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Clerk of the Superior Court  
By Melissa Valdez, Deputy Clerk

1 John K. Landay, Esq. (257573)  
jlanday@landayroberts.com  
2 Waddy Stephenson, Esq. (284009)  
wstephenson@landayroberts.com  
3 **LANDAY ROBERTS LLP**  
4 600 West Broadway, Suite 700  
San Diego, CA 92101  
5 Telephone: (619) 230-5712

6 Attorneys for Plaintiff Jennifer Edlebeck  
7 and Aggrieved Employees

8  
9 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
10 **COUNTY OF SAN DIEGO, CENTRAL DIVISION**

11 JENNIFER EDLEBECK, an individual,  
individually and on behalf of all similarly  
12 situated and aggrieved employees of  
Defendants in the State of California,

13  
14 Plaintiff,

15 vs.

16 HOMEGOODS, INC., a Delaware  
corporation, Nash Tang, an individual,  
17 and DOES 1 through 10 inclusive,

18  
19 Defendants.

Case No. 37-2022-00051267-CU-OE-CTL

**FIRST AMENDED**

**CLASS ACTION COMPLAINT FOR**

[Code Civ. Proc. § 382]

1. Failure to pay minimum wages and overtime wages (Cal. Lab. Code §§ 1194, 1194.2, 1197, 1197.1);
2. Failure to provide statutory compliant meal and rest periods (Cal. Lab. Code §§ 226.7 512);
3. Failure to timely pay all wages (Cal. Lab. Code §§ 204);
4. Failure to provide accurate wage statements (Cal. Lab. Code § 226); and
5. Failure to pay all wages upon resignation or discharge (Cal. Lab. Code §§ 201, 202, and 203).

**PAGA REPRESENTATIVE ACTION**

[Labor Code § 2698, et seq.]

6. Representative Claims Under the Labor Code Private Attorneys General Act (PAGA)

**JURY TRIAL DEMANDED**

1 Plaintiff Jennifer Edlebeck, individually and on behalf of all similarly situated employees  
2 and aggrieved employees of Defendant HomeGoods, Inc., complains as follows:

3  
4 **INTRODUCTION**

5 1. Plaintiff Jennifer Edlebeck (hereinafter, "**Plaintiff**" or "**Jennifer Edlebeck**") was  
6 employed by Defendant HomeGoods, Inc. (hereinafter, "**HomeGoods**") for approximately seven  
7 years until she resigned from her employment in March 2022.

8 2. Once employees arrived for the night shift, it was the policy of HomeGoods to lock  
9 the facility and set the alarm (hereinafter, the "**Lock-in Policy**"). Thus, an employee could not  
10 leave without the assistance of the Assistant Store Manager, and employees were informed that  
11 they were not permitted to so leave, even during meal and rest periods.

12 3. As HomeGoods did not relinquish all control of these employees during their meal  
13 periods, the meal periods are deemed hours worked, and each employee was entitled to be paid for  
14 these hours worked.

15 4. As HomeGoods did not relinquish all control of these employees during their rest  
16 periods, each employee is entitled to one hour of pay at their regular rate for each day that they  
17 were not provided statutory-compliant rest periods.

18 5. Plaintiff brings this individual, putative class action, and representative action  
19 against Defendant HomeGoods, Inc. (hereinafter, "HomeGoods") and DOES 1 through 10,  
20 inclusive, for

- 21 (a) Failure to pay minimum wages and overtime wages under California Labor Code  
22 (hereinafter, "Labor Code") sections 1194, 1194.2, and 1197;
- 23 (b) Failure to provide statutory compliant meal and rest periods under Labor Code sections  
24 226.7 and 512;
- 25 (c) Failure to timely pay all wages by the appropriate pay period under Labor Code section  
26 204;
- 27 (d) Failure to provide accurate wage statements under Labor Code section 226; and  
28

1 (e) Failure to pay all wages upon resignation or discharge of an employee under Labor  
2 Code sections 201, 202, and 203.

3 6. California Labor Code 558 provides that any person acting on behalf of an  
4 employer may be held liable for civil penalties arising from the labor code violations alleged  
5 herein.

6 7. California Labor Code 558.1 provides that any person acting on behalf of an  
7 employer may be held liable as the employer for the violations alleged herein.

8 8. Plaintiff brings this action Pursuant to California Code of Civil Procedure section  
9 382 on behalf of all current and former employees employed by HomeGoods, or DOES 1 through  
10 10, inclusive (hereinafter, the "**Class Members**"), in the state of California who were subjected to  
11 the Lock-in Policy between July 1, 2019, through February 27, 2023 (hereinafter," the "**Relevant**  
12 **Class Time Period**").

