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8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
9 **FOR THE COUNTY OF ORANGE**

10 **Marcie Le**, individually and on behalf of all
others similarly situated,

11 Plaintiff,

12 vs.

13 **Walgreen Co.**, an Illinois corporation;
14 **Walgreens Boots Alliance**, a Delaware
corporation; and **Does 1-50**, inclusive,

15 Defendants.

CASE NO. 30-2018-01008756-CU-OE-CXC

CLASS ACTION COMPLAINT FOR:

- 1) Failure to Provide Rest and Meal Periods or Premium Pay in Lieu Thereof (Lab. Code §§ 226.7, 512, 558, and 1198);
- 2) Failure to Provide Complete and Accurate Wage Statements (Lab. Code §§ 226, 226.3);
- 3) Failure to Pay Earned Wages When Due (Lab. Code §§ 201-203);
- 4) Failure to Maintain Accurate Records (Lab. Code §§ 226(a), 1174(d), and 1174.5)
- 5) Unfair Business Practices (Bus. & Prof. Code §§ 17200, *et seq.*)

COMPLAINT FOR:

- 6) Defamation;
- 7) Intentional Infliction of Emotional Distress; and
- 8) Negligent Infliction of Emotional Distress

Jury Trial Requested

Assigned: Judge Glenda Sanders

Dept: CX101

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COMPLAINT

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1 Plaintiff Marcie Le ("Plaintiff" or "Ms. Le"), on behalf of herself and all other similarly-
2 situated current and former employees, by and through her counsel of record, alleges as follows:

3 **INTRODUCTION**

4 1. Defendants Walgreen Co. and Walgreens Boots Alliance (collectively, "Walgreens")
5 have consistently and willfully violated California law in pursuit of greater profits by failing to
6 provide non-exempt pharmacist employees with full, uninterrupted meal and rest periods and failing
7 to pay those employees an extra hour of wages at their regular rates of pay in lieu thereof, in addition
8 to depriving them of other benefits of employment.

9 2. Despite Walgreens' actual knowledge of its legal obligations, Walgreens traded
10 away its employees' statutory rights—and, potentially, its patients' safety—in exchange for in-
11 creased productivity and an unfair advantage over its competition. Walgreens has implemented a
12 uniform policy of (1) denying rest and/or meal periods; (2) failing to provide premium pay in lieu
13 of rest and/or meal periods; (3) failing to provide complete and accurate wage statements; (4) failing
14 to timely pay wages earned; and (5) failing to maintain accurate records of wages earned and time
15 worked.

16 3. Moreover, Walgreens is hostile to employees who challenge the company's profit-
17 oriented culture, unlawfully retaliating against those who raise concerns about wage and hour vio-
18 lations or engage in other protected conduct regarding wages and working conditions.

19 4. Plaintiff Marcie Le was one such victim of Defendants' retaliatory conduct. Ms. Le
20 was a loyal employee to Walgreens for 27 years, consistently earning positive performance reviews
21 and the allegiance of other pharmacy employees as well as Walgreens' customers. Shortly after Ms.
22 Le declined to identify to her superiors pharmacy employees who had discussed the desirability of
23 unionizing in response to illegal and sub-standard working conditions, Defendants summarily ter-
24 minated her. Walgreens' management then proceeded to defame Ms. Le by spreading false rumors
25 that she was fired for "theft-related reasons." These allegations were false: Walgreens terminated
26 Ms. Le because she engaged in protected activity that Walgreens preferred to suppress.

27 5. Accordingly, Plaintiff files this class and representative action seeking unpaid wages,
28 including meal and rest period compensation, interest thereon, and other penalties, injunctive and

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1 equitable relief, and reasonable attorneys' fees and costs pursuant to California Labor Code sections
2 200 through 203, inclusive, 218.5, 226, 226.3, 226.7, 512, 558, 1174, 1174.5, and 1198 on behalf
3 of all individuals employed as pharmacists at one or more Walgreens retail locations within the State
4 of California at any time after July 27, 2014 ("Class Members").

5 **PLAINTIFF**

6 6. Plaintiff Marcie Le is a licensed pharmacist and resident of Orange County, Califor-
7 nia. From May 20, 1992 to May 29, 2018, Ms. Le was employed as a Staff Pharmacist and Pharmacy
8 Manager at Walgreens pharmacies throughout Orange County, California. During her many years
9 at Walgreens, Ms. Le's performance exceeded expectations. Nonetheless, after raising concerns
10 about Walgreens' break policy and working conditions and declining to expose staff pharmacists to
11 discipline for engaging in protected activity, Ms. Le was terminated by Walgreens for an unspecified
12 "violation of company policy" on May 29, 2018. Walgreens then falsely represented to the Employ-
13 ment Development Department ("EDD") and others within Walgreens that Ms. Le was terminated
14 for "theft-related reasons." The EDD subsequently rejected Walgreens' baseless allegations.

15 7. At all relevant times prior to May 29, 2018, Ms. Le was classified as a non-exempt
16 employee. As such, Ms. Le was protected by the sections of the California Labor Code and Industrial
17 Welfare Commission's ("IWC") Wage Order No. 7 applicable to non-exempt employees.¹

18 8. At all relevant times prior to May 29, 2018, Ms. Le was a member of the Class of
19 persons further described and defined herein ("Class Members").

20 **DEFENDANTS**

21 9. Defendant Walgreen Co. ("Walgreen") is an Illinois corporation registered to do
22 business in the State of California. Since December 31, 2014, Walgreen has been a wholly-owned
23 subsidiary of defendant Walgreens Boots Alliance, Inc.

24 10. Defendant Walgreens Boots Alliance ("Walgreens Boots," collectively with defend-
25 ant Walgreen, "Walgreens") is a Delaware corporation with a principle place of business located at
26

27 ¹ IWC Wage Order No. 7 applies to employees in the mercantile industries and has been
28 found to regulate Defendants' treatment of its employees in prior cases alleging wage and hour
violations by Defendants.

