

1 JEFFREY D. WOHL (Cal. State Bar No. 096838)
RYAN D. DERRY (Cal. State Bar No. 244337)
2 ANNA M. SKAGGS (Cal. State Bar No. 319179)
PAUL HASTINGS LLP
3 101 California Street, 48th Floor
San Francisco, California 94111
4 Telephone: (415) 856-7000
Facsimile: (415) 856-7100
5 jeffwohl@paulhastings.com
ryanderry@paulhastings.com
6 annaskaggs@paulhastings.com

7 Attorneys for Defendant
8 Target Corporation

9 UNITED STATES DISTRICT COURT
10 EASTERN DISTRICT OF CALIFORNIA

11
12 SERGIO GARCIA, on behalf of himself and
all others similarly situated,

13
14 Plaintiff,

15 vs.

16 TARGET CORPORATION, a Minnesota
17 corporation; and DOES 1 through 50,
inclusive,

18 Defendants.
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27
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No.

**DEFENDANT TARGET CORPORATION'S
NOTICE OF REMOVAL OF CIVIL ACTION**

Sacramento County Superior Court,
No. 34-2019-00254638-CU-OE-GDS

1 To the Clerk of the Court, plaintiff Sergio Garcia, and plaintiff's attorneys of record:

2 PLEASE TAKE NOTICE that defendant Target Corporation ("Target") hereby removes this
3 action from the Superior Court of California in and for the County of Sacramento (the "Superior Court")
4 to this Court, based on diversity of citizenship jurisdiction under 28 U.S.C. section 1332 (as amended by
5 the Class Action Fairness Act of 2005 ["CAFA"], Pub. L. 109-2, § 4(a), 119 Stat. 9), and section
6 1441(a). In support of removal, Target alleges as follows:

7 1. On April 17, 2019, plaintiff Sergio Garcia commenced a putative class action in the
8 Superior Court entitled: "*Sergio Garcia on behalf of himself and all others similarly situated, Plaintiff,*
9 *vs. Target Corporation, a Minnesota corporation, and DOES 1 through 50, inclusive, Defendants,*"
10 No. 34-2019-00254638-CU-OE-GDS (the "Action"). A true copy of plaintiff's complaint in the Action
11 (the "Complaint" or "Cmplt.") is attached as Exhibit A. The allegations of the Complaint are
12 incorporated by reference without admitting the truth of any of them.

13 2. The Complaint asserts seven claims for relief for: (1) failure to pay lawful wages;
14 (2) failure to provide lawful meal periods or compensation in lieu thereof; (3) failure to provide lawful
15 rest periods or compensation in lieu thereof; (4) failure to reimburse employee expenses; (5) failure to
16 timely pay wages; (6) knowing and intentional failure to comply with itemized employee wage
17 statement provisions; and (7) violations of the unfair competition law. (Cmplt.) Plaintiff's claims are
18 premised on his allegation that Target misclassified Executive Team Leaders-Human Resources
19 ("ETLs-HR") and other "similar positions" as exempt. (*Id.*, ¶¶ 1-9.) As such, plaintiff purports to bring
20 these claims on behalf of himself and a class comprised of "all persons who are or were employed by
21 TARGET in the state of California who occupied position of 'Executive Team Leader-Human
22 Resources' and similar positions who were paid a salary and classified as exempt within four (4) years
23 prior to the date this lawsuit is filed until resolution of this lawsuit." (*Id.*, ¶ 24.)

24 3. On June 4, 2019, plaintiff effected service of process on Target of the summons and
25 complaint in this Action. A true copy of the summons and all other papers with which Target was
26 served in this Action are attached to this notice as Exhibit B.

27 4. On July 2, 2019, Target served plaintiff with, and filed with the Superior Court, its
28 answer to the Complaint. A true and correct copy of the answer is attached to this notice as Exhibit C.

1 5. After Target filed its answer with the Superior Court on July 2, 2019, Target received by
2 e-mail from plaintiff’s counsel a copy of a First Amended Complaint that plaintiff represented also was
3 filed on July 2, 2019. A true copy of the First Amended Complaint that Target received is attached to
4 this notice as Exhibit D. However, the First Amended Complaint was not filed before Target’s answer
5 to plaintiff’s original Complaint was filed; the First Amended Complaint does not appear on the
6 Superior Court’s Register of Actions (docket report), while Target’s answer to the original Complaint
7 does.¹ As such, once Target filed its answer, plaintiff lost the right to amend his Complaint without
8 leave of court. *See* Cal. Code Civ. Proc. § 472 (“Any pleading may be amended once by the party of
9 course, and without costs, at any time *before* the answer or demurrer is filed”) (emphasis supplied); *see*
10 *also Loser v. E. R. Bacon Co.*, 201 Cal. App. 2d 387, 389 (Ct. App. 1962) (“The right of a plaintiff to
11 amend his complaint under the provisions of section 472 of the Code of Civil Procedure is extended
12 only up to the time the defendant's answer is filed. Once the defendant's answer is filed, the plaintiff's
13 right to amend as a matter of course is gone.”). That means that plaintiff’s original Complaint remains
14 the operative complaint in this Action, and, as a result, this removal is based on the allegations set forth
15 in the original Complaint.

16 6. No other defendant is named in the complaint in this Action, and Target is informed and
17 believes that no other defendant has been served with process in this Action.

18 7. This notice of removal is effected properly and timely pursuant to 28 U.S.C. section
19 1446(b), as it is filed within 30 days after Target was served with the summons and complaint in the
20 Action.

21 8. Notice of this removal will be given promptly to both plaintiff and the Superior Court
22 pursuant to 28 U.S.C. section 1446(d).

23 9. Venue of this Action exists in this District pursuant to 28 U.S.C. section 1441(a) because
24 the Superior Court is located within this District.

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27 ¹ The Superior Court’s Registry of Actions is attached as Exhibit A to the Declaration of Anna M.
28 Skaggs and Request for Judicial Notice in Support of Defendant Target Corporation’s Notice of
Removal of Civil Action.

Removal Is Proper Under CAFA

10. The Action is properly removed to this Court under the amended rules for diversity of citizenship jurisdiction under CAFA. CAFA amended 28 U.S.C. section 1332 to provide that a putative class action is removable to federal court if (a) any member of a class of plaintiff is a citizen of a state different from any defendant; (b) the proposed class members number at least 100; and (c) the amount in controversy exceeds \$5,000,000, exclusive of interest and costs. 28 U.S.C. § 1332(d). Each of these requirements is met in this Action.

The Citizenship of the Parties Is Diverse

11. Target is informed and believes that plaintiff is now, and was at the time the Action was commenced, a citizen of the State of California within the meaning of 28 U.S.C. section 1332(a). (Cmpl't., ¶ 11 [“Plaintiff is, and at all times mentioned in this complaint was, a resident of California.”]; *see also* Declaration of Michael Brewer in Support of Target Corporation’s Notice of Removal of Civil Action [“Brewer Decl.”], ¶ 10, Exh. A (plaintiff listed Reseda, California, as his address on Employment Eligibility form (Form I-9) that he completed before beginning his employment with Target).

12. Target is now, and was at the time the Action was commenced, a citizen of a state other than the State of California within the meaning of 28 U.S.C. section 1332(c)(1) because Target is now, and was at the time the Action was commenced, a corporation organized under the laws of the State of Minnesota with its principal place of business in the State of Minnesota. (*See* Brewer Decl., ¶ 3.) The majority of Target’s executive and administrative functions are performed, and the majority of Target’s executive and administrative officers are located, in the State of Minnesota. (*Id.*)

13. Target is the only defendant named in this Action. The presence of Doe defendants has no bearing on diversity with respect to removal. 28 U.S.C. § 1441(b)(1) (“In determining whether a civil action is removable on the basis of the jurisdiction under section 1332(a) of this title, the citizenship of defendants sued under a fictitious name shall be disregarded.”). Accordingly, no named defendant is a citizen of California, in which state this Action was filed and there is complete diversity of citizenship between the parties.

The Proposed Class Members Number at Least 100

14. Plaintiff defines his proposed class to include “[a]ll persons who are or were employed by

1 TARGET in the state of California who occupied position of ‘Executive Team Leader-Human
2 Resources’ and similar positions who were paid a salary and classified as exempt within four (4) years
3 prior to the date this lawsuit is filed until resolution of this lawsuit.” (Cmplt., ¶ 24.)

4 15. Since April 17, 2015, Target has employed at least 810 ETLs-HR in the State of
5 California. (See Declaration of Dr. Paul F. White in Support of Notice of Removal of Civil Action, filed
6 concurrently herewith [“White Decl.”], ¶ 10a.)² Accordingly, the requirement that the proposed class
7 members number at least 100 is satisfied.