13 9. Plaintiff also brings this representative action pursuant to the Private Attorneys  
14 General Act of 2004, California Labor Code § 2698, et seq. ("PAGA") on behalf of all current and  
15 former employees employed by HomeGoods, or DOES 1 through 10, inclusive (hereinafter, the  
16 "**Aggrieved Employees**"), in the state of California who were subjected to the Lock-in Policy  
17 between December 23, 2021, through February 27, 2023 (hereinafter," the "**Relevant PAGA Time**  
18 **Period**").

19 10. Plaintiff seeks to recover, inter alia, unpaid wages, statutory damages, liquidated  
20 damages, statutory penalties, costs of suit, interest, and attorneys' fees to the extent permitted by  
21 law.

22  
23 **PARTIES**

24 11. Plaintiff Jennifer Edlebeck was an employee of Defendant HomeGoods and worked  
25 at its location at 284 N. El Camino Real, Encinitas, California 92024. Plaintiff is a resident of the  
26 State of California, and Defendant HomeGoods' conduct, as alleged herein, occurred, in part, in  
27 the County of San Diego. Plaintiff resigned from her employment with Defendant HomeGoods in  
28 March 2022.

1 12. Defendant HomeGoods is a Delaware corporation headquartered in Massachusetts  
 2 and registered as a foreign corporation with the California Secretary of State. Defendant  
 3 HomeGoods has approximately one hundred (100) store locations in California and approximately  
 4 seven (7) in the County of San Diego.

5 13. Defendant Nash Tang was an Assistant Store Manager of Defendant HomeGoods  
 6 store located in Encinitas, California, and, pursuant to Labor Code sections 558 and 558.1, is liable  
 7 for the labor code violations alleged herein at that location. On information and belief, Defendant  
 8 Nash Tang is a resident of the City of Poway, County of San Diego, State of California.

9 14. The true names and capacities of Defendants named herein as DOES 1 through 10,  
 10 inclusive, whether individual, corporate, associate, or otherwise, are unknown to Plaintiff, who  
 11 therefore sues said Defendants by fictitious names pursuant to California Code of Civil Procedure  
 12 section 474. Plaintiff is informed and believes, and thereon alleges, that at all relevant times, each  
 13 of the DOE Defendants was responsible in some manner for the acts, omissions, and occurrences  
 14 alleged in this First Amended Complaint and that Plaintiff's damages were proximately caused or  
 15 contributed to by DOE Defendants. Plaintiff will amend this First Amended Complaint to show  
 16 such true names and capacities of DOES 1 through 10, inclusive, when they have been determined.

17 15. Plaintiff is informed and believes, and thereon alleges, that at all relevant times,  
 18 each Defendant was the agent, employee, representative, or partner of each or all of the other  
 19 Defendants and was acting, or was being acted for, within the scope and authority of such agency,  
 20 employment, representation or partnership while doing or omitting to do the acts alleged in this  
 21 Complaint and with the permission, approval, consent or ratification of all other Defendants. The  
 22 allegations against each Defendant incorporate by reference to the allegations against each DOE  
 23 Defendant.

24  
 25 **JURISDICTION AND VENUE**

26 16. This Court has subject-matter jurisdiction as it is a court of general jurisdiction.

27 17. This Court has personal jurisdiction over Defendant HomeGoods under California  
 28 Code of Civil Procedure section 410.10 as (1) Defendant HomeGoods has opened store locations

1 and hired employees within the State of California; (2) the conduct complained of herein arises  
2 from these locations and employees; and (3) the assertion of personal jurisdiction comports with  
3 fair play and substantial justice.

4 18. This Court has personal jurisdiction of Defendant Nash Tang under California Code  
5 of Civil Procedure section 410.10 as he is domiciled within the state of California.

6 19. Venue is proper in the Superior Court of the County of San Diego pursuant to Code  
7 of Civil Procedure section 395, subdivision (a), as Defendant Nash Tang resides within the County  
8 of San Diego, State of California.

9  
10 **GENERAL ALLEGATIONS**

11 20. Plaintiff was employed by Defendant HomeGoods for approximately seven years  
12 until she resigned in March 2022.

13 21. For the last five years of her employment with Defendant HomeGoods, during the  
14 October - December holiday season<sup>1</sup>, Plaintiff would work the night shift with five to eight other  
15 employees, including an Assistant Store Manager, who supervised these employees. The shift ran  
16 from roughly 9:00 p.m. until 5:45 a.m. the following morning. Plaintiff received a \$1.00 per hour  
17 shift differential for this shift.

18 22. Once the employees arrived for the night shift, Defendant Home Goods' policy was  
19 for the Assistant Store Manager to lock the facility and set the alarm. A key was required to unlock  
20 the facility, and a code was needed to disable the alarm. Thus, an employee could not leave without  
21 the assistance of the Assistant Store Manager. The facility would remain locked, and the alarm  
22 would remain enabled throughout the shift.

