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on behalf of the State of California and all other similarly
situated aggrieved employees

FILED
Superior Court of California
County of Los Angeles
03/06/2025
David W. Slayton, Executive Officer / Clerk of Court
By: M. Miro Deputy

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES – SPRING STREET COURTHOUSE

TUISDI LAYNE McCLURE, on behalf
of herself and all others similarly situated,

Plaintiffs,

v.

GENESCO INC., a Tennessee
corporation; and Does 1 to 50, inclusive,

Defendants.

PAGA-ONLY ACTION:

Case No. 24STCV29199

**FIRST AMENDED COMPLAINT FOR
CIVIL PENALTIES UNDER THE
PRIVATE ATTORNEYS GENERAL ACT
(Labor Code §§ 2698, et seq.) FOR:**

1. FAILURE TO PAY ALL WAGES;
2. FAILURE TO PAY MINIMUM WAGES;
3. FAILURE TO PAY ALL OVERTIME
WAGES AT THE LEGAL OVERTIME
PAY RATE;
4. FAILURE TO PROVIDE ALL MEAL
PERIODS;
5. FAILURE TO AUTHORIZE AND
PERMIT ALL PAID REST PERIODS;
6. FAILURE TO FULLY REIMBURSE
WORK EXPENSES;
7. FAILURE TO TIMELY FURNISH
ACCURATE ITEMIZED WAGE
STATEMENTS;
8. DERIVATIVE VIOLATIONS OF
LABOR CODE §§ 201-202;
9. INDEPENDENT VIOLATIONS OF
LABOR CODE §§ 201-202;
10. VIOLATIONS OF LABOR CODE § 246;
and
11. FAILURE TO PAY SICK PAY AT THE
LEGAL PAY RATE

Action filed: November 6, 2024

Trial date: None Set

1 Plaintiff Tuisdi Layne McClure, on behalf the State of California and all other similarly
2 situated aggrieved employees (“Plaintiff”), complains and alleges as follows against Defendant
3 Genesco Inc. and Does 1 to 50 (“Defendants”). Plaintiff is informed and believes, and on the basis
4 of that information and belief, alleges as follows:

5 **I.**

6 **INTRODUCTION**

7 1. This is a representative action seeking recovery of civil penalties under the Private
8 Attorneys General Act of 2004 (“PAGA”), California Labor Code (Labor Code) §§ 2698, et seq.
9 PAGA permits “aggrieved employees” to bring a lawsuit as a representative action on behalf of
10 themselves and other aggrieved current and former employees to recover civil penalties for
11 Defendants’ violations of the Labor Code.

12 2. The acts complained of herein occurred, occur and will occur, at least in part,
13 within the time period from one year preceding the date of the filing of the original notice with
14 the Labor and Workforce Development Agency (“LWDA”) as alleged herein, up to and through
15 the time of trial for this matter although this should not automatically be considered the statute of
16 limitations for any cause of action herein.

17 3. The relevant job titles held by the California citizens in this action are Defendants’
18 nonexempt employees who were subjected to Defendants’ policies and practices as described
19 herein (the “aggrieved employees”).

20 4. With regard to the aggrieved employees, Defendants have:

- 21 a. Failed to pay straight time, minimum, and/or overtime wages for all hours
22 worked;
- 23 b. Failed to pay state-mandated minimum wages for all hours worked;
- 24 c. Failed to pay all overtime wages at the legal overtime pay rate;
- 25 d. Failed to provide all legally-required meal periods;
- 26 e. Failed to authorize and permit all paid legally-required rest periods;
- 27 f. Failed to reimburse for all work-related expenses;
- 28 g. Failed to timely furnish accurate itemized wage statements;

- h. Derivatively violated Labor Code §§ 201-202;
- i. Independently violated Labor Code §§ 201-202;
- j. Violated Labor Code § 246
- k. Failed to pay all sick pay wages at the legal pay rate; and
- l. As a result of these violations, incurred penalties under Labor Code §§ 2698, et seq.

5. Such policies and practices, as described herein, violate the Labor Code, and therefore trigger civil penalties under Labor Code §§ 2698, et seq. Therefore, Plaintiff Tuisdi Layne McClure, on behalf of all other similarly situated aggrieved employees, brings this representative PAGA action for violations of the Labor Code, seeking penalties for the violations alleged herein, reasonable attorney's fees and costs, and other relief as deemed proper.

II.

PARTIES

PLAINTIFF TUISDI LAYNE McCLURE

6. Plaintiff Tuisdi Layne McClure is an individual over the age of 18 and is now and/or at all times mentioned in this Complaint was a citizen of the State of California.

7. Plaintiff Tuisdi Layne McClure is working and/or has worked for Defendants as a non-exempt employee, as a Sales Associate and later promoted to a Sales Lead from approximately July 8, 2023, to December 16, 2023, in Los Angeles, California, which is in Los Angeles County, California.

DEFENDANT GENESCO INC.

8. Defendant Genesco Inc. is now and/or at all times mentioned in this Complaint was a Tennessee corporation and the owner and operator of an industry, business and/or facility licensed to do business and actually doing business in the State of California.

DOES 1 TO 50, INCLUSIVE

9. Does 1 to 50, inclusive, are now and/or at all times mentioned in this Complaint were licensed to do business and/or actually doing business in California.

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1 10. Plaintiff does not know the true names or capacities, whether individual, partner
2 or corporate, of Does 1 to 50, inclusive and for that reason, Does 1 to 50 are sued under such
3 fictitious names under California Code of Civil Procedure § 474.

4 11. Plaintiff will seek leave of court to amend this Complaint to allege such names and
5 capacities as soon as they are ascertained.

6 ALL DEFENDANTS

7 12. Defendants, and each of them, are now and/or at all times mentioned in this
8 Complaint were in some manner legally responsible for the events, happenings and circumstances
9 alleged in this Complaint.

10 13. Defendants, and each of them, proximately subjected Plaintiff and all other
11 similarly situated aggrieved employees to the unlawful practices, wrongs, complaints, injuries
12 and/or damages alleged in this Complaint.

13 14. Defendants, and each of them, are now and/or at all times mentioned in this
14 Complaint were the agents, servants, and/or employees of some or all other Defendants, and
15 vice-versa, and in doing the things alleged in this Complaint, Defendants are now and/or at all
16 times mentioned in this Complaint were acting within the course and scope of that agency,
17 servitude, and/or employment.