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1 108 Wilmot Road, Deerfield, Illinois 60015. Walgreens Boots was founded in 2014 as a successor
2 entity of defendant Walgreen, according to Walgreens Boots' 2017 10-K filing with the United
3 States Securities and Exchange Commission. Walgreens Boots' 2017 10-K filing further states that
4 the company is the ultimate parent of defendant Walgreen and numerous other entities operating
5 under the Walgreens brand. Walgreens Boots is a publicly-traded corporation on NASDAQ under
6 the ticker symbol "WBA."

7 11. The true names and capacities of the defendants named herein as Does 1 through 50,
8 inclusive (hereinafter "Defendants," together with Walgreen and Walgreens Boots), are unknown
9 to Plaintiff at this time. Accordingly, Plaintiff brings this suit against them by fictitious names pur-
10 suant to California Code of Civil Procedure section 474. Plaintiff believes that each of the Doe
11 defendants is a California resident and/or does substantial business in the State of California. At all
12 relevant times, Does 1 through 50 were acting within the course and scope of their employment and
13 agency with defendants Walgreen and Walgreens Boots. Plaintiff is informed and believes that each
14 Doe defendant is responsible for the injuries and damages alleged herein. Plaintiff will amend this
15 complaint to reflect Does 1 through 50's true names and capacities when they have been determined.

16 12. At all relevant times, Defendants exercised joint control over the wages, hours, and
17 working conditions of Plaintiffs and Class Members within various California counties, including,
18 but not limited to, the County of Orange. For instance, defendants Walgreen and Walgreens Boots
19 operate "Walgreens Shared HR Services," which is responsible for implementing policies regarding
20 wages, hours, and working conditions at all stores operating under the Walgreens brand. Questions
21 regarding paystubs and personnel files are to be directed to Walgreens Shared HR Services.

22 13. Except as otherwise noted herein, Defendants participated in the acts alleged herein
23 and/or were the agents, servants, employees, or representatives of the other Defendants. At all times
24 relevant to this complaint, Defendants were acting within the course, scope, and authority of their
25 agency and employment such that the acts of one defendant are legally attributable to the other
26 Defendants. Defendants, in all respects, acted as employers and/or joint employers of Plaintiff and
27 Class Members in that each of them exercised control over the wages, hours, and/or working con-
28 ditions of pharmacists employed in stores operating under the Walgreens brand.

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VENUE AND JURISDICTION

14. This Court has jurisdiction over this action pursuant to California Code of Civil Procedure section 410 and California Business & Professions Code section 17203. Plaintiff styles this case as a class action on behalf of herself and similarly-situated employees of Defendants pursuant to California Code of Civil Procedure section 382.

15. Venue is proper in this Court because Defendants regularly do business in Orange County and because Plaintiff and numerous Class Members reside in Orange County. Moreover, the conduct alleged herein took place in Orange County; namely, Ms. Le was employed by Defendants and earned the wages claimed by this action in Orange County.

CLASS ACTION ALLEGATIONS

16. As a matter of uniform and systemic policy, Defendants failed to implement a policy or procedure that authorized and permitted pharmacists to take meal and/or rest periods pursuant to Labor Code section 226.7. Moreover, Defendants had a common policy of denying compensation in lieu of rest and meal periods to pharmacists, notwithstanding their actual knowledge that pharmacists were uniformly denied rest and meal periods. Defendants' policies further caused the Class Members to be required to work through their rest and meal periods, resulting in a failure by Defendants to pay Class Members for all hours worked.² These common business practices applied to each and every Class Member throughout the relevant period.

17. Accordingly, Plaintiff brings this action on behalf of herself and as a class action on behalf of the following defined Class:

Non-Exempt Pharmacist Class:

All persons who are and/or were employed as non-exempt pharmacists by Defendants in one or more of Walgreens' California retail stores or express pharmacies between July 27, 2014 and the present ("Class").

18. **Numerosity.** Plaintiff is informed and believes that during the class period, well over 2,500 Class Members have been employed by Walgreens as non-exempt pharmacists at Walgreens'

² Under California law, Defendants bear the burden of establishing that each and every Class Member was paid wages due to them under the Labor Code and IWC Wage Order No. 7.

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1 more than 600 retail locations within the State of California. These pharmacists include, but are not
2 limited to, employees classified by Walgreens under the job titles Pharmacy Intern, Pharmacy Intern
3 Graduate, Staff Pharmacist, and Pharmacy Manager, and include both “multi-location pharmacists”
4 (known as “floaters”)—who are assigned to work at numerous Walgreens locations depending on
5 store needs—and pharmacists permanently staffed to a specific retail location. Because Walgreens
6 has employed so many pharmacists in these capacities, the members of the Plaintiff Class are nu-
7 merous such that joinder of all members is impossible or impracticable.