8 ***The Amount in Controversy Exceeds \$5,000,000***

9 16. Under the removal statute, “in any class action, the claims of the individual class
10 members shall be aggregated to determine whether the matter in controversy exceeds the sum or value
11 of \$5,000,000, exclusive of interest and costs.” 28 U.S.C. § 1332(d)(6).

12 17. A defendant’s notice of removal “need include only a plausible allegation that the amount
13 in controversy exceeds the jurisdictional threshold.” *Dart Cherokee Basin Operating Co. v. Owens*, 135
14 S. Ct. 547, 549 (2014). “[T]he amount-in-controversy allegation of a defendant seeking federal-court
15 adjudication should be accepted when not contested by the plaintiff or questioned by the court.” *Id.* at
16 550. If challenged, under CAFA a removing defendant need prove by only a preponderance of the
17 evidence that the amount in controversy exceeds \$5,000,000. *Rodriguez v. AT&T Mobility Servs. LLC*,
18 728 F.3d 975, 981 (9th Cir. 2013) (“A defendant seeking removal of a putative class action must
19 demonstrate, by a preponderance of evidence, that the aggregate amount in controversy exceeds the
20 jurisdictional minimum.”). A preponderance of the evidence requires that a defendant demonstrate that
21 “it is more likely than not” that the amount in controversy satisfies the jurisdictional minimum. *Abrego*
22 *Abrego v. Dow Chem. Co.*, 443 F.3d 676, 683 (9th Cir. 2006) (citing and quoting *Sanchez v.*
23 *Monumental Life Ins. Co.*, 102 F.3d 398, 404 (9th Cir. 1996)).

24 18. Here, Target demonstrates that the amount placed in controversy far exceeds
25 \$500,000,000, exclusive of interest and costs, based on conservative calculations of just three of
26

27 ² The Complaint includes a claim for unfair competition under California Business and
28 Professions Code section 17200. The statute of limitations for a claim of unfair competition law is four
years. Cal. Bus. & Prof. Code § 17208.

1 plaintiff's seven claims for relief: (1) \$2,836,560 for waiting-time penalties; (2) \$2,113,909 for meal-
2 period premiums; and (3) \$3,170,863 for overtime wages. (*See* White Decl., ¶ 10b-d.)

3 *Waiting-Time Penalties*

4 19. In a case of willful failure to pay final wages upon termination, as plaintiff alleges here,
5 California Labor Code section 203 imposes a waiting-time penalty equal to the employee's daily wage
6 rate for a maximum of 30 days. Cal Lab. Code § 203(a).

7 20. Plaintiff alleges that "defendant willfully failed to pay all earned wages in a timely
8 manner to Plaintiff and Class Members; nor has Defendant paid to Plaintiff and Class Members, upon or
9 after termination of their employment with Defendant, all compensation due." (Cmplt., ¶ 21.) Plaintiff
10 seeks waiting-time penalties on behalf of "all persons who are or were employed by TARGET in the
11 state of California who occupied position of 'Executive Team Leader-Human Resources' and similar
12 positions who were paid a salary and classified as exempt, within the statutory liability period, who were
13 not timely paid all wages due and owed to them upon the termination of their employment with
14 Defendants." (*Id.*, ¶ 25e.) A claim for waiting-time penalties under Labor Code section 203 has a three-
15 year statute of limitations period. *See Pineda v. Bank of America, N.A.*, 50 Cal. 4th 1389, 1398 (2010)
16 (holding that three-year statute of limitations under Code of Civil Procedure section 338(a) applies to
17 Labor Code section 203 claims). Therefore, for purposes of removal, Target interprets plaintiff's
18 allegation to mean that he seeks waiting-time penalties on behalf of ETLs-HR who separated from
19 Target in California since April 17, 2016.

20 21. Thus, the amount in controversy based solely on waiting-time penalties in this Action is
21 \$2,836,560 (*See* White Decl., ¶ 7f.)

22 a. There have been at least 327 ETLs-HR in California who have separated from
23 Target between April 17, 2016 (*i.e.*, the start of the three-year limitations period
24 for a waiting-time penalty claim), and June 8, 2019 (the end date for this
25 analysis). (*Id.*)

26 b. Based on plaintiff's allegation that Target willfully failed to pay all earned wages
27 in a timely manner, the amount in controversy for waiting-time penalties alone
28 would be \$2,836,560. (*Id.*)

Meal-Period Premiums

22. Under California Labor Code section 226.7, if an employer fails to provide an employee a meal period, the employer shall pay the employee one additional hour of pay at the employee’s regular rate of compensation for each workday that the meal period is not provided.

23. Plaintiff alleges that Target violated Labor Code section 226.7 and seeks one hour of pay for each workday that Target allegedly did not provide plaintiff and the Class Members with compliant meal periods. (Cmplt., ¶ 42.) Specifically, plaintiff alleges that “Plaintiff and Class Members, as non exempt employees, were *regularly* required to work in excess of five (5) hours without being provided an uninterrupted thirty (30) minute meal period by the end of the fifth hour and/or work in excess of ten (10) hours without a second uninterrupted thirty (30) minute meal period and are not compensated one (1) hour of pay at their regular rate of compensation for each workday that a meal was not provided.” (*Id.*, ¶ 17) (emphasis supplied). Plaintiff purports to bring this claim on behalf of himself and a class of “all persons who are or were employed by TARGET in the state of California who occupied position of ‘Executive Team Leader-Human Resources’ and similar positions who were paid a salary and classified as exempt, within the statutory liability period, who have not been provided an uninterrupted 30 minute meal period when they worked over five hours in a work shift by the end of the fifth hour and/or a second uninterrupted 30 minute meal period when they worked over ten hours in a work shift and were not provided compensation in lieu thereof.” (*Id.*, ¶ 25b.)

24. Plaintiff’s complaint fails to quantify his allegation that the Class Members “regularly” were required to work more than five or ten hours without an uninterrupted meal period. For removal purposes only, Target interprets plaintiff’s use of the term “regularly” to mean that each Class Member missed at least one meal period per workweek, an extremely conservative construction. Accordingly, the amount put in controversy by this claim is approximately \$2,113,909, as calculated below:³

a. There have been at least 810 ETLs-HR in California since April 17, 2015. (*See* White Decl., ¶ 8e.)

b. If, as plaintiff alleges, Class Members were not compensated for one hour of pay

³ To the extent that plaintiff alleges more than one meal-period violation for each Class Member per week, then the amount in controversy for this claim would increase further.

1 for each workday that a meal period was not properly provided, then the amount
2 in controversy for this claim would be \$2,113,909. (*Id.*)

3 ***Overtime***

4 25. Plaintiff contends that Target “misclassified Plaintiff and Class Members as exempt and
5 paid them a fixed salary even though they are non exempt employees.” (Cmplt., ¶ 35.) Plaintiff further
6 alleges that Target’s “policies and/or practices resulted in Plaintiff and Class Members working in
7 excess of eight (8) hours in a workday and/or forty (40) hours in a workweek without receiving the
8 proper compensation at the rate of time and one-half (1 ½) of such employee’s regular rate of pay and/or
9 working over twelve (12) hours in a workday without receiving double such employees’ regular rate of
10 pay.” (*Id.*, ¶ 36.) Plaintiff purports to bring this claim on behalf of himself and a class comprised of “all
11 persons who are or were employed by TARGET in the state of California who occupied position of
12 ‘Executive Team Leader-Human Resources’ and similar positions who were paid a salary and classified
13 as exempt, within the statutory liability period, and were not accurately and fully paid all lawful wages
14 owed to them including minimum wages and/or proper overtime compensation for all their hours
15 worked.” (*Id.*, ¶ 25a.)

16 26. For removal purposes, Target interprets plaintiff’s allegation that Target’s “policies
17 and/or practices” resulted in an underpayment of overtime compensation to mean that Class Members
18 did not receive at least one hour of overtime pay for each week that they worked. Target’s estimation is
19 extremely conservative in light of the fact that plaintiff contends he “typically worked five to six days a
20 week and between ten to twelve hours per shift.” (Cmplt., ¶15.) Accordingly, the amount in
21 controversy based on the alleged value of unpaid overtime wages since April 17, 2015, assuming one
22 hour of unpaid overtime each week, would be \$3,170,863, exclusive of interest and costs, calculated as
23 follows:⁴

- 24 a. There have been at least 810 ETLs-HR in California since April 17, 2015. (*See*
25 White Decl., ¶ 9e.)
- 26 b. Based on plaintiff’s allegations that Target failed to pay overtime to these Class
27

28 ⁴ To the extent that plaintiff alleges that members of the subclass worked more than one hour of overtime each week, then the amount in controversy for this claim would only increase further.