18 15. Defendants, and each of them, are now and/or at all times mentioned in this
19 Complaint were members of and/or engaged in a joint venture, partnership, and common
20 enterprise, and were acting within the course and scope of, and in pursuance of said joint
21 venture, partnership, and common enterprise.

22 16. Defendants, and each of them, at all times mentioned in this Complaint concurred
23 and contributed to the various acts and omissions of each and every one of the other Defendants
24 in proximately causing the complaints, injuries, and/or damages alleged in this Complaint.

25 17. Defendants, and each of them, at all times mentioned in this Complaint approved
26 of, condoned and/or otherwise ratified each and every one of the acts and/or omissions alleged in
27 this Complaint.

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18. Defendants, and each of them, at all times mentioned in this Complaint aided and abetted the acts and omissions of each and every one of the other Defendants thereby proximately causing the damages alleged in this Complaint.

III.

JURISDICTION AND VENUE

19. The California Superior Court has jurisdiction in this matter due to Defendants' aforementioned violations of California statutory law and/or related common law principles.

20. The California Superior Court also has jurisdiction in this matter because the dollar amount of the civil penalties sought herein exceed the minimal jurisdictional limits of the Superior Court and will be established at trial, according to proof.

21. The California Superior Court also has jurisdiction in this matter because during their employment with Defendants, Plaintiff Tuisdi Layne McClure and all other similarly situated aggrieved employees herein were all California citizens and Defendant Genesco Inc., is a Tennessee corporation. Further, there is no federal question at issue, as the issues herein are based solely on California statutes and law.

22. Venue is proper in Los Angeles County under Code of Civil Procedure §§ 395(a) and 395.5 in that liability arose there because at least some of the transactions that are the subject matter of this Complaint occurred therein and/or each Defendant either is found, maintains offices, transacts business, and/or has an agent therein.

IV.

CAUSES OF ACTION

FIRST CAUSE OF ACTION

PENALTIES UNDER LABOR CODE § 2699

(On Behalf of the Aggrieved Employees)

(Against All Defendants)

23. Plaintiff incorporates by reference and reallege each and every one of the allegations contained in the preceding and foregoing paragraphs of this Complaint as if fully set forth herein.

1 **A. FAILURE TO PAY ALL WAGES**

2 24. Labor Code § 204 establishes the fundamental right of all employees in the State
3 of California to be paid wages, including straight time and overtime, in a timely fashion for their
4 work.

5 25. Labor Code § 510(a) states in pertinent part, “Any work in excess of eight hours
6 in one workday and any work in excess of 40 hours in any one workweek ... shall be
7 compensated at the rate of no less than one and one-half times the regular rate of pay for any
8 employee.”

9 26. Labor Code § 1182.12 provides the statewide minimum wage in California.

10 27. Labor Code § 1194(a) states, “Notwithstanding any agreement to work for a
11 lesser wage, any employee receiving less than the legal minimum wage or the legal overtime
12 compensation applicable to the employee is entitled to recover in a civil action the unpaid
13 balance of the full amount of this minimum wage or overtime compensation, including interest
14 thereon, reasonable attorney’s fees, and costs of suit.”

15 28. Further, under Labor Code § 1197, payment of less than the minimum wage fixed
16 by the Labor Commission is unlawful.

17 29. Under Labor Code § 1198, it is unlawful to employ persons for longer than the
18 hours set by the Industrial Welfare Commission or under conditions prohibited by the IWC
19 Wage Order(s).

20 30. Defendants, as a matter of established company policy and procedure, at each and
21 every one of the individual facilities owned and/or operated by Defendants, consistently:

- 22 a. Administered a uniform company policy and practice as to the pay policies
23 regarding Plaintiff and all other similarly situated aggrieved employees; and
24 b. Suffered and/or permitted Plaintiff and all other similarly situated aggrieved
25 employees to work without paying for all time they were under Defendants’
26 control including but not limited to work-related tasks at the beginning of their
27 shifts before clocking in and/or at the end of their shifts after clocking out and
28 use of their personal mobile devices for work-related tasks, including before

and/or after their shifts.

31. Because Defendants required Plaintiff and all other similarly situated aggrieved employees to remain under Defendants' control without paying therefor, this resulted in Plaintiff and all other similarly situated aggrieved employees earning less than the legal minimum wage in the State of California.

B. FAILURE TO PAY MINIMUM WAGES

32. Labor Code § 204 establishes the fundamental right of all employees in the State of California to be paid wages, including straight time and overtime, in a timely fashion for their work.

33. Labor Code § 1182.12 provides the statewide minimum wage in California.

34. Under the City of Los Angeles Minimum Wage Ordinance, § 187.02, for businesses with 26 or more employees, "An Employer shall pay an Employee a wage of no less than the hourly rates set under the authority of this article." On July 1, 2020, the hourly wage was \$15.00. On July 1, 2022, the hourly wage increased to \$16.04. On July 1, 2023, the hourly wage increased to \$16.78. On July 1, 2024, the hourly wage increased to \$17.28.

35. Labor Code § 1194(a) states in pertinent part: "Notwithstanding any agreement to work for a lesser wage, any employee receiving less than the legal minimum wage ... is entitled to recover in a civil action the unpaid balance of the full amount of this minimum wage..., including interest thereon, reasonable attorney's fees, and costs of suit."

36. Further, under Labor Code § 1197, payment of less than the minimum wage fixed by the Labor Commission is unlawful.

37. Defendants, as a matter of established company policy and procedure, at each and every one of the individual facilities owned and/or operated by Defendants, consistently:

- a. Administered a uniform company policy and practice as to the pay policies regarding Plaintiff and all other similarly situated aggrieved employees; and
- b. Suffered and/or permitted Plaintiff and all other similarly situated aggrieved employees to work and/or controlled them without paying at least minimum wage for all time they were under Defendants' control.

1 38. As such, Defendants required Plaintiff and all other similarly situated aggrieved
2 employees to remain under Defendants' control without paying therefore, which resulted in
3 Plaintiff and all other similarly situated aggrieved employees earning less than the legal
4 minimum wage in the State of California.