8 19. **Commonality.** Common questions of law and fact exist as to all Class Members and
9 predominate over issues affecting individual members of the Plaintiff Class. Common questions of
10 law and fact relevant to Class Members’ claims include:

- 11 a. Whether Walgreens has a common policy and/or practice of denying rest
12 and/or meal breaks to Plaintiff and Class Members;
- 13 b. Whether Walgreens’ policies and procedures, coupled with California State
14 law regarding supervision of pharmacy technicians and authorized dispensing
15 of medications, uniformly prevented Plaintiff and Class Members from
16 taking rest and/or meal breaks;
- 17 c. Whether Walgreens’ budgeting practices uniformly prevented Plaintiff and
18 Class Members from being compensated for missed rest and/or meal breaks;
- 19 d. Whether Walgreens unlawfully and/or willfully failed to provide rest and/or
20 meal periods to Plaintiff and Class Members in violation of Labor Code sec-
21 tion 226.7 and IWC Wage Order No. 7;
- 22 e. Whether Walgreens unlawfully and/or willfully deprived Plaintiff and Class
23 Members of compensation for missed rest and/or meal breaks pursuant to
24 Labor Code sections 200, 226.7, 512, and IWC Wage Order No. 7;
- 25 f. Whether Walgreens has a policy and/or practice of failing to maintain accu-
26 rate payroll records in the State of California;
- 27 g. Whether Walgreens has a policy and/or practice of failing to provide accurate
28 wage statements reflecting hours worked and wages earned to Plaintiff and

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Class Members;

- h. Whether Walgreens unlawfully and/or willfully failed to furnish timely and accurate itemized wage statements to Plaintiff and Class Members in violation of Labor Code section 226;
- i. Whether Walgreens had a policy and/or practice of failing to pay Plaintiff and Class Members final wages owed upon termination of employment;
- j. Whether Walgreens unlawfully and/or willfully failed to promptly pay compensation due to Plaintiff and Class Members upon termination of employment in violation of Labor Code sections 201, 202, and 203;
- k. Whether Plaintiff and Class Members sustained damages as a result of any of the aforementioned violations, and, if so, the proper measure of those damages, including interest, penalties, costs, attorneys' fees, and equitable relief;
- l. Whether Walgreens violated the Unfair Competition Law, Bus. & Prof. Code § 17200, *et seq.*, by violating the above provisions of law; and
- m. Whether Walgreens violated the Unfair Competition Law, Bus. & Prof. Code § 17200, *et seq.*, by treating Plaintiff and Class Members unfairly by depriving them of rest and/or meal breaks, failing to provide them with compensation in lieu of rest and/or meal breaks, failing to pay wages upon termination, failing to furnish accurate and timely itemized wage statements upon payment of wages, and failing to pay all compensation due upon discharge.

20. **Typicality.** Plaintiff's claims are typical of all Class Members. Upon information and belief, all pharmacist employees of Defendants are classified as non-exempt hourly employees. Plaintiff, like all other Class Members, was subjected to the policies and practices set forth above. Plaintiff's job duties were typical of Class Members in all relevant respects. Moreover, all Class Members are subject to and required to follow State law and California Board of Pharmacy regulations regarding dispensing medication, supervising pharmacy technicians, and maintaining "direct supervision and control" over the operations of the pharmacy.

21. **Adequacy.** There are no material conflicts between the claims of the representative

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1 Plaintiff and Class Members that would make class certification inappropriate. Plaintiff understands
2 her obligation to inform the Court of any relationship, conflicts, or differences with any Class Mem-
3 ber. Plaintiff will fairly and adequately protect the interests of the Class Members. Ms. Le worked
4 at Walgreens for 27 years and is trusted and esteemed by her former colleagues. Moreover, Ms. Le
5 has retained competent counsel experienced in both class action and employment litigation. Plain-
6 tiff's attorneys, the proposed class counsel, are versed in the rules governing class action discovery,
7 certification, and settlement, and will vigorously assert the claims of all class members. Plaintiff has
8 incurred, and throughout the duration of this action, will continue to incur costs and attorneys' fees
9 that have been, are, and will be necessarily expended for the prosecution of this action for the
10 substantial benefit of each Class Member.

11 22. **Superiority.** Questions of law and fact common to the Class predominate over the
12 questions affecting only individual members of the Class and a class action is superior to other
13 available means for the fair and efficient adjudication of this dispute. The damages suffered by
14 individual Class Members, while substantial, are small compared to the burden and expense of in-
15 dividual prosecution of the complex and expensive litigation necessary to address Defendants' con-
16 duct. Even if Class Members themselves could afford to pursue individual litigation, the court sys-
17 tem would be overwhelmed by the individual lawsuits. In addition, individualized litigation in-
18 creases the delay and expense to all parties and to the court system resulting from the complex legal
19 and factual issues of this case. Individualized litigation also presents a potential for inconsistency or
20 contradictory judgments. By contrast, the class action device presents far fewer management diffi-
21 culties; it allows the hearing of claims which might otherwise go unaddressed because of the relative
22 expense of bringing individual lawsuits, and it provides the benefits of single adjudication, econo-
23 mies of scale, and comprehensive supervision by a single court.

24 **CAUSES OF ACTION**

25 **FIRST CAUSE OF ACTION**

26 *Cal. Lab. Code §§ 226.7, 512, 558, and 1198*
27 *Failure to Provide Rest and Meal Periods or Premium Pay in Lieu Thereof*
(Plaintiff and Class Members Against Defendants)

28 23. Plaintiff incorporates by reference every allegation in this complaint as if fully set

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1 forth herein.

2 24. At all times relevant to this complaint, Walgreens knew it was obligated to provide
3 compliant rest breaks to its non-exempt employees pursuant to California Labor Code section 226.7.

4 25. California Labor Code section 226.7 provides:

5 (a) No employer shall require any employee to work during any meal
6 or rest period mandated by an applicable order of the Industrial Welfare
7 Commission.

8 (b) If any employer fails to provide an employee a meal period or rest
9 period in accordance with an applicable order of the Industrial Welfare
10 Commission, the employer shall pay the employee one additional hour of
11 pay at the employee's regular rate of compensation for each work day that
12 the meal or rest period is not provided.

13 26. Section 12 of IWC Wage Order No. 7, which governs employees in the mercantile
14 industries, provides:

15 (A) Every employer shall authorize and permit all employees to take rest
16 periods, which insofar as practicable shall be in the middle of each work
17 period. The authorized rest period time shall be based on the total hours
18 worked daily at the rate of ten (10) minutes net rest time per four (4) hours
19 or major fraction thereof...