23 23. Each shift, at approximately 1:30 a.m., the employees were collectively provided  
24 an unpaid meal period. However, as stated above, during this meal period, the facilities remained  
25 locked, and the alarm remained enabled. On occasion, an employee had asked if they could leave  
26  
27  
28

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.. <sup>1</sup> For one of the years, Plaintiff worked this shift through March.

1 the building and were informed that they were not permitted to do so. Similarly, the facilities  
2 remained locked, and the alarm remained enabled during all rest periods.

3 24. As defined by the Industrial Welfare Commission, hours worked include all time  
4 an employee is subject to the employer's control and all time the employee is suffered or permitted  
5 to work, regardless of whether the employee is required to work.

6 25. As Defendant HomeGoods did not relinquish all control of Plaintiff during her meal  
7 periods, the meal periods are deemed hours worked, and Plaintiff was entitled to be paid for those  
8 hours.

9 26. As Defendant HomeGoods did not relinquish all control of Plaintiff during her rest  
10 periods, she is entitled to one hour of pay at her regular rate for each day that she was not provided  
11 statutory-compliant rest periods.

12  
13 **CLASS DESIGNATION**

14 27. Plaintiff re-alleges and incorporates by reference the allegations contained in the  
15 paragraphs above, as though fully set forth herein.

16 28. Plaintiff brings Causes of Action One through Five as a Class Action pursuant to  
17 California Code of Civil Procedure section 382 on behalf of herself and all current and former  
18 employees of Defendant HomeGoods in California affected by Defendant HomeGoods' Labor  
19 Code and IWC Wage Order violations, as alleged herein.

20 29. Defendants were Plaintiffs' employers or persons acting on behalf of Plaintiffs'  
21 employer, within the meaning of California Labor Code section 558.1, who violated or caused to  
22 be violated, sections of Part 2, Chapter 1 of the California Labor Code or any provision regulating  
23 hours and days of work in any order of the Industrial Welfare Commission and, as such, liable to  
24 Plaintiffs as set forth in California Labor Code section 558.1.

25 30. Plaintiff brings this action as a class action and proposes the following classes:

- 26 a. **The Lock-In Class.** All current and former employees of Defendant HomeGoods  
27 who were subject to the Lock-In Policy at any time from July 1, 2019, through the  
28 present.

1           **b. The Waiting Time Penalties Subclass.** All members of the Lock-In Class whose  
2           employment ended at any time from July 1, 2019, through the present.

3           31. Plaintiff excludes individuals in bankruptcy, individuals whose obligations have  
4           been discharged in bankruptcy, and judicial officers who preside over this case, if any.

5           32. Pursuant to California Rule of Court 3.765(b), Plaintiff maintains the right to create  
6           additional subclasses or classes, if necessary, and to revise these definitions to maintain a cohesive  
7           class that does not require individual inquiry to determine liability.

8           33. The exact number of class members is unknown to Plaintiff, but such information  
9           can be ascertained through appropriate discovery, specifically from records maintained by  
10          Defendant HomeGoods or its agents. Upon information and belief, the number of putative  
11          members of the class exceeds fifty (50) members.

12          **A. PREDOMINANCE OF COMMON QUESTIONS OF LAW AND FACT**

13          34. There are common questions of law and fact common and of general interest to the  
14          class. These common questions of law and fact predominate over questions affecting only  
15          individual class members. Such common questions arising from the Lock-in Policy include, but  
16          are not limited to, the following:

- 17           a. Did Defendant HomeGoods fail to provide the class members statutory  
18           compliant meal and rest periods;
- 19           b. Did Defendant fail to pay the class members for all hours worked;
- 20           c. Did Defendant HomeGoods fail to pay the class members for all hours worked  
21           timely;
- 22           d. Did Defendant HomeGoods fail to pay the class members an additional hour of  
23           pay when statutory-compliant meal or rest periods were not provided;
- 24           e. Did Defendant HomeGoods fail to provide the class members with accurate  
25           itemized wage statements;
- 26           f. Did Defendant HomeGoods fail to pay the class members all wages owed  
27           within the required time frames upon separation of employment; and  
28

1 g. Did Defendant HomeGoods knowingly or willingly violate the Labor Code for  
2 the above violations?

3 **B. TYPICALITY AND NUMEROSITY**

4 35. Plaintiff's claims are typical of the claims of all class members because Plaintiff  
5 and all class members' claims arise from the same or similar illegal policy of Defendant  
6 HomeGoods.

7 36. Plaintiff's claims under the California Labor Code are typical of the class because  
8 Defendants' failure to comply with the provisions of the California Labor Code entitles Plaintiff  
9 and each class member to similar pay, benefits, and other relief. Accordingly, the legal theories  
10 underlying each cause of action are the same, and the remedies sought by Plaintiff and all class  
11 members are the same.