5 39. Defendants' pattern and practice in uniform administration of corporate policy
6 regarding Defendants' failure to pay the legal minimum wage to Plaintiff and all other similarly
7 situated aggrieved employees as described herein is unlawful and creates entitlement, pursuant to
8 Labor Code § 1194(a), to recovery by Plaintiff and all other similarly situated aggrieved
9 employees, in a civil action, for the unpaid balance of the full amount of the unpaid minimum
10 wages owed, calculated as the difference between the straight time compensation paid and the
11 applicable minimum wage, including interest thereon.

12 40. Under Labor Code §1194.2(a) (which provides that in any action under Labor
13 Code §1194, an employee shall be entitled to recover liquidated damages), Plaintiff and all other
14 similarly situated aggrieved employees seek recovery of liquidated damages in an amount equal
15 to the wages unlawfully unpaid and interest thereon.

16 41. Under Labor Code § 218.6, Labor Code § 1194(a) and Civil Code § 3287,
17 Plaintiff and all other similarly situated aggrieved employees seek recovery of pre-judgment
18 interest on all amounts recovered herein.

19 42. Under Labor Code § 218.5 and/or Labor Code § 1194(a) Plaintiff and all other
20 similarly situated aggrieved employees request that the Court award reasonable attorneys' fees
21 and costs incurred by them in this action.

22 **C. FAILURE TO PAY ALL OVERTIME WAGES AT THE LEGAL OVERTIME**
23 **PAY RATE**

24 43. Labor Code § 204 establishes the fundamental right of all employees in the State
25 of California to be paid wages, including straight time and overtime, in a timely fashion for their
26 work.

27 44. Labor Code § 510(a) states in pertinent part, "Any work in excess of eight hours
28 in one workday and any work in excess of 40 hours in any one workweek ... shall be

1 compensated at the rate of no less than one and one-half times the regular rate of pay for any
2 employee.”

3 45. The “regular rate of pay” includes “all [applicable] remuneration paid to, or on
4 behalf of the employee.” (29 U.S.C. § 207(3).) California law applies this standard for
5 determining an employee’s regular rate of pay for overtime calculation purposes.

6 46. Labor Code § 1194(a) states, “Notwithstanding any agreement to work for a
7 lesser wage, any employee receiving less than the legal minimum wage or the legal overtime
8 compensation applicable to the employee is entitled to recover in a civil action the unpaid
9 balance of the full amount of this minimum wage or overtime compensation, including interest
10 thereon, reasonable attorney’s fees, and costs of suit.”

11 47. Defendants, as a matter of established company policy and procedure, at each and
12 every one of the individual facilities owned and/or operated by Defendants, consistently:

- 13 a. Administered a uniform company policy and practice regarding the payment
14 of wages, including overtime, commissions, and bonuses, to Plaintiff and all
15 other similarly situated aggrieved employees;
- 16 b. Suffered and/or permitted Plaintiff and all other similarly situated aggrieved
17 employees to work and/or controlled them in excess of eight hours per
18 workday and/or 40 hours per workweek;
- 19 c. Paid Plaintiff and all other similarly situated aggrieved employees non-
20 discretionary pay, including but not limited to bonuses; and
- 21 d. Failed to pay Plaintiff and all other similarly situated aggrieved employees
22 for all work performed in excess of eight per workday and/or 40 hours per
23 week at the appropriate overtime rate, reflecting all applicable forms of
24 remuneration, including but not limited to said commissions and/or bonuses,
25 as required by law.

26 48. Therefore, as a matter of Defendants’ established company policy, Defendants
27 violated Labor Code §§ 204, 510(a) and/or 1194 by failing to always pay Plaintiff and all other
28 similarly situated aggrieved employees all overtime wages at the legal overtime pay rate.

1 **D. FAILURE TO PROVIDE ALL MEAL PERIODS**

2 49. Labor Code § 204 establishes the fundamental right of all employees in the State
3 of California to be paid wages, including straight time and overtime, in a timely fashion for their
4 work.

5 50. Labor Code § 226.7(b) provides “An employer shall not require an employee to
6 work during a meal or rest or recovery period mandated pursuant to an applicable statute, or
7 applicable regulation, standard, or order of the Industrial Welfare Commission, the Occupational
8 Safety and Health Standards Board, or the Division of Occupational Safety and Health.”

9 51. Labor Code § 512 provides “An employer may not employ an employee for a
10 work period of more than five hours per day without providing the employee with a meal period
11 of not less than 30 minutes, except that if the total work period per day of the employee is no
12 more than six hours, the meal period may be waived by mutual consent of both the employer and
13 employee. An employer may not employ an employee for a work period of more than 10 hours
14 per day without providing the employee with a second meal period of not less than 30 minutes,
15 except that if the total hours worked is no more than 12 hours, the second meal period may be
16 waived by mutual consent of the employer and the employee only if the first meal period was not
17 waived.”

18 52. Labor Code § 516 provides that the Industrial Welfare Commission “may adopt or
19 amend working condition orders with respect to break periods, meal periods, and days of rest for
20 any workers in California consistent with the health and welfare of those workers.”

21 53. Section 11(D) of the IWC Wage Orders provides “If an employer fails to provide
22 an employee a meal period in accordance with the applicable provisions of this Order, the
23 employer shall pay the employee one (1) hour of pay at the employee's regular rate of
24 compensation for each work day that the meal period is not provided.”

25 54. On one or more occasions, Plaintiff and all other similarly situated aggrieved
26 employees worked over 5 hours per shift and therefore were entitled to an uninterrupted meal
27 period of not less than 30 minutes prior to exceeding 5 hours of employment.

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1 55. Further, on one or more occasions, Plaintiff and at least some similarly situated
2 aggrieved employees worked over 10 hours per shift and therefore were entitled to an
3 uninterrupted second meal period of not less than 30 minutes prior to exceeding 10 hours of
4 employment.

5 56. As a matter of Defendants' established company policy, Defendants failed to
6 always provide legally-complaint meal periods. These violations were caused by, inter alia,
7 Defendants' failure to timely relieve Plaintiff and similarly situated aggrieved employees from
8 all duties and Defendants' failure to relinquish control over how employees spend their break
9 time.

10 57. Plaintiff and all other similarly situated aggrieved employees did not validly or
11 legally waive their meal periods, by mutual consent with Defendants or otherwise.

12 58. Any written agreement with Defendants agreeing to an on-the-job paid meal
13 period was invalid because the nature of the work does not support on-duty meal periods.