Members, the amount in controversy for this claim would be \$3,170,863. (*Id.*)

27. As summarized below, an estimate of only three of plaintiff’s seven claims demonstrates that the amount in controversy in this Action far exceeds the \$500,000,000 jurisdictional threshold under CAFA.

Item of Recovery	Amount
Waiting-Time Penalties	\$2,836,560
Failure to Provide Meal Periods	\$2,113,909
Failure to Pay Overtime	\$3,170,863
Total	\$8,121,332

(*Id.*, ¶ 10b-e.)

28. The calculations above do not account for other amounts sought by plaintiff, such as amounts for rest-period premiums, reimbursement for expenses, penalties stemming from Target’s alleged failure to provide accurate itemized wage statements, and remedies under California’s unfair competition law. Taking those causes of action into account would significantly increase the amount in controversy. Moreover, to the extent that the analysis above understates plaintiff’s allegations, the amount in controversy would increase further.

29. Accordingly, there is no question that the amount in controversy in this action easily exceeds \$5,000,000, exclusive of costs and interest.

30. In setting forth these calculations, Target does not admit that plaintiff or any other person is owed any additional wages; or that Target is liable to plaintiff or any other person in any amount or for any relief. On the contrary, Target denies that it is liable to plaintiff or any other person in any amount and for any relief.

31. Based on the foregoing, all requirements under 28 U.S.C. section 1332(d) are satisfied and the Action may be removed to this Court on grounds of diversity of citizenship jurisdiction under CAFA.

Dated: July 5, 2019.

PAUL HASTINGS LLP

By: /s/ Jeffrey D. Wohl

Jeffrey D. Wohl
Attorneys for Defendant
Target Corporation

EXHIBIT A

1 James R. Hawkins, Esq. SBN 192925
Isandra Fernandez, Esq. SBN 220482
2 **JAMES HAWKINS APLC**
9880 Research Drive, Suite 200
3 Irvine, CA 92618
TEL: (949) 387-7200
4 FAX: (949) 387-6676

5 Attorneys for Plaintiff, SERGIO GARCIA
on behalf of himself and all others similarly situated
6

7 SUPERIOR COURT OF THE STATE OF CALIFORNIA
8 FOR THE COUNTY OF SACRAMENTO
9

10 SERGIO GARCIA on behalf of himself and all
others similarly situated

11 Plaintiff,
12

13 vs.

14 TARGET CORPORATION., a Minnesota
15 corporation, and DOES 1 through 50, inclusive,

16 Defendants.
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Case No.

ASSIGNED FOR ALL PURPOSES TO:

JUDGE:

DEPT:

CLASS ACTION COMPLAINT

- 1) Failure to pay Lawful Wages
- 2) Failure to Provide Lawful Meal Periods or Compensation in Lieu Thereof
- 3) Failure to Provide Lawful Rest Periods or Compensation in Lieu Thereof
- 4) Failure to Reimburse Employee Expenses
- 5) Failure to Timely Pay Wages
- 6) Knowing and Intentional Failure to Comply With Itemized Employee Wage Statement Provisions
- 7) Violations of the Unfair Competition Law

JURY TRIAL DEMANDED

25
26 Plaintiff SERGIO GARCIA on behalf of himself and all others similarly situated assert
27 claims against Defendants as follows:
28



BY FAX

I.

INTRODUCTION

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3 1. This is a Class Action, pursuant to Code of Civil Procedure section 382, brought
4 against Defendant TARGET CORPORATION., and Does 1 through 50 inclusive (hereinafter
5 “TARGET” and/or “Defendants”) on behalf of Plaintiff SERGIO GARCIA (hereinafter
6 “Plaintiff”) and all employees who occupied position of “Executive Team Leader-Human
7 Resources,” and similar positions who were paid a salary and classified as “Exempt” within the
8 state of California. (“Class Members”).

9 2. During the liability period, defined as the applicable statute of limitations for each
10 and every cause of action contained herein, Plaintiff and Class Members are/were paid a salary
11 and classified as exempt by TARGET. Plaintiff and Class Members spend over fifty percent
12 (50%) of their work shifts engaged in non managerial and/or non exempt tasks. Plaintiff and
13 Class Members’ primary job duties do not involve the use of independent judgment and
14 discretion.

15 3. During the liability period, Defendants enforced shift schedules, employment
16 policies and practices, and workload requirements wherein Plaintiff and Class Members (1) were
17 not paid proper wages they earned for all hours they worked including overtime compensation;
18 (2) were not permitted to take their full statutorily authorized rest and meal periods due to the
19 scheduling and work load and time requirements placed upon them by Defendants. Defendants
20 failed to pay such employees one (1) hour of pay at the employees regular rate of compensation
21 for each workday that the meal period and/or rest period that was not properly provided

22 4. During the liability period, Defendants have failed to reimburse Class Members
23 for business expenses incurred in the performance of their job duties.

24 5. During the liability period, Defendants have also failed to pay all wages owed to
25 discharged or resigned Class Members in a timely manner.

26 6. During the liability period, Defendants have also failed to maintain accurate
27 itemized records reflecting total hours worked and have failed to provide Class Members with
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1 accurate, itemized wage statements reflecting total hours worked and appropriate rates of pay for
2 those hours worked.

3 7. During the liability period, Defendants have also failed to pay all wages owed to
4 discharged or resigned Class Members in a timely manner.

5 8. Plaintiff, on behalf of himself and all Class Members, bring this action pursuant to
6 Labor Code sections 201, 202, 203, 204, 221, 225, 226, 226.7, 510, 512, 1194, 1198, 1199,
7 2802 California Code of Regulations, Title 8, section 11070 *et seq.* and any other applicable
8 Industrial Welfare Commission (“IWC”) Wage Orders, seeking unpaid lawful wages, unpaid rest
9 and meal period compensation, penalties and other equitable relief, and reasonable attorneys’
10 fees and costs.

11 9. Plaintiff, on behalf of himself and others similarly situated, pursuant to Business
12 and Professions Code sections 17200-17208, also seeks restitution from Defendants for their
13 failure to pay all wages owed including overtime compensation and rest and meal period
14 premiums to Class Members.

15 **II.**

16 **VENUE**

17 10. Venue as to each Defendant is proper in this judicial district pursuant to Code
18 of Civil Procedure section 395. Defendant conducts substantial and continuous business
19 activities in Sacramento County, California and each Defendant is within the jurisdiction of
20 this Court for service of process purposes. Defendants employ numerous Class Members in
21 Sacramento County, California.

22 **III.**

23 **PARTIES**

24 11. Plaintiff is, and at all times mentioned in this complaint was, a resident of
25 California.

26 12. On information and belief, Defendant TARGET, headquartered in Minnesota,
27 owns and operates a chain of retail stores throughout California and the United States.
28

1 to hire all store employees and cannot terminate anyone's employment without approval from
2 management - the Human Resources Business Partners ("HRBP"). Also, most of their job duties
3 are not spent in supervising employees as much as they are spent in assisting non exempt
4 employees in the performance of their tasks. In the performance of their primary job duties,
5 Plaintiff and Class Members are constrained by the directives and oversight of management
6 such as HRBP and the Store Team Leader.

7 17. Due to the time constraints and work load requirements implemented by
8 TARGET, Plaintiff and Class Members, as non exempt employees, were regularly required to
9 work in excess of five (5) hours without being provided an uninterrupted thirty (30) minute meal
10 period by the end of the fifth hour and /or work in excess of ten (10) hours without a second
11 uninterrupted thirty (30) minute meal period and are not compensated one (1) hour of pay at
12 their regular rate of compensation for each workday that a meal period was not provided, in
13 violation of California labor laws, regulations and IWC Wage Order.

14 18. Due to the time constraints and work load demands implemented by Defendant
15 their work shifts, Plaintiff and Class Members, as non exempt employees, were not authorized
16 and permitted to take a minimum ten (10) minute rest period for every four hours or major
17 fraction thereof worked. Plaintiff and Class Members were not compensated one (1) hour of pay
18 at herr regular rate of compensation for each workday that a rest period was not provided, in
19 violation of California labor laws, regulations, and IWC Wage Orders.

20 19. During the liability period, Plaintiff and Class Members were required to use an
21 instant messaging app called "GroupMe" downloaded to their personal phones which they were
22 required to use on a daily basis in the performance of their job duties. Plaintiff and Class
23 Members were not reimbursed for the use of their personal phones in the daily performance of
24 their job duties.