20 (B) If an employer fails to provide an employee a rest period in accord-
21 ance with the applicable provisions of this order, the employer shall pay the
22 employee one (1) hour of pay at the employee's regular rate of compensa-
23 tion for each workday that the rest period is not provided.

24 27. Defendants consistently denied their pharmacists the opportunity to take rest periods
25 in accordance with these mandates. Specifically, Defendants' staffing practices, performance quo-
26 tas, and formal company policy collectively ensured that pharmacists were uniformly denied rest
27 periods for every four hours worked or major fraction thereof. Plaintiff raised this concern with
28 Defendants on numerous occasions.

29 28. With respect to meal periods, Labor Code section 512(a) provides that an employer
30 may not require, cause, or permit an employee to work for a period of more than five hours per day
31 without providing the employee with a meal period of not less than 30 minutes. Employees working
32 more than ten hours per day are entitled a second uninterrupted 30-minute meal period. Under Cal-
33 ifornia law, first meal periods must start after no more than five hours. Employers are further pro-
34 hibited from requiring employees to execute meal period waivers as a condition of employment or

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1 continued employment.

2 29. Labor Code section 226.7, 512(a), and 1198 provide that no employer shall require
3 an employee to work during any rest or meal period mandated by an applicable order of the IWC,
4 including Wage Order No. 7. These mandates have been interpreted to prohibit “on call” rest and
5 meal periods. Employers must authorize and permit employees to be relieved of all duty during their
6 rest and meal periods. “A rest period, in short, must be a period of rest.” *Augustus v. ABM Sec.*
7 *Servs., Inc.*, 2 Cal. 5th 257, 273, 385 P.3d 823, 834 (2016), as modified on denial of reh’g (Mar. 15,
8 2017).

9 30. Defendants’ policies and practices uniformly denied Plaintiff and Class Members
10 rest and meal periods as required by law.

11 31. *First*, Defendants required Plaintiff and Class Members to remain on site and super-
12 vise pharmacy operations during meal and rest periods, requiring Plaintiff and Class Members to, at
13 a minimum, remain “on call” and on premises during rest and meal periods. Defendants’ formal
14 policies failed to authorize and permit rest and meal periods as required by law and were common
15 to Plaintiff and all Class Members.

16 32. *Second*, Defendants explicitly prohibit Class Members from ceasing pharmacy oper-
17 ations during shifts. Defendants’ computer system requires a pharmacist to remain logged on at all
18 times during pharmacy operations. In order for pharmacy staff to scan, fill, or release prescriptions—
19 essentially the entirety of pharmacy operations—a pharmacist must be logged into Defendants’
20 computer systems. Under both State law and Defendants’ formal policies, pharmacist Class Mem-
21 bers are responsible for prescriptions filled under their log-in information, and failure to supervise
22 pharmacy operations can result in consequences ranging from internal discipline to loss of licensure.
23 These policies prevented Class Members from taking rest and meal periods.

24 33. *Finally*, Defendants’ performance requirements and staffing practices made it im-
25 possible for Plaintiff and Class Members to take rest and meal periods without suffering adverse
26 employment consequences. Defendants routinely staff shifts with only one pharmacist on duty, yet
27 Walgreens has uniform policies of (1) requiring pharmacists to fill large quotas of prescriptions and
28 (2) requiring pharmacists to attempt to process all customers within 15 minutes (an “in and out”

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1 target). At all times relevant to this complaint, pharmacists who failed to meet these quotas and
2 targets were penalized with negative performance reviews and other disciplinary actions, including
3 termination. These policies further prevented Plaintiff and Class Members from taking rest and meal
4 periods.

5 34. Accordingly, Plaintiff and Class Members were uniformly denied rest and meal pe-
6 riods as a result of Defendants' formal and Class-wide policies.

7 35. By failing to consistently provide (1) uninterrupted 10-minute rest periods for every
8 four hours worked or major fraction thereof; (2) uninterrupted 30-minute meal periods within the
9 first five hours of a work shift; and (3) a second, uninterrupted 30-minute meal period for shifts
10 longer than 10 hours, Defendants violated the California Labor Code and IWC Wage Order No. 7
11 as to Plaintiff and Class Members.

12 36. Pursuant to Wage Order No. 7 and Labor Code section 226.7(b), Plaintiff and Class
13 Members are entitled to recover from Defendants an additional hour of pay at their regular rates of
14 pay for each work day that a required rest period was not provided plus an additional hour of pay
15 for each work day where a required meal period was not provided. Defendants consistently refused
16 to pay premium pay as required by law.

17 37. As a direct and proximate result of Defendants' unlawful conduct, Plaintiff and Class
18 Members have sustained damages, including lost compensation resulting from missed rest and/or
19 meal periods, in an amount to be established at trial. As a further direct and proximate result of
20 Defendants' unlawful conduct, Class Members are entitled to recover "waiting time" and other pen-
21 alties, in amounts to be established at trial, as well as attorneys' fees and costs, and restitution pur-
22 suant to statute.

23 **SECOND CAUSE OF ACTION**

24 *Cal. Lab. Code §§ 226 and 226.3*
25 *Failure to Provide Complete and Accurate Wage Statements*
(Plaintiff and Class Members Against Defendants)

26 38. Plaintiff incorporates by reference every allegation in this complaint as if fully set
27 forth herein.

28 39. California Labor Code section 226 requires employers to furnish employees with an

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1 accurate, itemized statement in writing showing, among other things, (1) gross wages earned; (2)
2 total hours worked by the employee (for hourly-paid, non-exempt employees); (3) all deductions;
3 (4) net wages earned; (5) the inclusive dates of the period for which the employee is paid; (6) the
4 name of the employee and the last four digits of his or her social security number; (7) the name and
5 address of the legal entity that is the employer; and (8) all applicable hourly rates in effect during
6 the pay period and the corresponding number of hours worked at each hourly rate by the employee.