14 59. Therefore, as a matter of Defendants' established company policy, Defendants
15 failed to always comply with the meal period requirements established by Labor Code §§ 204,
16 226.7, 512, and 516 and Section 11 of the IWC Wage Order(s) by failing to always provide
17 Plaintiff and all other similarly situated aggrieved employees with a first and in some cases a
18 second legally compliant meal period.

19 **E. FAILURE TO AUTHORIZE AND PERMIT ALL PAID REST PERIODS**

20 60. Labor Code § 226.7(b) provides, "An employer shall not require an employee to
21 work during a meal or rest or recovery period mandated pursuant to an applicable statute, or
22 applicable regulation, standard, or order of the Industrial Welfare Commission, the Occupational
23 Safety and Health Standards Board, or the Division of Occupational Safety and Health."

24 61. Labor Code § 516 provides that the Industrial Welfare Commission "may adopt or
25 amend working condition orders with respect to break periods, meal periods, and days of rest for
26 any workers in California consistent with the health and welfare of those workers."

27 62. Section 12(A) of the IWC Wage Order(s) states, "Every employer shall authorize
28 and permit all employees to take rest periods, which insofar as practicable shall be in the middle

1 of each work period. The authorized rest period time shall be based on the total hours worked
2 daily at the rate of 10 minutes net rest time per 4 hours or major fraction thereof. However, a rest
3 period need not be authorized for employees whose total daily work time is less than 3 ½ hours.
4 Authorized rest period time shall be counted as hours worked for which there shall be no
5 deduction from wages.”

6 63. Section 12(B) of the IWC Wage Order(s) states “If an employer fails to provide
7 an employee a rest period in accordance with the applicable provisions of this order, the
8 employer shall pay the employee one (1) hour of pay at the employee’s regular rate of
9 compensation for each workday that the rest period is not provided.”

10 64. Plaintiff and all other similarly situated aggrieved employees sometimes worked
11 over 4 hours per shift. Further, Plaintiff and all other similarly situated aggrieved employees
12 sometimes worked over 6 hours per shift, and in some cases over 10 hours per shift.

13 65. Plaintiff and all other similarly situated aggrieved employees were entitled to a
14 rest period of not less than 10 minutes for every 4 hours of work, or major fraction thereof.

15 66. As a matter of Defendants’ established company policy, Defendants failed to
16 always authorize and permit legally-compliant rest periods. These violations were caused by,
17 inter alia, Defendants’ failure to timely relieve Plaintiff and similarly situated aggrieved
18 employees from all duties and Defendants’ failure to relinquish control over how employees
19 spend their break time.

20 67. Therefore, as a matter of Defendants’ established company policy, Defendants
21 failed to always authorize and permit all legally-complaint rest periods established by Labor
22 Code §§ 226.7 and 516 and Section 12 of the IWC Wage Order(s).

23 **F. FAILURE TO REIMBURSE FOR ALL BUSINESS EXPENSES**

24 68. Under Labor Code § 450(a), “no employer...may compel or coerce any
25 employee... to patronize his or her employer, or any other person, in the purchase of any thing of
26 value.”

27 69. Under Labor Code § 2802(a), “an employer shall indemnify his or her employee
28 for all necessary expenditures or losses incurred by the employee in direct consequence of the

1 discharge of his or her duties, or of his or her obedience to the directions of the employer.”

2 70. Labor Code § 2804 states in pertinent part “Any contract or agreement, express or
3 implied, made by any employee to waive the benefits of this article or any part thereof is null and
4 void, and this article shall not deprive any employee or his personal representative of any right or
5 remedy to which he is entitled under the laws of this State.”

6 71. As a matter of Defendants’ established company policy, Plaintiff and all other
7 similarly situated aggrieved employees were and are required by Defendants to personally incur
8 necessary expenditures in direct consequence of the discharge of their duties, including but not
9 limited to the use of uniforms, personal mobile devices, and personal vehicles, which in this case
10 are required by Defendants and/or are necessary to the performance of the job performed by
11 Plaintiff and all other similarly situated aggrieved employees.

12 72. Defendants failed to fully and reasonably reimburse Plaintiff and all other
13 similarly situated aggrieved employees for all necessary expenditures at a reasonable rate,
14 including but not limited to the aforementioned expenditures.

15 73. Therefore, as a matter of Defendants’ established company policy, Defendants
16 failed to always comply with the reimbursement requirements established by Labor Code § 2802.

17 **G. FAILURE TO TIMELY FURNISH ACCURATE ITEMIZED WAGE**
18 **STATEMENTS**

19 74. Labor Code § 226(a) states in pertinent part, “An employer, semimonthly or at the
20 time of each payment of wages, shall furnish to his or her employee, either as a detachable part
21 of the check, draft, or voucher paying the employee’s wages, or separately if wages are paid by
22 personal check or cash, an accurate itemized statement in writing showing (1) gross wages
23 earned, (2) total hours worked by the employee, except as provided in subdivision (j), (3) the
24 number of piece-rate units earned and any applicable piece rate if the employee is paid on a
25 piece-rate basis, (4) all deductions, provided that all deductions made on written orders of the
26 employee may be aggregated and shown as one item, (5) net wages earned, (6) the inclusive
27 dates of the period for which the employee is paid, (7) the name of the employee and only the
28 last four digits of his or her social security number or an employee identification number other

1 than a social security number, (8) the name and address of the legal entity that is the employer
2 and, if the employer is a farm labor contractor, as defined in subdivision (b) of Section 1682, the
3 name and address of the legal entity that secured the services of the employer, and (9) all
4 applicable hourly rates in effect during the pay period and the corresponding number of hours
5 worked at each hourly rate by the employee....”

6 75. Further, the IWC Wage Orders § 7(A) states in pertinent part, “(A) Every
7 employer shall keep accurate information with respect to each employee including the following:
8 (3) Time records showing when the employee begins and ends each work period. Meal periods,
9 split shift intervals, and total daily hours worked shall also be recorded...(5) Total hours worked
10 in the payroll period and applicable rates of pay....”

11 76. Therefore, under Labor Code § 226(a) and the IWC Wage Orders § 7(A),
12 California employers are required to maintain accurate records pertaining to the total hours
13 worked for Defendants by Plaintiff and all other similarly situated aggrieved employees,
14 including but not limited to, beginning and ending of each work period, meal period and split
15 shift interval, the total daily hours worked, and the total hours worked per pay period and
16 applicable rates of pay.