25 20. Defendants have also failed to maintain accurate itemized records reflecting total
26 hours worked and have failed to provide Plaintiff and Class Members, as non exempt employees,
27 with accurate, itemized wage statements reflecting total hours worked and appropriate rates of
28 pay for those hours worked

1 21. On information and belief, Defendant willfully failed to pay all earned wages in a
2 timely manner to Plaintiff and Class Members; nor has Defendant paid to Plaintiff and Class
3 Members, upon or after termination of their employment with Defendant, all compensation due,
4 including but not limited to all wages owed and compensation for having failed to properly
5 provide rest periods and meal periods

6 22. Plaintiff is informed and believes, and based thereon alleges, that Defendants
7 currently employ and during the relevant period have employed over one hundred (100)
8 employees in the State of California as ETL-HR and similar positions.

9 23. Plaintiff and Class Members at all times pertinent hereto, have been non-exempt
10 employees within the meaning of the California Labor Code, and the implementing rules and
11 regulations of the IWC California Wage Orders.

12 V.

13 **CLASS ACTION ALLEGATIONS**

14 24. Plaintiff seeks to represent a Class comprised of and defined as: All persons
15 who are or were employed by TARGET in the state of California who occupied position of
16 “Executive Team Leader-Human Resources” and similar positions who were paid a salary and
17 classified as exempt within four (4) years prior to the date this lawsuit is filed until resolution of
18 this lawsuit (collectively referred to as the “Class” and/or Class Members”).

19 25. Plaintiff also seeks to represent Subclasses which are composed of persons
20 satisfying the following definitions:

21 a. All persons who are or were employed by TARGET in the state of
22 California who occupied position of “Executive Team Leader-Human Resources” and similar
23 positions who were paid a salary and classified as exempt, within the statutory liability period,
24 and were not accurately and fully paid all lawful wages owed to them including minimum
25 wages and/or proper overtime compensation for all their hours worked.

26 b. All persons who are or were employed by TARGET in the state of
27 California who occupied position of “Executive Team Leader-Human Resources” and similar
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1 positions who were paid a salary and classified as exempt, within the statutory liability period,
2 who have not been provided an uninterrupted 30 minute meal period when they worked over
3 five hours in a work shift by the end of the fifth hour and/ or a second uninterrupted 30 minute
4 meal period when they worked over ten hours in a work shift and were not provided
5 compensation in lieu thereof;

6 c. All persons who are or were employed by TARGET in the state of
7 California who occupied position of “Executive Team Leader-Human Resources” and similar
8 positions who were paid a salary and classified as exempt, within the statutory liability period,
9 who have not been provided a minimum ten (10) minute rest period for every four (4) hours or
10 major fraction thereof worked per day and were not provided compensation in lieu thereof;

11 d. All persons who are or were employed by TARGET in the state of
12 California who occupied position of “Executive Team Leader-Human Resources” and similar
13 positions who were paid a salary and classified as exempt, within the statutory liability period,
14 who were required to use their personal phones in the performance of their job duties without
15 receiving reimbursement from Defendants;

16 e. All persons who are or were employed by TARGET in the state of
17 California who occupied position of “Executive Team Leader-Human Resources” and similar
18 positions who were paid a salary and classified as exempt, within the statutory liability period,
19 who were not timely paid all wages due and owed to them upon the termination of their
20 employment with Defendants; and

21 f. All persons who are or were employed by TARGET in the state of
22 California who occupied position of “Executive Team Leader-Human Resources” and similar
23 positions who were paid a salary and classified as exempt, within the statutory liability period,
24 were not provided with accurate and complete itemized wage statements.

25 26. Plaintiff reserves the right under Rule 3.765, California Rules of Court, to
26 amend or modify the class description with greater specificity or further division into
27 subclasses or limitation to particular issues.
28

1 27. This action has been brought and may properly be maintained as a class action
2 under the provisions of section 382 of the Code of Civil Procedure because there is a well-
3 defined community of interest in the litigation and the proposed Class is easily ascertainable.

4 **A. Numerosity**

5 28. The potential members of the Class as defined are so numerous that joinder of all
6 the members of the Class is impracticable. While the precise number of Class Members has not
7 been determined at this time, Plaintiff is informed and believes that Defendants currently
8 employ, and/or during the relevant time period employed, approximately over 100 Class
9 Members in California who are or have been affected by Defendants' unlawful practices as
10 alleged herein.

11 **B. Commonality**

12 29. There are questions of law and fact common to the Class predominating over any
13 questions affecting only individual Class Members. These common questions of law and fact
14 include, without limitation:

- 15 i. Whether Defendants violated Labor Code §§ 510, 1194 and applicable IWC
16 Wage Orders by failing to pay all earned wages including overtime compensation to
17 Class Members who worked in excess of eight (8) hours in a work day and/or more than
18 forty (40) hours in a workweek;
- 19 ii. Whether Defendants violated Labor Code §§ 226.7, 512 and applicable IWC
20 Wage Order by failing to provide statutorily compliant 30 minute meal periods to Class
21 Members on days in which they worked in excess of 5 hours and/or 10 hours in a work
22 shift and failing to compensate said employees one hour wages in lieu of meal periods;
- 23 iii. Whether Defendants violated Labor Code sections 226.7 and applicable IWC
24 Wage Orders by failing to authorize and permit minimum 10 minute rest periods to
25 Class Members for every four hours or major fraction thereof worked and failing to
26 compensate said employees one hours wages in lieu of rest periods;

- 1 iv. Whether Defendants violated Labor Code §2802 and applicable IWC Wage
2 Orders for failing to indemnify Class Members for the expenditures incurred in the
3 performance of their job duties (i.e. requiring the use of their personal phones);
- 4 v. Whether Defendants violated sections 201-203 of the Labor Code by failing to
5 pay all earned wages and/or premium wages due and owing at the time that any Class
6 Members' employment with Defendants terminated
- 7 vi. Whether Defendants violated sections 226 of the Labor Code and applicable
8 IWC Wage Orders by failing to, among other violations, maintain accurate records of
9 Class Members' earned wages, work periods, meal periods and deductions;
- 10 vii. Whether Defendants violated section 17200 *et seq.* of the Business and
11 Professions Code by failing to pay proper minimum and/or overtime wages to Class
12 Members; failing to provide proper rest and/or meal periods and failing to pay
13 compensation in lieu thereof; failing to reimburse employee expenses; failing to timely
14 pay wages, failing to keep accurate records all in violation of Labor Code §§, 201,
15 2020, 203, 204, 226, 226.7, 510, 512, 1194, 1199, 2802 and applicable IWC Wage
16 Orders.
- 17 viii. Whether Defendants violated section 17200 *et seq.* of the Business and
18 Professions Code and Labor Code sections §§ 201, 202, 203, 204, 221, 225, 226, 226.7,
19 510, 512, 1194, 1199, 2802 and applicable IWC Wage Orders which violation
20 constitutes a violation of fundamental public policy;

21 **C. Typicality**

22 30. The claims of the named Plaintiff are typical of the claims of the Class. Plaintiff
23 and all members of the Class sustained injuries and damages arising out of and caused by
24 Defendants' common course of conduct in violation of California laws, regulations, and statutes
25 as alleged herein.

26 **D. Adequacy of Representation**

1 31. Plaintiff will fairly and adequately represent and protect the interests of the
2 members of the Class. Counsel who represents Plaintiff is competent and experienced in
3 litigating large employment class actions.

4 **E. Superiority of Class Action**

5 32. A class action is superior to other available means for the fair and efficient
6 adjudication of this controversy. Individual joinder of all Class Members is not practicable, and
7 questions of law and fact common to the Class predominate over any questions affecting only
8 individual members of the Class. Each member of the Class has been damaged and is entitled to
9 recovery by reason of Defendants' unlawful policy and/or practice herein complained of.

10 33. Class action treatment will allow those similarly situated persons to litigate their
11 claims in the manner that is most efficient and economical for the parties and the judicial system.
12 Plaintiff is unaware of any difficulties that are likely to be encountered in the management of this
13 action that would preclude its maintenance as a class action.

14 **VI.**

15 **CAUSES OF ACTION**

16 **First Cause of Action**

17 Failure to Pay Lawful Wages Including Overtime Wages and Minimum Wage
18 (Lab. Code §§ 510, 1194, 1199)
(Against All Defendants)

19 34. Plaintiff repeats and incorporates herein by reference each and every allegation set
20 forth above, as though fully set forth herein.

21 35. As discussed herein, during the liability period, Defendant misclassified Plaintiff
22 and Class Members as exempt and paid them a fixed salary even though they are non exempt
23 employees. Thus, Defendants failed to pay all lawful wages owed for all hours worked including
24 overtime compensation in violation of California state wage and hour laws.