7 40. At all times relevant to this complaint, Defendants violated Labor Code section 226
8 by failing to provide an accurate, itemized wage statement that reflected earned premium pay for
9 failure to provide meal and rest periods, e.g., net wages.

10 41. Defendants knowingly and intentionally failed to comply with Labor Code section
11 226, causing injury and damages to Plaintiff and Class Members. These damages include, but are
12 not limited to, costs incurred calculating the correct net wages for each pay period and the amount
13 of employment taxes that were not paid to state and federal tax authorities.

14 42. As a direct and proximate result of Defendants' unlawful conduct, Plaintiff and Class
15 Members are entitled to recover damages and penalties, in amounts to be established at trial, as well
16 as attorneys' fees and costs pursuant to statute.

17 **THIRD CAUSE OF ACTION**

18 *Cal. Lab. Code §§ 201, 202, and 203*
19 *Failure to Pay Wages When Due*
(Plaintiff and Class Members Against Defendants)

20 43. Plaintiff repeats and incorporate by reference all allegations contained in the preced-
21 ing paragraphs as if fully set forth herein.

22 44. California Labor Code section 200 defines "wages" as "all amounts for labor per-
23 formed by employees of every description, whether the amount is fixed or ascertained by the stand-
24 ard of time, task, piece, commission basis, or other method of calculation." "Labor" is defined as
25 "labor, work, or service . . . if the labor to be paid for is performed personally by the person de-
26 manding payment."

27 45. California Labor Code section 201 provides, in relevant part, that:
28 If an employee not having a written contract for a definite period quits his

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or her employment, his or her wages shall become due and payable not later than 72 hours thereafter, unless the employee has given 72 hours previous notice of his or her intention to quit, in which case the employee is entitled to his or her wages at the time of quitting. Notwithstanding any other provision of law, an employee who quits without providing a 72-hour notice shall be entitled to receive payment by mail if he or she so request and designates a mailing address. The date of the mailing shall constitute the date of payment for purposes of the requirement to provide payment within 72 hours of quitting.

46. Defendants do not include definite periods of service in their contracts of employment for pharmacists employed at their California stores. Plaintiff's contract of employment did not include a definite term.

47. California Labor Code section 203 provides:

If an employer willfully fails to pay, without abatement or reduction, in accordance with Section 201, 201.5, 202, and 205.5, any wages of an employee who is discharged or who quits, the wages of the employee shall continue as a penalty from the due date thereof at the same rate until paid or until an action therefor is commenced; but the wages shall not continue for more than 30 days.

48. Defendants have terminated the employment of Plaintiff and many Class Members. As discussed above, Defendants knowingly failed to pay Plaintiff and Class Members all earned wages upon termination. Instead, Defendants willfully and intentionally refuse to pay the earned rest and meal period premiums alleged herein to Plaintiff and Class Members in violation of Labor Code sections 201 and 202.

49. Defendants' failure to pay Plaintiffs and those Class Members who are no longer employed by Defendants their wages earned and unpaid at the time of discharge, or within seventy-two (72) hours of their leaving Defendants' employment, violates Labor Code sections 201 and 202. Plaintiffs and/or Class Members are therefore entitled to recover from Defendants the statutory penalty wages for each day they were not paid, at their regular rate of pay, up to a 30-day maximum penalty under Labor Code section 203.

FOURTH CAUSE OF ACTION

***Cal. Lab. Code § 1174
Failure to Maintain Accurate Payroll Records
(Plaintiff and Class Members Against Defendants)***

50. Plaintiff repeats and incorporate by reference all allegations contained in the

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1 preceding paragraphs as if fully set forth herein.

2 51. California Labor Code section 1174(d) requires “[e]very person employing labor in
3 this state” to “keep, at a central location *in the state* . . . payroll records showing the hours worked
4 daily by and the wages paid to” employees in employed in the State of California.

5 52. Defendants have a uniform policy of maintaining all payroll records through
6 Walgreens Shared HR Services, which is located in Danville, Illinois. Records are not maintained
7 in a central location in the State of California or at the facilities in which Class Members are em-
8 ployed.

9 53. Moreover, Defendants have failed to keep accurate payroll records for Plaintiff and
10 Class Members in accordance with Labor Code section 1174. Defendants’ failure to keep and main-
11 tain accurate payroll records reflecting hours worked and wages earned has impeded Plaintiff and
12 Class Members’ ability to calculate unpaid wages earned.

13 54. As a direct and proximate result of Defendants’ unlawful conduct, Plaintiff and Class
14 Members are entitled to recovery penalties, in amounts to be established at trial, as well as attorneys’
15 fees and costs pursuant to statute.

16 **FIFTH CAUSE OF ACTION**

17 *Bus. & Prof. Code §§ 17200, et seq.*
18 *Unfair Business Practices*
(Plaintiff and Class Members Against Defendants)

19 55. Plaintiff repeats and incorporates by reference every allegation in this complaint as
20 if fully set forth herein.

21 56. Each defendant named herein is a “person” as defined by California Business & Pro-
22 fessions Code sections 17201, as they are natural persons, corporations, firms, partnerships, joint
23 stock companies and/or associations.

24 57. Defendants’ knowing conduct constitutes an unlawful and/or fraudulent business
25 practice as set forth in Business & Professions Code section 17200, *et seq.* Specifically, Defendants
26 intentionally and willfully refuse to staff their pharmacies in a manner that would permit Plaintiff
27 and Class Members to take rest and meal breaks as required by law. Instead, Defendants cut corners
28 in the name of higher profits and at the expense of employee and customer well-being.