17 77. As set forth herein in prior causes of action, Defendants failed to pay Plaintiff and
18 all other similarly situated aggrieved employees all wages due and owing.

19 78. Under *Lopez v. Friant & Associates, LLC* (2017) 15 Cal.App.5th 773, employers
20 who fail to provide accurate itemized wage statements are subject to PAGA penalties even when
21 the mistake is inadvertent and/or promptly corrected, and even if employees admittedly suffered
22 no injury; said employees are permitted to recover PAGA penalties without needing to prove the
23 “injury” and “knowing and intentional” elements of a Labor Code § 226(e) claim.

24 79. As a result of this failure to pay wages and as a pattern and practice in violation of
25 Labor Code § 226(a) and the IWC Wage Orders § 7(A), Defendants did not and do not maintain
26 accurate records pertaining to the total hours worked for Defendants by Plaintiff and all other
27 similarly situated aggrieved employees, including but not limited to (1) gross wages earned, (2)
28 total hours worked by the employee, (3) net wages earned and/or (4) all applicable hourly rates

in effect during each respective pay period and the corresponding number of hours worked at each hourly rate by each respective individual.

H. DERIVATIVE VIOLATIONS OF LABOR CODE §§ 201-202

80. Labor Code § 203 provides that if an employer willfully fails to pay, without abatement or reduction, in accordance with Labor Code §§ 201 and 202, any wages of an employee who is discharged or who quits, the wages of the employee shall continue at the same rate, for up to 30 days from the due date thereof, until paid or until an action therefore is commenced.

81. Plaintiff and all other similarly situated aggrieved employees are no longer employed by Defendants as they were either discharged from or quit Defendants' employ.

82. Defendants had a consistent and uniform policy, practice and procedure of willfully failing to pay the earned wages of Defendants' former employees, as set forth above, according to amendment or proof.

83. As set forth above, Defendants willfully failed to pay Plaintiff and all other similarly situated aggrieved employees their entire wages due and owing at the time of their termination or within 72 hours of their resignation and failed to pay those sums for up to 30 days thereafter.

84. Defendants' willful failure to pay wages to Plaintiff and all other similarly situated aggrieved employees violates Labor Code §§ 201 and 202 because Defendants knew or should have known wages were due to Plaintiff and all other similarly situated aggrieved employees, as set forth above, but Defendants failed to pay them.

I. INDEPENDENT VIOLATIONS OF LABOR CODE §§ 201-202 REGARDING LATE FINAL PAY

85. Labor Code § 203 provides that if an employer willfully fails to timely pay, without abatement or reduction, in accordance with Labor Code §§ 201 and 202, any wages of an employee who is discharged or who quits, the wages of the employee shall continue at the same rate, for up to 30 days from the due date thereof, until paid or until an action therefore is commenced.

1 86. Plaintiff and all other similarly situated aggrieved employees are no longer
2 employed by Defendants as they were either discharged from or quit Defendants' employ.

3 87. Defendants had a consistent and uniform policy, practice and procedure of
4 willfully failing to timely pay the earned wages of Defendants' former employees, according to
5 amendment or proof.

6 88. For example, Plaintiff Tuisdi Layne McClure resigned on December 16, 2023.
7 However, Defendants did not pay her final wages for over 72 hours, providing the check for final
8 wages on December 22, 2023. This check did not include waiting time penalties.

9 89. As such, Defendants willfully failed to pay Plaintiff and all other similarly
10 situated aggrieved employees all wages due and owing at the time of their termination and/or
11 within 72 hours of their resignation.

12 90. Defendants' willful failure to pay wages to Plaintiff and all other similarly
13 situated aggrieved employees violates Labor Code §§ 201 and 202 because Defendants knew or
14 should have known wages were due to Plaintiff and all other similarly situated aggrieved
15 employees, as set forth above, but Defendants failed to pay them.

16 **J. VIOLATIONS OF LABOR CODE § 246**

17 91. Labor Code § 246(a) states: "An employee who, on or after July 1, 2015, works in
18 California for the same employer for 30 or more days within a year from the commencement of
19 employment is entitled to paid sick days as specified in this section."

20 92. Labor Code § 246(b)(1) states: "An employee shall accrue paid sick days at the
21 rate of not less than one hour per every 30 hours worked, beginning at the commencement of
22 employment or the operative date of this article, whichever is later, subject to the use and accrual
23 limitations set forth in this section." Labor Code § 246 goes on to describe how employers can
24 remain compliant with Labor Code § 246.

25 93. Defendants, as a matter of established company policy and procedure, at each and
26 every one of the individual facilities owned and/or operated by Defendants, during the relevant
27 time period:

28 ///

- 1 a. Administered a uniform company policy and practice as to the pay policies
2 regarding Plaintiff and all other similarly situated aggrieved employees; and
3 b. Failed to always pay for all requested sick days for Plaintiff and all other similarly
4 situated aggrieved employees in a manner that fully complies with Labor Code §
5 246(a)(1) and 246.5(a).

6 94. Defendants' pattern, practice, and uniform administration of corporate policy
7 regarding illegal employee compensation as described herein is unlawful and creates an
8 entitlement to recovery by all other similarly situated aggrieved employees, in a civil action, to
9 the extent allowed by law.

10 **K. FAILURE TO PAY SICK PAY AT THE LEGAL PAY RATE**

11 95. Labor Code § 246(a) states: "(a) An employee who, on or after July 1, 2015,
12 works in California for the same employer for 30 or more days within a year from the
13 commencement of employment is entitled to paid sick days as specified in this section."

14 96. Labor Code § 246(b)(1) states: "An employee shall accrue paid sick days at the
15 rate of not less than one hour per every 30 hours worked, beginning at the commencement of
16 employment or the operative date of this article, whichever is later, subject to the use and accrual
17 limitations set forth in this section."

18 97. Labor Code § 246(l) states: "For the purposes of this section, an employer shall
19 calculate paid sick leave using any of the following calculations:

20 (1) Paid sick time for nonexempt employees shall be calculated in the same
21 manner as the regular rate of pay for the workweek in which the employee
22 uses paid sick time, whether or not the employee actually works overtime in
23 that workweek.

24 (2) Paid sick time for nonexempt employees shall be calculated by dividing the
25 employee's total wages, not including overtime premium pay, by the
26 employee's total hours worked in the full pay periods of the prior 90 days of
27 employment."

