ACTION**

3 **WHISTLEBLOWER RETALIATION**

4 **(Labor Code § 1102.5)**

5 **(On behalf of Plaintiff DYLAN DAWSON)**

6 48. The allegations of each of the preceding paragraphs are realleged and incorporated
7 herein by reference.

8 49. Labor Code section 1102.5(b) prohibits an employer, or any person acting on behalf
9 of the employer, from retaliating against an employee “for disclosing information, or because the
10 employer believes that the employee disclosed or may disclose information, to a government or
11 law enforcement agency, to a person with authority over the employee or another employee who
12 has the authority to investigate, discover, or correct the violation or noncompliance, or for
13 providing to, or testifying before, any public body conducting an investigation, hearing, or inquiry,
14 if the employee has reasonable cause to believe that the information discloses a violation of state or
15 federal statute, or a violation of or noncompliance with a local, state, or federal rule or regulation,
16 regardless of whether disclosing the information is part of the employee’s job duties.” Cal. Lab.
17 Code § 1102.5(b).

18 50. Plaintiff reasonably believed that Walmart was in violation of, and in
19 noncompliance with, state and federal statutes, rules, and regulations in the form of potential time
20 fraud and mismanagement of contractors by his supervisor.

21 51. Here, Plaintiff made numerous disclosures to Ms. Fisher and several Walmart
22 Human Resources investigators. These disclosures included:

- 23 a. Plaintiff’s August 28, 2023, verbal disclosure to Ms. Fisher regarding Ms. Hamilton’s
24 direction to contractors to work off the clock, log inflated hours, and her approval of
25 timecards showing these inaccuracies;
26 b. Plaintiff’s August 30, 2023, chat conversation and written report with a Human
27 Resources Specialist where Plaintiff described Ms. Hamilton’s illegal conduct; and
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1 c. Plaintiff's August 31 and September 28, 2023, verbal disclosures to a Global
2 Investigator in the Walmart Associate Relations Department, where Plaintiff
3 explicitly stated that he believed Ms. Hamilton's actions were illegal and counter to
4 Walmart's internal policies.

5 52. Ms. Fisher had authority over Plaintiff and Ms. Hamilton. The Human Resources
6 personnel that Plaintiff spoke with had authority to investigate, discover, or correct the violations
7 that Plaintiff disclosed.

8 53. Walmart took adverse employment actions against Plaintiff by forcing him to search
9 for a position to transfer to, terminating him in 2023, designating him as "ineligible for rehire," and
10 rescinding his job offer in July 2024.

11 54. Plaintiff's disclosures were contributing factors in Defendants' decision to transfer
12 him, terminate him, place him on an "ineligible for rehire" list, and rescind his job offer.

13 55. As a proximate result of Walmart's actions, Plaintiff has suffered actual,
14 consequential, and incidental financial losses, including loss of salary and benefits, the intangible
15 loss of employment-related opportunities in his field, and damage to his professional reputations,
16 all in amounts according to proof.

17 56. As a proximate result of Walmart's wrongful acts, Plaintiff has suffered and
18 continues to suffer emotional distress, fear, anxiety, humiliation, mental anguish, and
19 embarrassment, all in amounts according to proof.

20 57. Plaintiff was required to retain private counsel to vindicate his rights under the law
21 and is therefore entitled to an award of all attorneys' fees incurred in this action.

22 WHEREFORE, Plaintiff prays for judgment against Walmart as set forth below.

23 **SECOND CAUSE OF ACTION**
24 **PENALTIES UNDER THE PRIVATE ATTORNEYS GENERAL ACT**
25 **(Labor Code §§ 2698, *et seq.*)**
(On behalf of Plaintiff and all other Aggrieved Employees)

26 58. The allegations of each of the preceding paragraphs are realleged and incorporated
27 herein by reference, and Plaintiff alleges as follows a cause of action on behalf of himself and all
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1 other Aggrieved Employees of Walmart who have suffered the Labor Code violations described
2 below.

3 59. Pursuant to Labor Code section 2699.3(a), on October 30, 2024, Plaintiff gave
4 notice by electronic filing and by certified mail to Defendant, and the Labor and Workforce
5 Development Agency (“LWDA”) of the factual and legal basis for the labor law violations alleged
6 in this complaint. The LWDA has not provided notice pursuant to Labor Code section
7 2699.3(a)(2)(A), and 65 calendar days have passed since the postmark date of Plaintiff’s LWDA
8 notice. Therefore, Plaintiff is entitled to commence a civil action pursuant to Labor Code section
9 2699.