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1 58. Defendants' knowing failure to abide by the laws discussed herein unfairly ad-
2 vantage Defendants as compared to their competitors, thereby constituting an unfair business prac-
3 tice under Business & Professions Code section 17200, *et seq.*

4 59. During and prior to 2014, Defendants settled numerous lawsuits relating to many of
5 the allegations described herein. Nonetheless, Defendants' violations continue unabated with re-
6 spect to Plaintiff and Class Members. Defendants regard damages and penalties incurred for Cali-
7 fornia wage and hour law violations as collateral damage or a cost of doing business, rather than
8 accepting the costs of full compliance and fair, lawful, and honest business practices, ordinarily
9 borne by its responsible competitors as set forth in legislation and the judicial record.

10 60. Plaintiff brings this cause of action seeking equitable and injunctive relief to stop
11 Defendants' willful and ongoing misconduct, and to seek restitution of the amounts Defendants
12 acquired through the unfair, unlawful, and fraudulent business practices described herein. In addi-
13 tion, Plaintiff seeks an award of costs and attorneys' fees pursuant to California Code of Civil Pro-
14 cedure section 1021.5.

SIXTH CAUSE OF ACTION

Defamation
(Plaintiff Against Defendants)

17 61. Plaintiff repeats and incorporates by reference every allegation in this complaint as
18 if fully set forth herein.

19 62. Defendants engage and have engaged in a variety of conduct designed to prevent
20 pharmacists, including staff pharmacists, from exercising their rights under State and federal law,
21 including but not limited to employee rights regarding union participation and meal and rest break
22 periods and premiums. Defendants know that their profits will fall if they are compelled to comply
23 with these legal requirements. Because of this, Defendants enforce a systemic atmosphere of fear
24 and intimidation to prevent employees from asserting their rights.

25 63. In or around mid-2015, defendant Walgreen acquired a group of Rite Aid stores,
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27
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1 including stores whose pharmacy employees had been organized by a national labor union.³ De-
2 fendants gathered certain store managers and pharmacy managers together for a meeting where they
3 directed all employees present to inform them of all organizing activity, and instructed managers,
4 including Ms. Le, that negative employment actions would be taken against them if non-exempt
5 pharmacy employees under their supervision or in their departments formed a collective bargaining
6 unit. Over her time at Walgreens, Ms. Le and other pharmacy managers attended numerous meetings
7 where Defendants discussed their strong desire to avoid union activity, and repeatedly threatened
8 management-level personnel that they would lose their jobs if pharmacy employees under their su-
9 pervision or in their departments engaged in union activity. Defendants repeatedly stated that union
10 activity was grounds for "immediate termination."

11 64. During 2016, Ms. Le overheard a conversation among non-managerial pharmacy
12 personnel discussing whether a union would further employee interests, and whether they should
13 unionize.

14 65. On Saturday, May 26, 2018, Ms. Le was approached by Michelle Rodriguez, the
15 Director of Pharmacy and Retail Operations for the administrative district encompassing Ms. Le's
16 store, District 260, during Ms. Le's shift. Ms. Rodriguez confronted Ms. Le as to whether Ms. Le
17 herself and others at her store had "started a union." Ms. Le disclosed the fact that she had overheard
18 a conversation, years prior, regarding the desirability of union representation (or lack thereof). Ms.
19 Rodriguez demanded to know which employees had engaged in these discussions. Aware that De-
20 fendants would likely retaliate against the employees at issue for engaging in protected activity, Ms.
21 Le declined to identify the employees.

22 66. Shortly thereafter, on May 29, 2018, Ms. Le was asked to report to a Walgreens
23 corporate office in Brea for a meeting with Ms. Rodriguez and Hrach Garanian, District Manager
24 for District 260. However, this meeting never took place. When Ms. Le arrived at Defendants' dis-
25 trict office and saw Ms. Rodriguez and Mr. Garanian, she was informed that, because of her discus-
26 sion with Ms. Rodriguez on Saturday, Defendants "had to let her go." Ms. Le protested that she did
27

28 ³ Around the same time, defendant Walgreen reorganized and became a subsidiary of de-
fendant Walgreens Boots.

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1 nothing wrong. In response, Ms. Rodriguez reiterated the view that Ms. Le was a “high performance
2 employee” but it “didn’t matter” because the decision had been made. Other than the oblique refer-
3 ence to Ms. Le’s conversation with Ms. Rodriguez on Saturday, neither Ms. Rodriguez or Mr.
4 Garanian disclosed any additional cause for Ms. Le’s termination.

5 67. Numerous legal provisions authorize employees to discuss labor organizing and to
6 associate freely in their personal time (including by discussing union activity) as they see fit. *E.g.*,
7 Cal. Const., art. IV, § 1. Employers are prohibited from requiring or prohibiting union membership
8 as a condition of hiring or continued employment. Cal. Lab. Code § 922. Federal law protects em-
9 ployees’ right to organize, and prohibits employers, or any agent of an employer, from discriminat-
10 ing in regard to “hire or tenure of employment or any term or condition of employment to encourage
11 or discourage membership in any labor organization.” 29 U.S.C. § 158. California law further pro-
12 hibits employers from retaliating against employees for refusing to participate in Defendants’ vio-
13 lations of State and federal law, including laws permitting employees to discuss union membership
14 and engage in organizing activity. Lab. Code § 1102.5.

15 68. Plaintiff is informed and believes that Defendants terminated her employment be-
16 cause she declined to participate in illegal activity to stop protected discussions about the desirability
17 of union organizing.⁴

18 69. After Ms. Le was terminated, Defendants concealed the reason for Ms. Le’s termi-
19 nation from the Employment Development Department and spread false and malicious rumors to
20 Ms. Le’s former employees and peers within Walgreens.