28 ///

1 98. Defendants, as a matter of established company policy and procedure, at each and
2 every one of the individual facilities owned and/or operated by Defendants, during the relevant
3 time period:

- 4 a. Administered a uniform company policy and practice as to the pay policies
- 5 regarding Plaintiff and all other similarly situated aggrieved employees; and
- 6 b. Failed to pay Plaintiff and all other similarly situated aggrieved employees for
- 7 paid sick days in a manner that fully complies with Labor Code § 246(l).

8 99. Defendants' pattern, practice, and uniform administration of corporate policy
9 regarding illegal employee compensation as described herein is unlawful and creates an
10 entitlement, under Labor Code §§ 246, 248.5, and/or 2699, et seq., to recovery by Plaintiff and
11 all other similarly situated aggrieved employees, in a civil action, to the extent allowed by law.

12 **L. PENALTIES ASSESSED UNDER LABOR CODE § 2699**

13 100. Under Labor Code § 2699(a) (which provides that any provision of the Labor
14 Code that provides for a civil penalty to be assessed and collected by the LWDA, or any of its
15 departments, divisions, commissions, board agencies or employees, such civil penalties may, as
16 an alternative, be recovered through a civil action brought by an aggrieved employee on behalf
17 of himself or herself and other current or former employees) and Labor Code § 2699(f) (which
18 establishes a civil penalty for violations of all Labor Code provisions except those for which a
19 civil penalty is specifically provided), Plaintiff and all other similarly situated aggrieved
20 employees seek recovery of all applicable civil penalties, as follows:

- 21 a. As applicable, for civil penalties under Labor Code § 2699(f), for all
- 22 violations of the Labor Code except for those for which a civil penalty is
- 23 specifically provided, in the amount of \$100 for each aggrieved employee per
- 24 pay period for the initial violation; and \$200 for each aggrieved employee per
- 25 pay period for each subsequent violation;
- 26 b. As applicable, civil penalties under Labor Code § 558 (in addition to and
- 27 entirely independent and apart from any other penalty provided in the Labor
- 28 Code), for violations of Labor Code §§ 500-556, in the amount of \$50 for

each underpaid aggrieved employee for each pay period the aggrieved employee was underpaid, and \$100 for each subsequent violation for each underpaid employee for each pay period for which the employee was underpaid;

- c. As applicable, for civil penalties under Labor Code § 1197.1 (in addition to and entirely independent and apart from any other penalty provided in the Labor Code), for violations of Labor Code §§ 1194 and 1197, in the amount of \$100 for each underpaid aggrieved employee for each pay period the aggrieved employee was intentionally underpaid, and \$250 for each subsequent violation for each underpaid aggrieved employees regardless of whether the initial violation was intentionally committed;
- d. As applicable, for civil penalties under Labor Code § 210 (in addition to and entirely independent and apart from any other penalty provided in the Labor Code), for each employee who is/was not paid wages in accordance with Labor Code §§ 204 and 204b in the amount of a civil penalty of \$100 for each aggrieved employee per pay period for each initial violation, and \$200 for each aggrieved employee per pay period for each subsequent violation;
- e. As applicable, for civil penalties under Labor Code § 226.3 (in addition to and entirely independent and apart from any other penalty provided in the Labor Code), for each violation of Labor Code § 226(a), in the amount of \$250 for each aggrieved employee per pay period for each violation and \$1,000 for each aggrieved employee per pay period for each subsequent violation;
- f. As applicable, for civil penalties under Labor Code § 248.5(e) (in addition to and entirely independent and apart from any other penalty provided in the Labor Code), for each violation of Labor Code § 246;
- g. As applicable, for civil penalties under Labor Code § 248.5(e) (in addition to and entirely independent and apart from any other penalty provided in the Labor Code), for each violation of Labor Code § 246(l); and

1 h. As applicable, for any and all additional civil penalties and sums as provided
2 by the Labor Code and/or other relevant statutes.

3 101. In addition, Plaintiff seeks and is entitled to 65% of all penalties obtained under
4 Labor Code § 2699 to be allocated to the LWDA, for education of employers and employees
5 about their rights and responsibilities under the Labor Code, and 35% to Plaintiff and all other
6 similarly situated aggrieved employees.

7 102. Further, Plaintiffs are entitled to recover reasonable attorneys' fees and costs
8 under Labor Code § 2699(k)(1) and any other applicable statute.

9 103. Labor Code § 2699.3(a) states in pertinent part, "A civil action by an aggrieved
10 employee pursuant to subdivision (a) or (f) of Section 2699 alleging a violation of any provision
11 listed in Section 2699.5 shall commence only after the following requirements have been met:
12 (1)(A) The aggrieved employee or representative shall give written notice by online filing with
13 the Labor and Workforce Development Agency and by certified mail to the employer of the
14 specific provisions of this code alleged to have been violated, including the facts and theories to
15 support the alleged violation."

16 104. Labor Code § 2699.3(a) further states in pertinent part, "(2)(A) The agency shall
17 notify the employer and the aggrieved employee or representative by certified mail that it does
18 not intend to investigate the alleged violation within 60 calendar days of the postmark date of the
19 notice received pursuant to paragraph (1). Upon receipt of that notice or if no notice is provided
20 within 65 calendar days of the postmark date of the notice given pursuant to paragraph (1), the
21 aggrieved employee may commence a civil action pursuant to Section 2699."

22 105. Labor Code § 2699.3(c)(1) states in pertinent part, "A civil action by an aggrieved
23 employee pursuant to subdivision (a) or (f) of Section 2699 alleging a violation of any provision
24 other than those listed in Section 2699.5 or Division 5 (commencing with Section 6300) shall
25 commence only after the following requirements have been met: (1) (A) The aggrieved
26 employee or representative shall give written notice by online filing with the Labor and
27 Workforce Development Agency and by certified mail to the employer of the specific provisions
28 of this code alleged to have been violated, including the facts and theories to support the alleged

1 violation.”

2 106. Labor Code § 2699.3(c) further states in pertinent part, “(2)(A) The employer may
3 cure the alleged violation within 33 calendar days of the postmark date of the notice. The
4 employer shall give written notice by certified mail within that period of time to the aggrieved
5 employee or representative and the agency if the alleged violation is cured, including a
6 description of actions taken, and no civil action pursuant to Section 2699 may commence. If the
7 alleged violation is not cured within the 33-day period, the employee may commence a civil
8 action pursuant to Section 2699.”