12 **C. ADEQUATE REPRESENTATION**

13 37. Plaintiff will fairly and adequately protect the interests of the class members and  
14 have no interest antagonistic to those of other class members. Plaintiff has retained class counsel  
15 competent to prosecute class actions, and such class counsel is financially able to represent the  
16 class.

17 **D. SUPERIORITY**

18 38. Plaintiff believes that a class action is superior to other available methods for the  
19 fair and efficient adjudication of this controversy since individual joinder of all class members is  
20 impracticable.

21 39. The interests of judicial economy favor adjudicating the claims for the Plaintiff's  
22 class rather than on an individual basis. The class action mechanism provides the benefit of unitary  
23 adjudication, economies of scale, and comprehensive supervision by a single court.

24 40. Plaintiff knows of no difficulty that might be encountered in managing this suit that  
25 would preclude maintenance as a class action.

26  
27 **THE PAGA REPRESENTATIVE ACTION DESIGNATION**

28 41. Plaintiff re-alleges and incorporates by reference the allegations contained in the



1 paragraphs above, as though fully set forth herein.

2 42. The Sixth Cause of Action alleged herein is appropriately suited for a PAGA action  
3 because:

4 43. Pursuant to Labor Code section 2699(a), any provision of the Labor Code that  
5 provides for a civil penalty to be assessed and collected by the Labor and Workforce Development  
6 Agency (LWDA) or any of its departments, divisions, commissions, boards, agencies, or  
7 employees, for a violation of the Labor Code, may, as an alternative, be recovered through a civil  
8 action brought by an aggrieved employee on behalf of herself and all other current or former  
9 employees pursuant to the procedures specified in section 2699.

10 44. This action involves allegations of violations of provisions of the Labor Code that  
11 provide for a civil penalty to be assessed and collected by the LWDA or any departments,  
12 divisions, commissions, boards, agencies, or employees.

13 45. Plaintiff is an "aggrieved employee" because she was employed by Defendant  
14 HomeGoods and had one or more of the alleged violations committed against her.

15 46. On December 22, 2022, Plaintiff satisfied the procedural requirements of Labor  
16 Code section 2699.3 by serving the LWDA electronically and Defendant HomeGoods via Certified  
17 Mail with her notice for wage and hour violations and penalties, including the facts and theories  
18 to support each violation. A true and correct copy of Plaintiff's notice and proof of service is  
19 attached as Exhibit A.

20 47. More than 65 days have passed since Plaintiff served notice via Certified Mail to  
21 the LWDA and her employers. Therefore, Plaintiff satisfied all the administrative requirements to  
22 pursue civil penalties against Defendants pursuant to Labor Code sections 2698 et seq.

23 48. Plaintiff filed this action pursuant to Labor Code sections 2699(a), (f), on behalf of  
24 herself and all other Aggrieved Employees of Defendants to recover civil penalties.

25 49. Defendants were Plaintiffs' employers or persons acting on behalf of Plaintiffs'  
26 employer, within the meaning of California Labor Code section 558, who violated or caused to be  
27 violated, a section of Part 2, Chapter 1 of the California Labor Code or any provision regulating  
28

1 hours and days of work in any order of the Industrial Welfare Commission and, as such, are subject  
2 to civil penalties, as set forth in Labor Code section 558.

3  
4 **FIRST CAUSE OF ACTION**

5 **Failure to Pay Minimum Wages and Overtime Wages**

6 **(Labor Code §§ 1194, 1194.2, 1197, 1197.1)**

7 (Alleged by all Plaintiff Individually and on Behalf of  
8 the Lock-In Class members against all Defendants)

9 50. Plaintiff re-alleges and incorporates the allegations in the paragraphs above, as  
10 though fully set forth herein.

11 51. California Labor Code section 1194 subdivision (a) provides that "any employee  
12 receiving less than the legal minimum wage or the legal overtime compensation applicable to the  
13 employee is entitled to recover in a civil action the unpaid balance of the full amount of this  
14 minimum wage or overtime compensation, including interest thereon, reasonable attorney's fees,  
15 and costs of suit."

16 52. California Labor Code section 1194.2 subdivision (a) provides that [in] any action  
17 under Section ... 1194 ... to recover wages because of the payment of a wage less than the  
18 minimum wage ..., an employee shall be entitled to recover liquidated damages in an amount equal  
19 to the wages unlawfully unpaid and interest thereon."

20 53. As defined by the Industrial Welfare Commission, hours worked include all time  
21 an employee is subject to the employer's control and all time the employee is suffered or permitted  
22 to work, regardless of whether the employee is required to work. Accordingly, based on the  
23 allegations above, this includes any meal periods provided with the Lock-in Policy in effect.

24 54. Plaintiff and the Lock-in Class members are current or former employees of  
25 Defendant HomeGoods in California within the meaning of employee under the Labor Code.

26 55. Defendants were Plaintiffs' employers or persons acting on behalf of Plaintiffs'  
27 employer, within the meaning of California Labor Code section 558.1.