21 70. Specifically, Hrach Garanian and Claire Marshall, another representative of
22 Walgreens’ corporate offices, visited Ms. Le’s pharmacy after her termination, apparently to search
23 for union-related pamphlets or other documents. During this visit, one of Ms. Le’s pharmacy tech-
24 nicians, within earshot of other store personnel, asked why Ms. Le was fired and was told by Ms.

25
26

27 ⁴ Ms. Le intends to submit her wrongful termination claim to the National Labor Relations
28 Board in the first instance. If the NLRB declines jurisdiction, Ms. Le reserves the right to amend
this complaint to allege a wrongful termination claim pursuant to *Tameny v. Atlantic Richfield Com-
pany*, 27 Cal.3d 167 (1980), based on the facts alleged herein.

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1 Marshall that Ms. Le was fired for “theft-related reasons.” Subsequently, the rumor that Ms. Le was
2 fired for “theft-related reasons” spread throughout Southern California Walgreens locations, and
3 numerous individuals in Ms. Le’s professional network contacted her to express their astonishment.

4 71. Defendants knew this statement was false when made. Ms. Le had never been ac-
5 cused of theft by Walgreens: Rather, Ms. Le was terminated for engaging in protected conduct.
6 Indeed, when the Employment and Development Department requested a police report or other ver-
7 ification of Ms. Le’s purported “theft,” which would have resulted in Ms. Le being denied unem-
8 ployment benefits, Defendants declined to submit any evidence and the EDD subsequently author-
9 ized payment of unemployment benefits.

10 72. Moreover, the representation that Ms. Le was terminated for “theft-related reasons”
11 is *per se* defamatory because it both charges Ms. Le with a crime and would ordinarily tend to injure
12 her with respect to her profession, trade, or business.

13 73. As a direct, proximate, and foreseeable result of Defendants’ conduct, Ms. Le has
14 suffered special damages as well as general damages in the form of emotional distress, anguish, and
15 pain and suffering in an amount to be proved at trial. Indeed, Ms. Le was hospitalized for stress-
16 related injuries shortly after she learned of Defendants’ defamatory statements.

17 74. Furthermore, Defendants acted with conscious and malicious disregard for Ms. Le’s
18 rights. Accordingly, Plaintiff is entitled to punitive damages in an amount appropriate to punish
19 Defendants for their wrongful conduct and set an example for similarly-situated employers.

20 **SEVENTH CAUSE OF ACTION**

21 ***Intentional Infliction of Emotional Distress***
22 **(Plaintiff Against Defendants)**

23 75. Plaintiff repeats and incorporates by reference every allegation in this complaint as
24 if fully set forth herein.

25 76. After Ms. Le was terminated, Defendants spread a false and malicious rumor that
26 Ms. Le was terminated for “theft-related reasons.” As noted above, Defendants knew this statement
27 was false.

28 77. This conduct was extreme and outrageous.

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1 78. Moreover, Defendants knew or had reckless disregard for the fact that these rumors
2 would get back to Ms. Le, who worked for Defendants for 27 years and had friends throughout
3 Defendants' Southern California pharmacy network.

4 79. As a direct, proximate, and foreseeable result of Defendants' conduct, Ms. Le has
5 suffered special damages as well as general damages in the form of emotional distress, anguish, and
6 pain and suffering that no one should be required to endure in civilized society. Ms. Le learned that
7 her employer of 27 years—to whom she had dedicated her entire professional career—had falsely
8 accused her of stealing from the company. Indeed, Ms. Le was hospitalized for stress-related injuries
9 shortly after she learned of the defamatory statements.

10 80. Furthermore, Defendants acted with conscious and malicious disregard for Ms. Le's
11 rights. Accordingly, Plaintiff is entitled to punitive damages in an amount appropriate to punish
12 Defendants for their wrongful conduct and set an example for similarly-situated employers.

13 **EIGHTH CAUSE OF ACTION**

14 *Negligent Infliction of Emotional Distress*
15 (Plaintiff Against Defendants)

16 81. Plaintiff repeats and incorporates by reference every allegation in this complaint as
17 if fully set forth herein.

18 82. After Ms. Le was terminated, Defendants spread a false and malicious rumor that
19 Ms. Le was terminated for "theft-related reasons." As noted above, Defendants knew this statement
20 was false. Moreover, Defendants spread this rumor to discredit Ms. Le and conceal their own wrong-
21 doing.

22 83. Defendants were negligent in spreading the false rumor that Ms. Le was terminated
23 for "theft-related reasons."

24 84. Defendants were under a duty to exercise reasonable care in sharing the (false) reason
25 for Ms. Le's termination with a network that includes many of her closest professional contacts and
26 friends. Defendants' failure to exercise reasonable care could cause Ms. Le lifelong professional
27 and personal repercussions.

28 85. Defendants breached their duty of reasonable care.

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1 86. As a direct, proximate, and foreseeable result of Defendants' conduct, Ms. Le has
2 suffered severe emotional distress, the likes of which no one should be required to endure in civilized
3 society. Ms. Le learned that her employer of 27 years—to whom she had dedicated her entire pro-
4 fessional career—had falsely accused her of stealing from the company. Indeed, Ms. Le was hospi-
5 talized for stress-related injuries shortly after she learned of the defamatory statements.

6 87. Furthermore, Defendants acted with conscious and malicious disregard for Ms. Le's
7 rights. Accordingly, Plaintiff is entitled to punitive damages in an amount appropriate to punish
8 Defendants for their wrongful conduct and set an example for similarly-situated employers.

9 **DEMAND FOR JURY TRIAL**

10 Pursuant to California Code of Civil Procedure section 631, Plaintiff demands a trial by jury
11 on all issues so triable.