9 107. Here, Plaintiff’s civil action alleges violations of provisions listed in Labor Code
10 § 2699.5 and violations of provisions other than those listed in Labor Code § 2699.5. As such,
11 Labor Code §§ 2699.3(a) and 2699.3(c) apply to this action.

12 108. On November 6, 2024, Plaintiff complied with Labor Code §§ 2699.3(a) and
13 2699.3(c) in that Plaintiff gave written notice by online filing with the LWDA and by certified
14 mail to Defendants of the specific provisions of the Labor Code alleged to have been violated,
15 including the facts and theories to support the alleged violations. Attached hereto as Exhibit 1 is
16 Plaintiff’s LWDA letter.

17 109. As of January 10, 2025 (65 calendar days after Plaintiff’s November 6, 2024,
18 LWDA letter was filed online), Plaintiff had not received any notification that the LWDA
19 intended to investigate the alleged violations. As such, Plaintiff has complied with Labor Code §
20 2699.3(a) and have been given authorization therefrom to commence a civil action which
21 includes a cause of action under Labor Code § 2699.

22 110. Further, as of December 9, 2024 (33 calendar days after Plaintiff’s November 6,
23 2024, LWDA letter was mailed to Defendant via certified mail), Plaintiff has not received from
24 Defendant written notice by certified mail that the alleged violations have been cured, including
25 a description of actions taken. As such, Plaintiff has complied with Labor Code § 2699.3(c) and
26 have been given authorization therefrom to commence a civil action which includes a cause of
27 action under Labor Code § 2699.

28 ///

1 VI.

2 **PRAYER FOR RELIEF**

3 WHEREFORE, Plaintiff prays:

4 a. As applicable, for civil penalties under Labor Code §§ 2699(f), 1197.1, 210,
5 226.3, and 248.5(e), and any other applicable statute;

6 b. As applicable, for reasonable attorneys' fees and costs incurred under Labor Code
7 § 2699(k)(1) and any other applicable statute; and

8 c. For such relief as this Court may deem just and proper.

9 Dated: March 6, 2025

D.LAW, INC.

10 By:

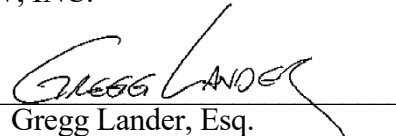
11 
12 Gregg Lander, Esq.
13 Vanessa M. Ruggles, Esq.
14 Taylor B. Keaster, Esq.
15 Emil Davtyan, Esq.
16 Attorneys for Plaintiff

EXHIBIT 1

November 6, 2024

Submitted at <https://www.dir.ca.gov> with \$75 filing fee

PAGA Administrator
California Labor and Workforce Development Agency
PAGAFilings@dir.ca.gov

Re: Genesco Inc. (the “Employer”)

NOTICE OF LABOR CODE VIOLATIONS UNDER LABOR CODE § 2699.3

To: PAGA Administrator, California Labor and Workforce Development Agency, and the Employer

From: Tuisdi Layne McClure (the “Employee”), who was subjected to the wage and hour practices set forth below

The Employee, by way of the above-named counsel, submits this Notice, under and in compliance with the requirements of California Labor Code § 2699.3(a)/(c), and alleges the facts and theories to support the alleged violations as follows:

During the applicable time period the Employer employed the Employee and all other similarly situated aggrieved employees as non-exempt employees and utilized consistent policies and procedures regarding the Employee and all such other aggrieved employees, as follows:

First, the Employee and other aggrieved employees spent time under the Employer’s control but were not paid therefor. For example, the Employer required the Employee and other aggrieved employees to perform work-related tasks at the beginning of their shifts before clocking in and/or at the end of their shifts after clocking out. The Employee and other aggrieved employees were also required, when off the clock, to use their personal mobile devices for work-related tasks, including before and/or after their shifts. In these circumstances, the Employer failed to pay all straight time, minimum, and/or overtime wages due for the time the Employee and other aggrieved employees were subject to the Employer’s control. As such, the Employer violated Labor Code §§ 510, 1194, 1197, and/or 1198 and the applicable Industrial Wage Order, and owes penalties under Labor Code §§ 2699(f), 1197.1, and/or 558.

Second, the Employer failed to pay all minimum wages to the Employee and other aggrieved employees. The Employer paid for certain work times at a rate that was below the minimum wage for the work locations of the Employee and other aggrieved employees. As a result, the Employee and other aggrieved employees earned less than minimum wage in pay periods. As such, the Employer violated Labor Code §§ 1194, 1197, 1198 and the applicable Industrial Wage Order and owes penalties under Labor Code §§ 2699(f), 1197.1, and/or 558.

Third, the Employer paid the Employee and other aggrieved employees certain forms of non-discretionary pay, including but not limited to bonuses. However, the Employer did not include all forms of remuneration in the overtime pay rate when the Employee and other aggrieved employees worked overtime. As such, the Employer violated Labor Code §§ 510, 1194, 1197, 1198 and the applicable Industrial Wage Order and owes penalties under Labor Code §§ 2699(f), 1197.1, and/or 558.



Fourth, the Employer failed to timely provide all legally compliant meal breaks (including second meal breaks) to the Employee and other aggrieved employees, because the Employer failed to relinquish all control and/or because meal breaks were missed, interrupted, short and/or late. The Employee and other aggrieved employees routinely worked over five hours but did not always get lawful full thirty-minute uninterrupted meal breaks within the first five hours of their shifts. Further, they sometimes worked over ten and/or twelve hours but were not timely provided a legally compliant second meal break. The Employer did not always pay a meal period penalty for these violations. As such, the Employer violated Labor Code §§ 226.7, 512 and 516 and the applicable Industrial Wage Order ¶ 11 and owes penalties under Labor Code §§ 2699(f) and/or 558.

Fifth, the Employer failed to always authorize and permit paid rest breaks to the Employee and other aggrieved employees. The Employee and other aggrieved employees did not always get full ten-minute uninterrupted rest breaks within the first four hours of their shift or major fraction thereof and each subsequent four hours worked thereafter or major fraction thereof. As such, the Employee and other aggrieved employees were not always authorized and permitted legally compliant rest breaks. The Employer did not always pay a rest period penalty for these violations. As such, the Employer violated Labor Code §§ 226.7 and 516, and the applicable Industrial Wage Order ¶ 12(A)/(B) and owes rest period wages and penalties under Labor Code §§ 2699(f) and/or 558.