10 60. Labor Code section 2699(f) provides, in pertinent part: “For all provisions of this
11 code except those for which a civil penalty is specifically provided, there is established a civil
12 penalty for a violation of these provisions, as follows: . . . If, at the time of the alleged violation, the
13 person employs one or more employees, the civil penalty is one hundred dollars (\$100) for each
14 aggrieved employee per pay period, . . . [and] [t]he civil penalty is two hundred dollars (\$200) for
15 each aggrieved employee per pay period if either of the following are met: (i) Within the five years
16 preceding the alleged violation, the agency or any court issued a finding or determination to the
17 employer that its policy or practice giving rise to the violation was unlawful. (ii) The court
18 determines that the employer’s conduct giving rise to the violation was malicious, fraudulent, or
19 oppressive.”

20 61. Labor Code section 2699(k)(1) provides, in pertinent part: “[A]n aggrieved
21 employee may recover the civil penalty described in subdivision (f) and Any employee who
22 prevails in any action shall be entitled to an award of reasonable attorney’s fees and costs,
23 including any filing fee paid pursuant to subparagraph (B) of paragraph (1) of subdivision (a) or
24 subparagraph (B) of paragraph (1) of subdivision (c) of Section 2699.3.”

25 62. Plaintiff is an aggrieved employee as defined by Labor Code section 2699(c).

26 63. Plaintiff’s cause of action under Labor Code section 2698, *et seq.* is based on the
27 following allegation:
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- 1 a. Violations of Labor Code section 2802 for failing to reimburse Plaintiff and all other
2 Aggrieved Employees for business-related expenses due to the costs of cell phone use
3 for, among other things, (1) downloading and using the Microsoft Authenticator
4 application to use two-factor authentication to log in to work accounts multiple times
5 a day; (2) downloading and using Walmart's in-house phone applications to access
6 resources such as Walmart's intranet and secure web browser, work email accounts,
7 and work calendars; (3) communicating with supervisors and co-workers on a regular
8 basis through text and SMS messages; and (4) downloading third-party enterprise
9 tools such as Slack to communicate with supervisors and co-workers.

10 64. As a direct and proximate result of Walmart's unlawful practices and policies,
11 Plaintiff and all other Aggrieved Employees have suffered and continue to suffer monetary losses.

12 65. Plaintiff, on behalf of himself and all other Aggrieved Employees, requests civil
13 penalties against Defendant for violations of the Labor Code, as provided under Labor Code
14 section 2699(f) and as provided under any of the Labor Code sections that Plaintiff alleges herein
15 that Defendant violated, plus reasonable attorneys' fees and costs, as provided under Labor Code
16 section 2699(k)(1), in amounts to be proven at trial.

17 **PRAYER FOR RELIEF**

18 WHEREFORE, Plaintiff, on behalf of himself and all other Aggrieved Employees, requests
19 relief as follows:

- 20 a. For declaratory judgment that Walmart's violations as described above were willful;
21 b. For compensatory damages for lost past and future wages, earnings, and benefits,
22 according to proof;
23 c. For general damages for humiliation, mental anguish, and emotional distress,
24 according to proof;
25 d. For consequential damages, according to proof;
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- 1 e. For an award of civil penalties under Labor Code section 2698, *et seq.*, including
2 any civil penalties specifically set forth under any of the Labor Code sections that
3 Plaintiff alleges herein that Defendant violated;
- 4 f. For an award to Plaintiff of reasonable attorneys' fees and costs, pursuant to Labor
5 Code sections 1102.5 and 2699, and/or other applicable law;
- 6 g. For pre-judgment and post-judgment interest; and
- 7 h. For an award to Plaintiff of such other and further relief as this Court deems just and
8 proper.
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10 DATED: January 15, 2025

HUNTER PYLE LAW, PC

11
12 By: 
13 Hunter Pyle
Bradán M. Litzinger

14 *Attorneys for Plaintiff DYLAN DAWSON*
15 *and all other Aggrieved Employees*

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DEMAND FOR JURY TRIAL

Plaintiff DYLAN DAWSON hereby demands a jury trial of this matter on all triable claims.

Dated: January 15, 2025

HUNTER PYLE LAW, PC

By: 
Hunter Pyle
Bradah M. Litzinger

*Attorneys for Plaintiff DYLAN DAWSON
and all other Aggrieved Employees*