25 36. During the liability period, Defendants' policies and/or practices resulted in
26 Plaintiff and Class Members working in excess of eight (8) hours in a workday and/or forty (40)
27 hours in a workweek without receiving the proper compensation at the rate of time and one-half
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1 (1 1/2) of such employee's regular rate of pay and/or working over twelve (12) hours in a
2 workday without receiving double such employees' regular rate of pay.

3 37. As a result of the unlawful acts of Defendants, Plaintiff and the Class he seeks to
4 represent have been deprived of compensation for all earned wages including overtime wages in
5 amounts to be determined at trial, and are entitled to recovery of such amounts, plus interest and
6 penalties thereon, attorneys' fees, and costs, pursuant to Labor Code section 1194.

7 38. WHEREFORE, Plaintiff and the Class he seeks to represent request relief as
8 described herein and below.

9 **Second Cause of Action**

10 Failure to Provide Lawful Meal Periods

11 Or Compensation in Lieu Thereof

12 (Lab. Code §§226.7, 512, IWC Wage Orders)

13 (Against All Defendants)

14 39. Plaintiff repeats and incorporates herein by reference each and every allegation set
15 forth above, as though fully set forth herein.

16 40. By their failure to provide 30 minute uninterrupted meal periods by the end of the
17 fifth hour for days on which Plaintiff and Class Members, as non exempt employees, work(ed)
18 work periods in excess of 5 hours and/or 10 hours and failing to provide compensation for such
19 statutorily non-compliant meal periods, Defendants violated the provisions of Labor Code §512
20 and applicable IWC Wage Orders.

21 41. By failing to record and maintain adequate and accurate time records according to
22 sections 226 and 1174 (d) of the Labor Code, Defendants have injured Plaintiff and Class
23 Members and made it difficult to calculate the unpaid meal period compensation due Plaintiff
24 and Class Members.

25 42. As a result of the unlawful acts of Defendants, Plaintiff and the Class he seeks to
26 represent have been deprived of premium wages in amounts to be determined at trial, and are
27 entitled to recovery of such amounts, plus interest and penalties thereon under Labor Code
28 §226.7.

1 43. WHEREFORE, Plaintiff and the Class he seeks to represent request relief as
2 described herein and below.

3
4 **Third Cause of Action**
5 Failure to Provide Rest Periods
6 Or Compensation in Lieu Thereof
7 (Lab. Code §§226.7, IWC Wage Orders)
8 (Against All Defendants)

9 44. Plaintiff repeats and incorporates herein by reference each and every allegation set
10 forth above, as though fully set forth herein.

11 45. By their failure to authorize and permit a minimum ten (10) minute rest period
12 for every four hours or major fraction thereof worked per day by Plaintiff and Class Members, as
13 non exempt employees, and failing to provide compensation for such non-provided rest periods,
14 as alleged above, Defendants willfully violated the provisions of Labor Code section 226.7 and
15 IWC applicable Wage Orders.

16 46. As a result of the unlawful acts of Defendants, Plaintiff and the Class he seeks to
17 represent have been deprived of premium wages in amounts to be determined at trial, and are
18 entitled to recovery of such amounts, plus interest and penalties thereon under Labor Code
19 §226.7.

20 47. WHEREFORE, Plaintiff and the Class he seeks to represent request relief as
21 described herein and below.

22 **Fourth Cause of Action**
23 Failure to Reimburse Employee Expenses
24 (Lab. Code § 2802)
25 (Against All Defendants)

26 48. Plaintiff repeats and incorporates herein by reference each and every allegation set
27 forth above, as though fully set forth herein.

28 49. By their policy of unlawfully requiring that Plaintiff and Class Members, as non
exempt employees, to use their personal phones in the performance of their job duties without
reimbursement, Defendant willfully violated the provisions of Lab. Code § 2802.

1 50. As a result of the unlawful acts of Defendants, Plaintiff and the Class he seeks to
2 represent are entitled to recovery of full amount of expenses incurred plus interest, attorneys'
3 fees, and costs, under Labor Code § 2802.

4 51. WHEREFORE, Plaintiff and the Class he seeks to represent request relief as
5 described herein and below.

6 **Fifth Cause of Action**

7 Knowing and Intentional Failure to Comply With Itemized Employee
8 Wage Statement Provisions
9 (Lab. Code § 226(b))
10 (Against All Defendants)

11 52. Plaintiff repeats and incorporates herein by reference each and every allegation set
12 forth above, as though fully set forth herein.

13 53. Section 226(a) of the California Labor Code requires Defendants to itemize in
14 wage statements all deductions from payment of wages and to accurately report total hours
15 worked by Plaintiff and the members of the proposed class. IWC Wage Orders require
16 Defendants to maintain time records showing, among others, when the employee begins and ends
17 each work period, meal periods, split shift intervals and total daily hours worked in an itemized
18 wage statement, and must show all deductions and reimbursements from payment of wages, and
19 accurately report total hours worked by Plaintiff and the members of the proposed class. On
20 information and belief, Defendants have failed to record all or some of the items delineated in
21 Industrial Wage Orders and Labor Code §226.

22 54. Plaintiff and Class Members have been injured by Defendants' actions by
23 rendering them unaware of the full compensation to which they were entitled under applicable
24 provisions of the California Labor Code and applicable IWC Wage Orders.

25 55. Pursuant Labor Code §226, Plaintiff and Class Members are entitled up to a
26 maximum of \$4,000.00 each for record-keeping violations.

27 56. WHEREFORE, Plaintiff and the Class he seeks to represent request relief as
28 described herein and below.

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Sixth Cause of Action
Violation of Unfair Competition Law
(Bus. & Prof. Code, §§ 17200-17208)
(Against All Defendants)

57. Plaintiff repeats and incorporates herein by reference each and every allegation set forth above, as though fully set forth herein.

58. Business & Professions Code Section 17200 provides:

As used in this chapter, unfair competition shall mean and include any *unlawful, unfair* or fraudulent business act or practice and unfair, deceptive, untrue or misleading advertising and any act prohibited by Chapter 1 (commencing with Section 17500) of Part 3 of Division 7 of the Business and Professions Code.) (Emphasis added.)

59. Defendants' violations of the Labor Code and Wage Order provisions set forth above constitute unlawful and/or unfair business acts or practices.

60. The actions of Defendants, as alleged within this Complaint, constitute false, fraudulent, unlawful, unfair, fraudulent and deceptive business practices, within the meaning of Business and Professions Code section 17200, *et seq.*

61. Plaintiff and Class Members have been personally aggrieved by Defendants' unlawful and unfair business acts and practices alleged herein.

62. As a direct and proximate result of the unfair business practices of Defendants, and each of them, Plaintiff, individually and on behalf of all employees similarly situated, is entitled to restitution of all wages which have been unlawfully withheld from Plaintiff and members of the Plaintiff Class as a result of the business acts and practices described herein.

63. WHEREFORE, Plaintiff and the Class he seeks to represent request relief as described herein and below.

VII.

PRAYER

WHEREFORE, Plaintiff prays for judgment as follows:

1. That the Court determine that this action may be maintained as a class action;
2. For compensatory damages in an amount according to proof with interest thereon;

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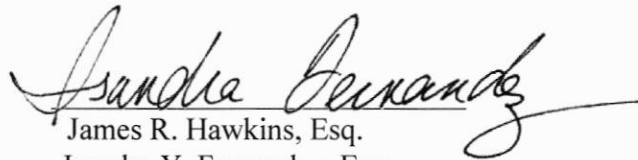
3. For economic and/or special damages in an amount according to proof with interest thereon;
4. For premium wages pursuant to Labor Code §§ 226.7 and 512;
5. For premium pay and penalties pursuant to Labor Code §§203,226;
6. For attorneys' fees, interests and costs of suit under Labor Code §§ 1194,2802
7. For such other and further relief as the Court deems just and proper.

DEMAND FOR JURY TRIAL

Plaintiff hereby demands trial of her claims by jury to the extent authorized by law.

Dated: April 16, 2019

JAMES HAWKINS, APLC



James R. Hawkins, Esq.
Isandra Y. Fernandez, Esq.
Attorneys for Plaintiff
Sergio Garcia

EXHIBIT B

6/27/19 c 285

**SUMMONS
(CITACION JUDICIAL)**

**NOTICE TO DEFENDANT:
(AVISO AL DEMANDADO):**

TARGET CORPORATION., a Minnesota corporation, and DOES 1 through 50, inclusive

**YOU ARE BEING SUED BY PLAINTIFF:
(LO ESTÁ DEMANDANDO EL DEMANDANTE):**

SERGIO GARCIA on behalf of himself and all others similarly situated

SUM-100

FOR COURT USE ONLY
(SOLO PARA USO DE LA CORTE)

JUL 17 2019 11:51

JUDICIAL BRANCH
SACRAMENTO COUNTY
SACRAMENTO COUNTY

NOTICE! You have been sued. The court may decide against you without your being heard unless you respond within 30 days. Read the information below.