28 56. Plaintiff and the Lock-in Class members were not paid for these hours worked.

1 57. Plaintiff seeks to recover, individually and on behalf of the Lock-in Class members,  
2 these unpaid wages, statutory damages, liquidated damages, statutory penalties, costs of suit,  
3 interest, and attorneys' fees to the extent permitted by law.

4  
5 **SECOND CAUSE OF ACTION**

6 **Failure to Provide Statutory Compliant Meal and Rest Periods**

7 **(Labor Code §§ 227.7, 512)**

8 (Alleged by all Plaintiff Individually and on Behalf of  
9 the Lock-in Class Members against all Defendants)

10 58. Plaintiff re-alleges and incorporates the allegations in the paragraphs above, as  
11 though fully set forth herein.

12 59. California Labor Code section 226.7 subdivision (c) provides that "[i]f an employer  
13 fails to provide an employee a meal or rest or recovery period in accordance with a state law, ...  
14 the employer shall pay the employee one additional hour of pay at the employee's regular rate of  
15 compensation for each workday that the meal or rest or recovery period is not provided."

16 60. Plaintiff and the Lock-in Class members are current or former employees of  
17 Defendant HomeGoods in California within the meaning of employee under the Labor Code.

18 61. Defendants were Plaintiffs' employers or persons acting on behalf of Plaintiffs'  
19 employer, within the meaning of California Labor Code section 558.1.

20 62. Plaintiff and the Lock-in Class members were not paid for this additional hour for  
21 the non-compliant meal and rest periods.

22 63. Plaintiff seeks to recover, individually and on behalf of the Lock-in Class members,  
23 these unpaid wages, statutory damages, liquidated damages, statutory penalties, costs of suit,  
24 interest, and attorneys' fees to the extent permitted by law.

**THIRD CAUSE OF ACTION**

**Failure to Timely Pay Wages**

**(Labor Code § 204)**

(Alleged by all Plaintiff Individually and on Behalf of  
the Lock-in Class Members against all Defendants)

64. Plaintiff re-alleges and incorporates the allegations in the paragraphs above, as though fully set forth herein.

65. California Labor Code section 204 subdivision (a) provides in part that "[a]ll wages, ... earned by any person in any employment are due and payable twice during each calendar month, on days designated in advance by the employer as the regular paydays."

66. California Labor Code section 210 provides that an employer who fails to pay the wages as required under Labor Code section 204 shall be subject to a penalty, recovered by the employee, (1) one hundred dollars (\$100) for the initial violation and two hundred dollars (\$200) plus 25 percent of the amount unlawfully withheld for each subsequent violation, or any willful or intentional violation.

67. Plaintiff and the Lock-in Class members are current or former employees of Defendant HomeGoods in California within the meaning of employee under the Labor Code.

68. Defendants were Plaintiffs' employers or persons acting on behalf of Plaintiffs' employer, within the meaning of California Labor Code section 558.1.

69. Plaintiff and the Lock-in Class members were not paid all wages in violation of Labor Code Section 204 as they were not paid for the non-compliant meal periods, which, as alleged above, are deemed hours worked.

70. Plaintiff seeks to recover, individually and on behalf of the Lock-in Class members, these unpaid wages, statutory damages, liquidated damages, statutory penalties, costs of suit, interest, and attorneys' fees to the extent permitted by law.

**FOURTH CAUSE OF ACTION**

**Failure to Provide Accurate Wage Statements**

**(Labor Code § 226)**

(Alleged by all Plaintiff Individually and on Behalf of  
the Lock-in Class Members against all Defendants)

71. Plaintiff re-alleges and incorporates the allegations in the paragraphs above, as though fully set forth herein.

72. California Labor Code section 226 subdivision (a) provides that an employer shall furnish each employee an accurate itemized statement in writing showing, among other information, gross wages earned, total hours worked, and net wages earned.

73. California Labor Code section 226 subdivision (e)(1) provides that "[a]n employee suffering injury as a result of a knowing and intentional failure by an employer to comply with subdivision (a) is entitled to recover the greater of all actual damages or fifty dollars (\$50) for the initial pay period in which a violation occurs and one hundred dollars (\$100) per employee for each violation in a subsequent pay period, not to exceed an aggregate penalty of four thousand dollars (\$4,000), and is entitled to an award of costs and reasonable attorney's fees."

74. Plaintiff and the Lock-in Class members are current or former employees of Defendant HomeGoods in California within the meaning of employee under the Labor Code.

75. Defendants were Plaintiffs' employers or persons acting on behalf of Plaintiffs' employer, within the meaning of California Labor Code section 558.1.

76. Plaintiff and the Lock-in Class members' wage statements were inaccurate as they did not include the non-compliant meal periods, which, as alleged above, are deemed hours worked.