12 **PRAYER FOR RELIEF**

13 WHEREFORE, Plaintiff respectfully prays judgment as follows:

- 14 A. For actual and liquidated damages according to proof at trial;
- 15 B. For statutory and civil penalties and special damages, according to proof at trial;
- 16 C. For punitive and exemplary damages according to proof;
- 17 D. For pre- and post-judgment interest on monetary damages;
- 18 E. For reasonable attorney's fees and costs and expert fees and costs as allowed by law;

19 and

- 20 F. For such other relief as this Court deems just and proper.

22 Dated: July 27, 2018

Respectfully submitted,

23 **KING & SIEGEL LLP**

24
25 By: Julian Burns King
26 Julian Burns King
27 Attorneys for Plaintiff
28

CM-010

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): Julian Burns King (Bar No. 298617); Elliot J. Siegel (Bar No. 286798) KING & SIEGEL LLP 600 Wilshire Blvd., Suite 500 Los Angeles, California 90017 TELEPHONE NO.: (213) 419-5101 FAX NO.: ATTORNEY FOR (Name): Marcie Le		FOR COURT USE ONLY ELECTRONICALLY FILED Superior Court of California, County of Orange 07/27/2018 at 06:01:07 PM Clerk of the Superior Court By Sarah Loose, Deputy Clerk
SUPERIOR COURT OF CALIFORNIA, COUNTY OF Orange STREET ADDRESS: 751 W. Santa Ana Blvd MAILING ADDRESS: Santa Ana, Ca 92701 CITY AND ZIP CODE: Civil Complex Center BRANCH NAME:		CASE NUMBER: 30-2018-01008756-CU-DE-CXC JUDGE: Judge Glenda Sanders DEPT: CX101
CASE NAME: Marcie Le v. Walgreen Co., Walgreens Boots Alliance, and Does 1-50		
CIVIL CASE COVER SHEET <input checked="" type="checkbox"/> Unlimited (Amount demanded exceeds \$25,000) <input type="checkbox"/> Limited (Amount demanded is \$25,000 or less)	Complex Case Designation <input type="checkbox"/> Counter <input type="checkbox"/> Joinder Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402)	

Items 1-8 below must be completed (see instructions on page 2).

1. Check one box below for the case type that best describes this case:

Auto Tort <input type="checkbox"/> Auto (22) <input type="checkbox"/> Uninsured motorist (48) Other P/DPD/W/D (Personal Injury/Property Damage/Wrongful Death) Tort <input type="checkbox"/> Asbestos (04) <input type="checkbox"/> Product liability (24) <input type="checkbox"/> Medical malpractice (45) <input type="checkbox"/> Other P/DPD/W/D (23) Non-P/DPD/W/D (Other) Tort <input type="checkbox"/> Business tort/unfair business practice (07) <input type="checkbox"/> Civil rights (08) <input type="checkbox"/> Defamation (13) <input type="checkbox"/> Fraud (16) <input type="checkbox"/> Intellectual property (19) <input type="checkbox"/> Professional negligence (25) <input type="checkbox"/> Other non-P/DPD/W/D tort (35) Employment <input type="checkbox"/> Wrongful termination (36) <input checked="" type="checkbox"/> Other employment (15)	Contract <input type="checkbox"/> Breach of contract/warranty (06) <input type="checkbox"/> Rule 3.740 collections (09) <input type="checkbox"/> Other collections (09) <input type="checkbox"/> Insurance coverage (18) <input type="checkbox"/> Other contract (37) Real Property <input type="checkbox"/> Eminent domain/inverse condemnation (14) <input type="checkbox"/> Wrongful eviction (33) <input type="checkbox"/> Other real property (28) Unlawful Detainer <input type="checkbox"/> Commercial (31) <input type="checkbox"/> Residential (32) <input type="checkbox"/> Drugs (38) Judicial Review <input type="checkbox"/> Asset forfeiture (05) <input type="checkbox"/> Petition re: arbitration award (11) <input type="checkbox"/> Writ of mandate (02) <input type="checkbox"/> Other judicial review (39)	Provisionally Complex Civil Litigation (Cal. Rules of Court, rules 3.400-3.403) <input type="checkbox"/> Antitrust/Trade regulation (03) <input type="checkbox"/> Construction defect (10) <input type="checkbox"/> Mass tort (40) <input type="checkbox"/> Securities litigation (28) <input type="checkbox"/> Environmental/Toxic tort (30) <input type="checkbox"/> Insurance coverage claims arising from the above listed provisionally complex case types (41) Enforcement of Judgment <input type="checkbox"/> Enforcement of judgment (20) Miscellaneous Civil Complaint <input type="checkbox"/> RICO (27) <input type="checkbox"/> Other complaint (not specified above) (42) Miscellaneous Civil Petition <input type="checkbox"/> Partnership and corporate governance (21) <input type="checkbox"/> Other petition (not specified above) (43)
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2. This case is is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:
- | | |
|--|--|
| a. <input type="checkbox"/> Large number of separately represented parties | d. <input type="checkbox"/> Large number of witnesses |
| b. <input type="checkbox"/> Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve | e. <input type="checkbox"/> Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court |
| c. <input type="checkbox"/> Substantial amount of documentary evidence | f. <input type="checkbox"/> Substantial postjudgment judicial supervision |
3. Remedies sought (check all that apply): a. monetary b. nonmonetary; declaratory or injunctive relief c. punitive
4. Number of causes of action (specify): **8**
5. This case is is not a class action suit.
6. If there are any known related cases, file and serve a notice of related case. (You may use form CM-015.)

Date: **June 27, 2018**
 Julian Burns King

(TYPE OR PRINT NAME)


 (SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

NOTICE

- Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 3.220.) Failure to file may result in sanctions.
- File this cover sheet in addition to any cover sheet required by local court rule.
- If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all other parties to the action or proceeding.
- Unless this is a collections case under rule 3.740 or a complex case, this cover sheet will be used for statistical purposes only.