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts - Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site (www.lawhelpcalifornia.org), the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), or by contacting your local court or county bar association. **NOTE:** The court has a statutory lien for waived fees and costs on any settlement or arbitration award of \$10,000 or more in a civil case. The court's lien must be paid before the court will dismiss the case. **¡AVISO!** Lo han demandado. Si no responde dentro de 30 días, la corte puede decidir en su contra sin escuchar su versión. Lea la información a continuación.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California (www.sucorte.ca.gov), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, (www.lawhelpcalifornia.org), en el Centro de Ayuda de las Cortes de California, (www.sucorte.ca.gov) o poniéndose en contacto con la corte o el colegio de abogados locales. **AVISO:** Por ley, la corte tiene derecho a reclamar las cuotas y los costos exentos por imponer un gravamen sobre cualquier recuperación de \$10,000 ó más de valor recibida mediante un acuerdo o una concesión de arbitraje en un caso de derecho civil. Tiene que pagar el gravamen de la corte antes de que la corte pueda desechar el caso.

The name and address of the court is:
(El nombre y dirección de la corte es):

Gordon D. Schaber Sacramento County Courthouse
720 9th Street, Sacramento, CA 95814

CASE NUMBER:
(Número del Caso):

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:

(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):
JAMES HAWKINS APLC, 9880 Research Drive, Suite 200 Irvine CA 92618 (949) 387-7200

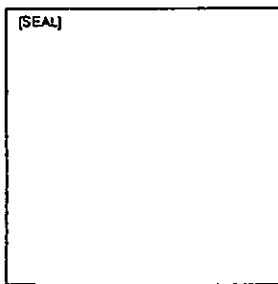
DATE:
(Fecha)

Clerk, by
(Secretario)

Deputy
(Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)

(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).



NOTICE TO THE PERSON SERVED: You are served

- as an individual defendant.
- as the person sued under the fictitious name of (specify):

- on behalf of (specify): Target Corporation a Minnesota Corporation.
under: CCP 416.10 (corporation) CCP 416.60 (minor)
 CCP 416.20 (defunct corporation) CCP 416.70 (conservatee)
 CCP 416.40 (association or partnership) CCP 416.90 (authorized person)
 other (specify):

- by personal delivery on (date): 6/27/19

BY FAX

CM-010

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): James Hawkins, SBN 192925 Isandra Fernandez, SBN 220482 JAMES HAWKINS APLC 9880 Research Dr., Suite 200 Irvine, CA 92618 TELEPHONE NO.: (949)387-7200 FAX NO.: (949) 387-6676 ATTORNEY FOR (Name): Sergio Garcia		FOR COURT USE ONLY 7/5/19 11:23 AM
SUPERIOR COURT OF CALIFORNIA, COUNTY OF Sacramento STREET ADDRESS: 720 9th Street MAILING ADDRESS: CITY AND ZIP CODE: Sacramento 95814 BRANCH NAME: Gordon D. Schaber		COUNTY OF SACRAMENTO SUPERIOR COURT
CASE NAME: Garca vs. Target Corporation		CASE NUMBER: JUDGE: DEPT:
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 1-6 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 (46) Other P/PI/D/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/PI/D/W/D (23) Non-PI/P/D/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-PI/P/D/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 (26) 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 checked="" type="checkbox"/> Large number of witnesses |
| b. <input checked="" 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 checked="" 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): 7
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: April 17, 2019
 Isandra Fernandez
 (TYPE OR PRINT NAME)

Isandra Fernandez
 (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.

BY FAX

INSTRUCTIONS ON HOW TO COMPLETE THE COVER SHEET

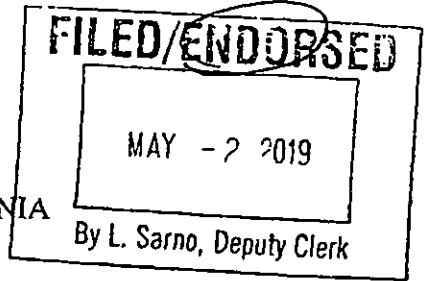
To Plaintiffs and Others Filing First Papers. If you are filing a first paper (for example, a complaint) in a civil case, you must complete and file, along with your first paper, the *Civil Case Cover Sheet* contained on page 1. This information will be used to compile statistics about the types and numbers of cases filed. You must complete items 1 through 6 on the sheet. In item 1, you must check one box for the case type that best describes the case. If the case fits both a general and a more specific type of case listed in item 1, check the more specific one. If the case has multiple causes of action, check the box that best indicates the primary cause of action. To assist you in completing the sheet, examples of the cases that belong under each case type in item 1 are provided below. A cover sheet must be filed only with your initial paper. Failure to file a cover sheet with the first paper filed in a civil case may subject a party, its counsel, or both to sanctions under rules 2.30 and 3.220 of the California Rules of Court.

To Parties in Rule 3.740 Collections Cases. A "collections case" under rule 3.740 is defined as an action for recovery of money owed in a sum stated to be certain that is not more than \$25,000, exclusive of interest and attorney's fees, arising from a transaction in which property, services, or money was acquired on credit. A collections case does not include an action seeking the following: (1) tort damages, (2) punitive damages, (3) recovery of real property, (4) recovery of personal property, or (5) a prejudgment writ of attachment. The identification of a case as a rule 3.740 collections case on this form means that it will be exempt from the general time-for-service requirements and case management rules, unless a defendant files a responsive pleading. A rule 3.740 collections case will be subject to the requirements for service and obtaining a judgment in rule 3.740.

To Parties in Complex Cases. In complex cases only, parties must also use the *Civil Case Cover Sheet* to designate whether the case is complex. If a plaintiff believes the case is complex under rule 3.400 of the California Rules of Court, this must be indicated by completing the appropriate boxes in items 1 and 2. If a plaintiff designates a case as complex, the cover sheet must be served with the complaint on all parties to the action. A defendant may file and serve no later than the time of its first appearance a joinder in the plaintiff's designation, a counter-designation that the case is not complex, or, if the plaintiff has made no designation, a designation that the case is complex.

CASE TYPES AND EXAMPLES

Auto Tort	Contract	Provisionally Complex Civil Litigation (Cal. Rules of Court Rules 3.400-3.403)
Auto (22)--Personal Injury/Property Damage/Wrongful Death	Breach of Contract/Warranty (06)	Antitrust/Trade Regulation (03)
Uninsured Motorist (46) (if the case involves an uninsured motorist claim subject to arbitration, check this item instead of Auto)	Breach of Rental/Lease Contract (not unlawful detainer or wrongful eviction)	Construction Defect (10)
Other P/PI/PD/W/D (Personal Injury/Property Damage/Wrongful Death) Tort	Contract/Warranty Breach--Seller Plaintiff (not fraud or negligence)	Claims Involving Mass Tort (40)
Asbestos (04)	Negligent Breach of Contract/Warranty	Securities Litigation (28)
Asbestos Property Damage	Other Breach of Contract/Warranty	Environmental/Toxic Tort (30)
Asbestos Personal Injury/Wrongful Death	Collections (e.g., money owed, open book accounts) (09)	Insurance Coverage Claims (arising from provisionally complex case type listed above) (41)
Product Liability (not asbestos or toxic/environmental) (24)	Collection Case--Seller Plaintiff	Enforcement of Judgment
Medical Malpractice (45)	Other Promissory Note/Collections Case	Enforcement of Judgment (20)
Medical Malpractice--Physicians & Surgeons	Insurance Coverage (not provisionally complex) (18)	Abstract of Judgment (Out of County)
Other Professional Health Care Malpractice	Auto Subrogation	Confession of Judgment (non-domestic relations)
Other PI/PD/W/D (23)	Other Coverage	Sister State Judgment
Premises Liability (e.g., slip and fall)	Other Contract (37)	Administrative Agency Award (not unpaid taxes)
Intentional Bodily Injury/PD/W/D (e.g., assault, vandalism)	Contractual Fraud	Petition/Certification of Entry of Judgment on Unpaid Taxes
Intentional Infliction of Emotional Distress	Other Contract Dispute	Other Enforcement of Judgment Case
Negligent Infliction of Emotional Distress	Real Property	Miscellaneous Civil Complaint
Other PI/PD/W/D	Eminent Domain/Inverse Condemnation (14)	RICO (27)
Non-PI/PD/W/D (Other) Tort	Wrongful Eviction (33)	Other Complaint (not specified above) (42)
Business Tort/Unfair Business Practice (07)	Other Real Property (e.g., quiet title) (26)	Declaratory Relief Only
Civil Rights (e.g., discrimination, false arrest) (not civil harassment) (08)	Writ of Possession of Real Property	Injunctive Relief Only (non-harassment)
Defamation (e.g., slander, libel) (13)	Mortgage Foreclosure	Mechanics Lien
Fraud (16)	Quiet Title	Other Commercial Complaint Case (non-tort/non-complex)
Intellectual Property (19)	Other Real Property (not eminent domain, landlord/tenant, or foreclosure)	Other Civil Complaint (non-tort/non-complex)
Professional Negligence (25)	Unlawful Detainer	Miscellaneous Civil Petition
Legal Malpractice	Commercial (31)	Partnership and Corporate Governance (21)
Other Professional Malpractice (not medical or legal)	Residential (32)	Other Petition (not specified above) (43)
Other Non-PI/PD/W/D Tort (35)	Drugs (38) (if the case involves illegal drugs, check this item; otherwise, report as Commercial or Residential)	Civil Harassment
Employment	Judicial Review	Workplace Violence
Wrongful Termination (36)	Asset Forfeiture (05)	Elder/Dependent Adult Abuse
Other Employment (15)	Petition Re: Arbitration Award (11)	Election Contest
	Writ of Mandate (02)	Petition for Name Change
	Writ--Administrative Mandamus	Petition for Relief From Late Claim
	Writ--Mandamus on Limited Court Case Matter	Other Civil Petition
	Writ--Other Limited Court Case Review	
	Other Judicial Review (39)	
	Review of Health Officer Order	
	Notice of Appeal--Labor Commissioner Appeals	