77. Defendant HomeGoods knowingly and intentionally failed to provide accurate wage statements.

78. Plaintiff seeks to recover, individually and on behalf of the Lock-in Class members, these unpaid wages, statutory damages, liquidated damages, statutory penalties, costs of suit, interest, and attorneys' fees to the extent permitted by law.

**FIFTH CAUSE OF ACTION**

**Failure to Pay All Wages Upon Resignation or Discharge of an Employee**

**(Labor Code §§ 201, 202, 203)**

(Alleged by all Plaintiff Individually and on Behalf of  
the Waiting Time Penalties Subclass Members against all Defendants)

79. Plaintiff re-alleges and incorporates the allegations in the paragraphs above, as though fully set forth herein.

80. California Labor Code section 201 subdivision (a) provides, in part, that "[i]f an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately."

81. California Labor Code section 202 subdivision (a) provides, in part, that "[i]f an employee . . . quits his 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."

82. California Labor Code section 203 subdivision (a) provides, in part, an employer willfully fails to pay, without abatement or reduction, in accordance with Sections 201, 201.3, 201.5, 201.6, 201.8, 201.9, 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."

83. Plaintiff and the Waiting Time Penalties Subclass members are former employees of Defendant HomeGoods in California within the meaning of employee under the Labor Code.

84. Defendants were Plaintiffs' employers or persons acting on behalf of Plaintiffs' employer, within the meaning of California Labor Code section 558.1.

85. Plaintiff and the Waiting Time Penalties Subclass members were not paid all wages due upon the termination of their employment as they were not paid for the non-compliant meal periods, which, as alleged above, are deemed hours worked.

1 86. Defendants willfully failed to pay said wages.

2 87. Plaintiff seeks to recover, individually and on behalf of the Lock-in Class members,  
3 these unpaid wages, statutory damages, liquidated damages, statutory penalties, costs of suit,  
4 interest, and attorneys' fees to the extent permitted by law.

5  
6 **SIXTH CAUSE OF ACTION**

7 **Representative Claims under the**  
8 **California Private Attorneys General Act of 2004**

9 (Labor Code § 2698, et seq.)

10 88. Plaintiff re-alleges and incorporates by reference the allegations contained in the  
11 paragraphs above, as though fully set forth herein.

12 89. Pursuant to Labor Code § 2699(a), any provision of the Labor Code that provides  
13 for a civil penalty to be assessed and collected by the LWDA or any of its departments, divisions,  
14 commissions, boards, agencies, or employees for violation of the code may, as an alternative, be  
15 recovered through a civil action brought by an aggrieved employee on behalf of themselves and  
16 other current or former employees pursuant to the procedures specified in Labor Code § 2699.3.  
17 The exact amount of the applicable penalties is an amount to be shown according to proof at trial  
18 and within the jurisdictional limitations of this Court.

19 90. This cause of action involves allegations of violations of the Labor Code, including  
20 but not limited to sections 201, 202, 204, 223, 226(a), 226.7, 510, 512, 1174, 1194, 1197, which,  
21 pursuant to Labor Code § 2699.5, provide for a civil penalty to be assessed and collected by the  
22 LWDA or recovered through a civil action brought by an aggrieved employee on behalf of herself  
23 and other current or former employees pursuant to the procedures specified in Labor Code section  
24 2699.3.

25 91. Defendants employed Plaintiff, and Plaintiff had one or more of the alleged  
26 violations committed against her. Therefore, Plaintiff is an "aggrieved employee" under PAGA  
27 because the alleged violator employed her, and she had one or more of the alleged violations  
28

1 committed against her. As such, Plaintiff is properly suited to represent the interests of other  
2 Aggrieved Employees in a PAGA Representative action.

3 92. For all provisions of the Labor Code for which a civil penalty is not explicitly  
4 provided, Labor Code § 2699(f) imposes upon Defendants, and each of them, a penalty of one  
5 hundred dollars (\$100.00) for each aggrieved employee per pay period for the initial violation and  
6 two hundred dollars (\$200.00) for each aggrieved employee per pay period for each subsequent  
7 violation.

8 93. Defendants violated Labor Code §§ 226.7 and 512 by failing to provide Plaintiff  
9 and aggrieved employees with lawfully compliant meal periods and paying them premium wages  
10 for each day a meal period was not provided. Under Labor Code § 2699(f)(2), Defendants are  
11 subject to a civil penalty of \$100 for each aggrieved employee per pay period for the initial  
12 violation of Labor Code §§ 226.7 and 512 and \$200 for each aggrieved employee per pay period  
13 for each subsequent violation.

14 94. Defendants violated Labor Code §§ 223, 1194, and 1197 by not paying Plaintiff  
15 and other aggrieved employees at least minimum and regular wages for all the time they were  
16 suffered or permitted to work, or were under Defendants' control, as alleged herein. Thus, under  
17 Labor Code § 2699(f)(2), Defendants are subject to a civil penalty of \$100 for each aggrieved  
18 employee per pay period for the initial violation of Labor Code §§ 1194 and 1197, and \$200 for  
19 each aggrieved employee per pay period for each subsequent violation.