Sixth, the Employee and other aggrieved employees incurred expenses while performing reasonable and necessary work-related duties, including but not limited to the use of their personal vehicles (including but not limited to mileage), uniforms, and personal mobile devices. The Employer failed to reimburse for these work-related expenses. As such, the Employer violated Labor Code §§ 450 and 2802 by failing to reimburse the Employee and other aggrieved employees for all business expenses reasonably incurred in the course of their required work duties and owes penalties under Labor Code § 2699(f).0

Seventh, regarding wage statements, under Labor Code § 226 and the applicable Industrial Wage Order, the Employer is required to include certain information on a paystub. Here, because of the Employer failed to pay all wages as set forth above, Employer issued wage statements that inaccurately reflected hours worked and/or wages earned by the Employee and other aggrieved employees, and the Employer has derivatively violated Labor Code § 226 and owes penalties under Labor Code §§ 2699(f) and/or 226.3.

Eighth, regarding waiting time penalties, because the Employer failed to pay all wages as set forth above, formerly-employed aggrieved employees are entitled to thirty days of wages at their regular rate of pay for the Employer's failure to pay all wages due upon separation of employment. The Employer's failure to timely pay final wages to formerly-employed aggrieved employees was willful in that the Employer adopted policies and/or practices that were incompatible with the Labor Code. Because the Employer failed to pay all wages as set forth above, the Employer derivatively violated Labor Code §§ 201-202 and owes penalties under Labor Code §§ 2699(f) and/or 201-203.

Ninth, regarding waiting time penalties, in addition to the derivative violations of Labor Code § 203 set forth above, the Employer did not timely pay the Employee and other separated aggrieved employees all wages due and owing in a timely manner. For example, the Employee resigned on December 16, 2023, so her final wages were immediately due and owing. However, the Employer willfully failed to pay the Employee her final wages until December 22, 2023. Therefore, the Employer violated Labor Code §§ 201-203 and owes penalties under Labor Code §§ 2699(f) and/or 201-203.



PAGA Administrator
Re: Genesco Inc.
November 6, 2024
Page 3

Tenth, the Employer failed to always provide the Employee and other aggrieved employees with paid sick days. In violation of Labor Code § 246, the Employee and other aggrieved employees worked for the Employer for 30 or more days after July 1, 2015, yet the Employer did not always pay for all requested sick days under Labor Code § 246(a)(1). As such, the Employer owes the Employee and other aggrieved employees unpaid sick days and/or accrued sick days and owes penalties under Labor Code §§ 2699(a)/(f), 248.5, and/or 558.

Eleventh, and finally, the Employer failed to always provide the Employee and other aggrieved employees with paid sick days paid at the regular rate of pay. The Employer paid the Employee and other aggrieved employees certain forms of non-discretionary pay, including but not limited to bonuses, commissions, and/or incentive pay. However, the Employer did not include all forms of remuneration in the sick pay rate in violation of Labor Code § 246(l) and owes penalties under Labor Code §§ 2699(a)/(f), 248.5, and/or 558.

Under Labor Code § 2699.3(a)(2)(A), please advise within 65 calendar days of the postmark date of this notice whether the LWDA intends to investigate these alleged violations.

Further, under Labor Code § 2699.3(c)(2)(A), the Employer may cure the alleged violations within 33 calendar days of the postmark date of this notice and within that period, give notice by certified mail if the alleged violation is cured, including a description of actions taken.

In addition, this letter clearly sets forth the Employee's grievances and proposed remedies, under the Labor Code, PAGA, and otherwise, as set forth above. The Employee would like to engage in reasonable efforts to settle this dispute before filing a civil action against the Employer. The Employee gives the Employer the opportunity, prior to the expiration of the deadline for the LWDA to investigate, to meet the Employee's demands and settle this dispute.

We understand that if we do not receive a response within 65 calendar days of the postmark and filing date of this notice that the LWDA intends to investigate these allegations and/or a notice from the Employer that the alleged violations are cured, and/or if the alleged violations are not cured, then the Employee may immediately thereafter commence a civil action against the Employer under Labor Code § 2699.

Thank you for your consideration.

Regards,

Emil Davtyan
Gregg Lander
Vanessa M. Ruggles
Taylor B. Keaster

cc: (via Certified Mail)
Genesco Inc.
535 Marriott Drive 12th Floor
Nashville, TN 37214

1 **PROOF OF SERVICE**

2 **STATE OF CALIFORNIA, COUNTY OF LOS ANGELES**

3 I, the undersigned, am over the age of 18 years and not a party to this action. My business
4 address is 1635 Pontius Avenue, Second Floor, Los Angeles, CA 90025-3361, which is located
in Los Angeles County, where the service herein occurred.

5 On the date of execution hereof, I caused to be served the following attached document:

6 **FIRST AMENDED COMPLAINT FOR CIVIL PENALTIES UNDER THE**
7 **PRIVATE ATTORNEYS GENERAL ACT (Labor Code §§ 2698, et seq.)**

8 on the interested parties in this action, addressed as follows:

9 *Attorneys for Defendant Genesco Inc.:*

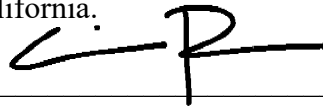
10 Shareef Farag, Esq.
11 Matthew J. Goodman, Esq.
12 Matthew Eaton, Esq.
13 BAKER HOSTETLER
14 1900 Avenue of the Stars, Suite 2700
Los Angeles, CA 90067-4301
Tel.: (310) 979-8472 / Fax: (310) 748-3941
Emails: SFarag@bakerlaw.com
MGoodman@bakerlaw.com
MEaton@bakerlaw.com

15 using the following service method:

16 **X VIA ELECTRONIC MAIL:** Service by electronic mail to parties who have already
17 appeared in this post-January 1, 2019 proceeding was made pursuant to the procedures specified
18 in California Code of Civil Procedure § 1010.6(b). The electronic mail was sent to electronic
service address(es) that has/have been previously confirmed by email.

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

20 Executed on **March 6, 2025**, at Los Angeles, California.

21 

22 **Cindy Rivas**