SUPERIOR COURT OF CALIFORNIA
COUNTY OF SACRAMENTO

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6 SERGIO GARCIA on behalf of himself and all
7 others similarly situated,
8 Plaintiff,
9 vs.
10 TARGET CORPORATION, a Minnesota
11 corporation, and DOES 1 through 50, inclusive,
12 Defendants.

No. 34-2019-254638

Notice of Assignment to Department 29 for
Complex Case Management Determination.

13
14 ***This notice shall be served by plaintiff's counsel on all other parties. Anyone who hereafter***
15 ***serves a new party shall serve a copy of this notice on the new party along with the summons and***
16 ***complaint or cross-complaint.***

- 17 1. This matter has been assigned to Department 29, the Hon. Geoffrey A. Goodman
18 presiding, for complex case management. All counsel are directed to consult Local Rule 2.46.
- 19 2. All counsel are required to appear in Department 29 on August 2, 2019 at 9:00 a.m. The
20 Court will hold its first case management conference at that time.
- 21 3. Each party shall file and serve a Case Management Conference Statement fifteen (15)
22 days before this hearing and be prepared to participate effectively in the conference, including being
23 thoroughly familiar with the case and able to discuss the suitability of the case for private mediation,
24 arbitration or the use of a special master or referee.
- 25 4. Prior to the conference, counsel for plaintiff shall meet and confer with counsel for each
26 other party in an effort to precisely define the issues in the case, discuss the possibility of early
27 mediation, the identities of possible other parties, their respective plans for discovery, and whether or
28 not the parties will be requesting that a special master be appointed.

1 5. **Tentative Rulings.**

2 The court may determine that a case management conference on the assigned date is not
3 necessary or should be postponed. The court may also issue tentative rulings on motions that are
4 assigned to it. To determine whether an appearance is required the parties must check the court's
5 tentative rulings after 2 p.m. the court day before the conference date to see if a tentative ruling is
6 posted. Tentative rulings are posted on the court's website at www.saccourt.ca.gov. On many occasions
7 the court will not post a tentative ruling.

8 6. **Law and Motion Matters.**

9 The Local Rules state that the civil law and motion departments hear most types of law
10 and motion matters, even in complex cases, unless the Presiding Judge has specifically assigned a case
11 to one judge for all purposes. A designation of a case as complex is *not* an automatic assignment to the
12 complex judge for all purposes.

13 The complex case management department may accept stipulations to stay, stipulations to
14 appoint a special master, stipulated case management orders (even if they include discovery cut-offs and
15 other limitations), and proposed orders from special masters. The Court may also hear motions relating
16 to class action certification. These filings are to be filed with the law and motion departments or in the
17 complex management department at the discretion of the complex judge. All other motions except trial
18 motions should be filed with the law and motion departments or presiding judge as specified in the
19 Local Rules.

20 7. **Filings.**

21 Except for filings for motions to be heard in the law and motion departments, or as
22 designated on the court's website, all filings in complex cases assigned to Department 29 should be filed
23 directly with this department. If a complex case designation is removed the parties should thereafter
24 comply with the Local Rules regarding the filing of documents for civil actions.

25 8. **Typical Case Progress.**

26 a. In most cases the initial status conference or a subsequent conference will result
27 in an initial case management order being issued. The breadth of those orders may vary depending on
28 factors such as the complexity of the case and the status of service on anticipated parties to the action.

1 The court may eventually issue a more detailed case management order that could address topics such as
2 discovery cut-offs, phased discovery, disclosure dates, settlement conference dates and trial dates. Many
3 of these topics are deferred in cases in which special masters are used.

4 b. This department may or may not be the trial department for this complex case;
5 cases are generally assigned for trial by the presiding judge in Department 47 on the date set for trial.

6 c. If for any reason the case is pre-assigned for trial in this department, the court will
7 often hold a pre-trial/case readiness type of conference several weeks before trial. Topics generally
8 addressed at such conferences include review of witness and exhibit lists, motions in limine, proposed
9 jury instructions, witness timing issues and other trial procedure issues. The goal is to get such issues
10 resolved at that time and any later motions in limine or other motions are not favored. In many cases the
11 court may order that discovery must be completed at least four to six weeks before the trial date and
12 around the time when the initial papers are due for the pre-trial conference.

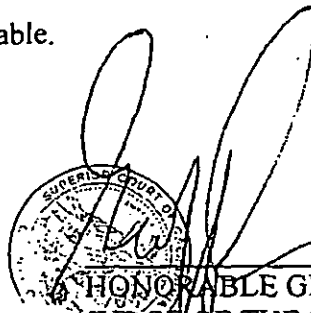
13 9. In all events, the following **interim** orders shall be in effect:

14 A. Plaintiff(s) shall diligently locate and serve each defendant. It is the Court's
15 intention that each party be served in sufficient time to have entered an
16 appearance within the time allowed by law and to attend the first conference.

17 B. Counsel for each party shall do a conflict check to determine whether such
18 counsel might have a possible conflict of interest as to any present or
19 contemplated future party.

20 10. The court strongly encourages the parties to engage in early and meaningful mediation.
21 Either private or judicial mediation is acceptable.

22
23
24
25 Date: 5/3/19



HONORABLE GEOFFREY A. GOODMAN
JUDGE OF THE SUPERIOR COURT OF
CALIFORNIA, COUNTY OF SACRAMENTO

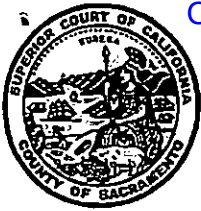
1 **Declaration of Mailing**

2
3 I hereby certify that I am not a party to the within action and that I deposited a copy of this document in
4 sealed envelopes with first class postage prepaid, addressed to each party or the attorney of record in the
5 U.S. Mail at 720 Ninth Street, Sacramento, California.

6
7 JAMES HAWKINS
8 9880 RESEARCH DR., SUITE 200
9 IRVINE, CA 92618

10
11
12
13
14 Dated: 5/3/19

15
16 
17 L. Sarno, Deputy Clerk



Superior Court of California, County of Sacramento
720 Ninth Street Sacramento, CA 95814-1380 (916)
874-5522—Website www.saccourt.ca.gov

NOTICE AND ORDER OF COMPLEX CASE DETERMINATION

Case Title: Darca vs Target

Case Number: 2019-254638

Having reviewed and considered the pleadings on file, the court orders:

THE CASE IS DEEMED COMPLEX and assigned to the Honorable Goodman
presiding in Department 29 for case management pursuant to 3.750, et seq. of the California Rules of Court.

This action involves one or more of the following:

- Antitrust or trade regulation claims.
- Construction defect claims involving many parties or structures.
- Securities claims or investment losses involving many parties.
- Environmental or toxic tort claims involving many parties.
- Claims involving mass torts.
- Claims involving class actions.
- Insurance coverage claims arising out of any of the claims listed above.