20 95. Defendants violated Labor Code §§ 223, 510 and 1194, and 1197, by not paying  
21 Plaintiff and other aggrieved employees all overtime wages earned for all the time they were  
22 suffered or permitted to work, or were under Defendants' control, as alleged herein. At all relevant  
23 times, Plaintiff and, on information and belief, other aggrieved employees were not paid all  
24 overtime when they worked over eight hours a workday or forty hours in a workweek. Thus, under  
25 Labor Code § 2699(f)(2), Defendants are subject to a civil penalty of \$100 for each aggrieved  
26 employee per pay period for the initial violation of Labor Code §§ 510, 1194, and 1197, and \$200  
27 for each aggrieved employee per pay period for each subsequent violation.  
28



1           96. Under Labor Code § 225.5, Defendants, in addition to, and entirely independent  
2 and apart from, any other penalty, are subject to a civil penalty for unlawfully withholding wages  
3 due Plaintiff and other aggrieved employees in violation of Labor Code § 223 as follows: (1) For  
4 an initial violation, one hundred dollars (\$100.00) for each failure to pay each employee. (2) For  
5 each subsequent violation, or any willful or intentional violation, two hundred dollars (\$200.00)  
6 for each failure to pay each employee, plus twenty-five (25) percent of the amount unlawfully  
7 withheld. This amount shall be recovered on behalf of the Labor Commissioner.

8           97. Defendants violated Labor Code §§ 201 and 202 by not paying Plaintiff and  
9 aggrieved employees all minimum, regular, and overtime wages owed, and all meal, rest, and  
10 recovery premium wages owed by the time set forth by law upon their separation of employment,  
11 as alleged herein. Thus, under Labor Code § 2699(f)(2), Defendants are subject to a civil penalty  
12 of \$100 for each aggrieved employee per pay period for the initial violation of Labor Code §§ 201  
13 and 202, and \$200 for each aggrieved employee per pay period for each subsequent violation.

14           98. Defendants violated Labor Code §§ 204 by not paying Plaintiff and aggrieved  
15 employees all minimum, regular, and overtime wages owed, and all meal, rest, and recovery  
16 premium wages owed by the time set forth by law during their employment, as alleged herein.  
17 Thus, under Labor Code § 2699(f)(2), Defendants are subject to a civil penalty of \$100 for each  
18 aggrieved employee per pay period for the initial violation of Labor Code §§ 204, 1174(d), and  
19 1198, and \$200 for each aggrieved employee per pay period for each subsequent violation.

20           99. Under Labor Code § 210(a), Defendants, in addition to, and entirely independent  
21 and apart from any other penalty, are subject to a civil penalty for failing to pay the wages of each  
22 aggrieved employee as provided in Labor Code § 204, as follows: (1) For any initial violation, one  
23 hundred dollars (\$100) for each failure to pay each aggrieved employee. (2) For each subsequent  
24 violation, or any willful or intentional violation, two hundred dollars (\$200) for each failure to pay  
25 each aggrieved employee, plus twenty-five (25) percent of the amount unlawfully withheld. This  
26 amount shall be recovered on behalf of the Labor Commissioner.

27           100. Defendants violated Labor Code §§ 226(a) and 1174(d) by failing to maintain  
28 records detailing the start and end times of work shifts and meal periods, and knowingly and

1 intentionally failing to maintain and provide Plaintiff and other aggrieved employees of  
2 Defendants with wage statements itemizing accurately all information required by Labor Code §  
3 226(a), as alleged herein, including the total hours worked, all regular hours worked, all overtime  
4 hours worked, the applicable hourly rate per hour worked, and the total wages earned. Thus, under  
5 Labor Code § 2699(f)(2), Defendants are subject to a civil penalty of \$100 for each aggrieved  
6 employee per pay period for the initial violation of Labor Code §§ 226(a) and 1198, and \$200 for  
7 each aggrieved employee per pay period for each subsequent violation.

8 101. Alternatively, Labor Code § 226.3 provides for a civil penalty of \$250 per violation  
9 in an initial citation and \$1,000 for each violation in a subsequent citation for which the employer  
10 fails to provide the employee a wage deduction statement or fails to keep the records required in  
11 subdivision (a) of § 226.

12 102. Labor Code § 1174.5 provides for a civil penalty of \$500 for any person employing  
13 labor who willfully fails to maintain accurate and complete records required by subdivision (d) of  
14 § 1174.

15 103. Defendants are and were Plaintiff's and aggrieved employees' employers or other  
16 persons acting either individually or as an officer, agent, or employee of another person(s), who  
17 pays or causes to be paid to any employee a wage less than the minimum fixed by order of the  
18 Commission, and, as such, are subject to civil penalties for each underpaid employee pursuant to  
19 Labor Code § 1197.1. Labor Code § 1197.1 imposes upon Defendants, for each initial violation of  
20 Labor Code § 1197 by paying or causing an employee to be paid less than the minimum wage, a  
21 civil penalty of \$100.00 for each underpaid employee for each pay period for which the employee  
22 is underpaid. Furthermore, Labor Code § 1197.1 imposes upon Defendants for each subsequent  
23 violation a civil penalty of \$250.00 for each underpaid employee for each pay period for which  
24 the employee was underpaid. The civil penalty recoverable under Labor Code § 1197.1 is in  
25 addition to an amount sufficient to recover the underpaid wages, as well as liquidated damages  
26 pursuant to Labor Code § 1194.2, and any applicable penalties imposed pursuant to Labor Code §  
27 203, which shall be paid directly to each affected employee.  
28

1           104. Defendants are and were Plaintiff's and other aggrieved employees' employers, or  
2 persons acting on their behalf, within the meaning of Labor Code § 558, who violated or caused  
3 to be violated, a section of Part 2, Chapter 1 of the Labor Code or any provision regulating hours  
4 and days of work in any IWC Wage Order and, as such, are subject to civil penalties for each  
5 underpaid employee as set forth in Labor Code § 558. Pursuant to Labor Code § 558, Defendants  
6 are subject to a civil penalty of \$50.00 for an initial violation of Labor Code §§ 510 and 512, for  
7 each aggrieved employee, for each pay period for which the aggrieved employee was not provided  
8 with a timely off-duty 30-minute meal period, all overtime wages for all hours worked, and the  
9 required days of rest, as alleged herein.

10           105. Furthermore, Labor Code § 558 imposes upon Defendants, for each subsequent  
11 violation of Labor Code §§ 510 and 512, a civil penalty of \$100.00 for each aggrieved employee  
12 for each pay period for which the aggrieved employee was not provided with a timely off-duty 30-  
13 minute meal period, and all overtime wages for all hours worked, as alleged herein. The civil  
14 penalty recoverable under Labor Code § 558 is in addition to an amount sufficient to recover the  
15 underpaid meal premium and overtime wages, which shall be paid directly to each affected  
16 employee.

17           106. Labor Code § 558 also imposes upon Defendants, for each initial violation of the  
18 Hours and Days of Work section of the applicable IWC Wage Order, a civil penalty of \$50.00 for  
19 each aggrieved employee for each pay period for which the aggrieved employee was not provided  
20 with a paid uninterrupted 10-minute rest period, as alleged herein. Furthermore, Labor Code § 558  
21 imposes upon Defendants, for each subsequent violation of the Hours and Days of Work section  
22 of the applicable IWC Wage Order, a civil penalty of \$100.00 for each aggrieved employee for  
23 each pay period for which the aggrieved employee was not provided with a paid uninterrupted 10-  
24 minute rest period, as alleged herein.

25           107. Pursuant to Labor Code § 558.1, Defendant is an employer or other person acting  
26 on behalf of an employer, who violates, or causes to be violated, any provision regulating the  
27 "Hours and Days of Work" and the "Minimum Wages" sections of the Applicable Wage Order, or  
28 who violates, or causes to be violated, sections 203, 226, 226.7, 1194 of the Labor Code, and is

1 subject to a civil penalty for each initial and subsequent violation. Defendant committed such  
2 violations when it failed to pay all minimum, regular, and overtime wages, to provide compliant  
3 meal and rest periods or pay meal and rest period premium wages, to provide accurate itemized  
4 wage statements, and to pay all wages due, as alleged herein, timely.

5 108. Pursuant to Labor Code §§ 218.5, for bringing this action, Plaintiff is additionally  
6 entitled to attorney's fees and costs incurred herein.

7 109.

8 **PRAYER FOR RELIEF**

9 **WHEREFORE**, Plaintiffs prays for judgment against Defendants as follows:

- 10 a. For an award of damages for unpaid wages;
- 11 b. For statutory liquidated damages;
- 12 c. For statutory penalties;
- 13 d. For reasonable attorney's fees, costs of suit to the extent permitted by law;
- 14 e. For pre-judgment and post-judgment interest; and
- 15 f. For any other relief that the Court deems just and proper.

16  
17  
18 **DEMAND FOR JURY TRIAL**

19 Plaintiff, individually and on behalf of the Lock-in Class members, hereby requests a trial  
20 by jury of all issues triable by jury.  
21

22  
23 Respectfully submitted,

24 DATED: February 27, 2023

25 By: John K. Landay  
26 John K. Landay, Esq.  
27 LANDAY ROBERTS, LLP  
28 Attorneys for Plaintiff

# ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [HomeGoods Hit with Class Action Over Alleged California Labor Law Violations](#)

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