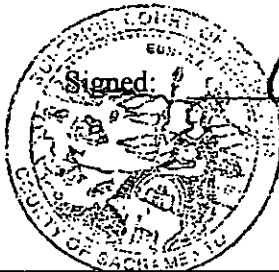
Government Code section 70616 establishes the fees for complex cases. Pursuant to Government Code section 70616, any non-exempt party who has appeared in this action, but who has not paid the required complex case fee, is ordered to pay the fee to the clerk within ten calendar days of the filing of this order. Failure to pay the required fees shall have the same effect as the failure to pay a filing fee, and shall be subject to the same enforcement and penalties. (Cal. Gov. Code § 70616(g).)

THE CASE IS DECLARED NOT COMPLEX.

Any complex case fees that the parties have previously paid pursuant to 70616(a) or (b) shall be reimbursed upon submission of a refund request together with a copy of this minute order by the paying party to the Court's Civil General Civil Processing Unit. It may be submitted by mail or placed in one of the Civil Drop Boxes located in Room 102 and the lobby of the Gordon D. Schaber Courthouse at 720 9th Street, Sacramento CA 95814.

The plaintiff is directed to serve all other parties with a copy of this order.

Date: 4-23-19



Signed: [Signature]
Presiding Judge of the Superior Court
of California, County of Sacramento

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SACRAMENTO Gordon D Schaber Courthouse 720 Ninth STREET Sacramento, CA 95814-1311	
SHORT TITLE: Sergio Garcia on behalf of himself and all others similarly situated vs. Target Corporation a Minnesota corporation	
CLERK'S CERTIFICATE OF SERVICE BY MAIL	CASE NUMBER: 34-2019-00254638-CU-OE-GDS

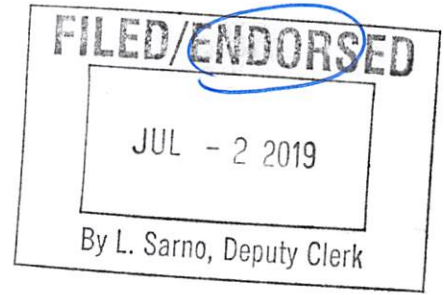
I certify that I am not a party to this cause. I certify that a true copy of NOTICE AND ORDER OF COMPLEX CASE DETERMINATION was mailed following standard court practices in a sealed envelope with postage fully prepaid, addressed as indicated below. The mailing and this certification occurred at Sacramento, California, on 05/01/2019.

Clerk of the Court, by: /s/ P. Banks, Deputy

ISANDRA FERNANDEZ
JAMES HAWKINS APLC
9880 RESEARCH DRIVE # 200
IRVINE, CA 92618 US

CLERK'S CERTIFICATE OF SERVICE BY MAIL

EXHIBIT C



3Y FAX

1 JEFFREY D. WOHL (Cal. State Bar No. 096838)
 RYAN D. DERRY (Cal. State Bar No. 244337)
 2 ANNA M. SKAGGS (Cal. State Bar No. 319179)
 JEFFREY G. BRIGGS (Cal. State Bar No. 323790)
 3 PAUL HASTINGS LLP
 101 California Street, 48th Floor
 4 San Francisco, California 94111
 Telephone: (415) 856-7000
 5 Facsimile: (415) 856-7100
jeffwohl@paulhastings.com
 6 ryanderry@paulhastings.com
annaskaggs@paulhastings.com
 7 jeffreybriggs@paulhastings.com

8 Attorneys for Defendant
9 Target Corporation

10 SUPERIOR COURT OF CALIFORNIA
11 COUNTY OF SACRAMENTO

13 SERGIO GARCIA, on behalf of himself
14 and all others similarly situated,

15 Plaintiff,

16 vs.

17 TARGET CORPORATION, a Minnesota
18 corporation; and DOES 1 through 50,
19 inclusive,

20 Defendants.

No. 34-2019-00254638-CU-OE-GDS

**DEFENDANT TARGET
CORPORATION'S ANSWER TO
PLAINTIFF SERGIO GARCIA'S
UNVERIFIED COMPLAINT**

DEMAND FOR JURY

Complaint filed: April 17, 2019
Trial date: None set
Dept.: 29
Judge: Hon. Geoffrey A. Goodman

1 Target Corporation (“Target”), for itself and no other defendant, hereby answers the
2 unverified complaint (the “Complaint”) of plaintiff Sergio Garcia as follows:

3 **GENERAL DENIAL**

4 1. Pursuant to section 431.30(d) of the California Code of Civil Procedure, Target
5 denies, generally and specifically, each and every allegation in the Complaint.

6 2. Target further denies, generally and specifically, that plaintiff or the class he
7 proposes to represent, have been or will be damaged in any sum, or at all, by reason of any act or
8 omission on the part of Target or any of Target’s past or present agents, representatives, or
9 employees; or that plaintiff is entitled to the relief requested.

10 **DEFENSES**

11 Without admitting any facts alleged by plaintiff, Target also pleads the following separate
12 defenses to the Complaint:

13 3. The Complaint, and each of its causes of action, fails to state facts sufficient to
14 constitute a cause of action.

15 4. The Complaint, and each of its causes of action, is barred in whole or in part by all
16 applicable statutes of limitation, including but not limited to California Labor Code section 203;
17 California Code of Civil Procedure sections 337, 338, 339, 340, and 343; and California Business
18 and Professions Code section 17208.

19 5. The Complaint, and each of its causes of action, is barred in whole or in part by the
20 doctrine of accord and satisfaction.

21 6. Plaintiff is estopped from pursuing the claims in the Complaint, and each of its
22 purported causes of action, by reason of plaintiff’s own actions and course of conduct.

23 7. Plaintiff waived the right, if any, to pursue the Complaint by reason of plaintiff’s
24 own actions and course of conduct, including, but not limited, to his failure to complain about the
25 legal violations alleged in the Complaint.

26 8. The Complaint, and each of its causes of action, is barred by the doctrine of laches.

27 9. The Complaint, and each of its causes of action, is barred by the doctrine of
28 unclean hands.

1 10. The Complaint, and each of its causes of action, is barred by the doctrines of *res*
2 *judicata* and collateral estoppel.

3 11. The Complaint, and each of its causes of action, is barred by the doctrine of
4 avoidable consequences.

5 12. The Complaint, and each of its causes of action, is barred because any recovery
6 from Target would result in unjust enrichment to plaintiff.

7 13. The Complaint, and each of its purported causes of action, is barred in whole or in
8 part because Target had an honest, good-faith belief that all decisions with respect to plaintiff's
9 employment were made by Target solely for legitimate, business-related reasons and were
10 reasonably based upon the facts as Target understood them, including but not limited to Target's
11 belief that upon the termination of plaintiff's employment, Target did not owe plaintiff any
12 additional amounts, whether by way of wages or otherwise.

13 14. The Complaint, and each of its causes of action, fails because plaintiff's
14 fundamental breaches of his duties to Target as an employee, including the duty of loyalty, were
15 so severe as to render his causes of action void under the Faithless Servant Doctrine and related
16 legal principles.

17 15. The Complaint, and each of its causes of action, is barred in whole or in part
18 because plaintiff breached or did not satisfy his statutory obligations to Target, including but not
19 limited to those imposed by California Labor Code sections 2854, 2856–2859, 2922, and 2924.

20 16. The Complaint, and each of its causes of action, is barred by the doctrine of after-
21 acquired evidence.

22 17. The Complaint, and each of its causes of action, is barred in whole or in part
23 because any loss, injury, damage, or detriment alleged in the Complaint resulted from the acts or
24 omissions of plaintiff and was not due to any action or omission of Target.

25 18. The Complaint, and each of its causes of action, is barred in whole or in part
26 because, at all times relevant to the Complaint, plaintiff was properly classified as exempt from
27 overtime and related wage-and-hour laws pursuant to, but not limited to, the provisions of
28 Industrial Welfare Commission Wage Order 7-2001 section (1)(A)(1) (the executive exemption),

1 8 Cal. Code Regs. § 11070(1)(A)(1), and Industrial Welfare Commission Wage Order 7-2001
2 section (1)(A)(2) (the administrative exemption), 8 Cal. Code Regs. § 11070(1)(A)(2), because
3 plaintiff's duties and responsibilities included:

- 4 a. the management of the store in which plaintiff was employed;
- 5 b. the performance of office or non-manual work directly related to
6 management policies or general business operations of the store in which
7 plaintiff was employed;
- 8 c. the performance of specialized or technical managerial duties requiring
9 special training, experience, or knowledge under only general supervision;
- 10 d. the performance of special assignments and tasks under only general
11 supervision;
- 12 e. customarily and regularly directing the work of two or more other store
13 employees working at the store in which plaintiff was employed;
- 14 f. hiring or firing of store employees or suggesting and making
15 recommendations as to the hiring or firing and as to the advancement and
16 promotion or any other change of status of store employees, of which the
17 suggestions or recommendations were given particular weight;
- 18 g. customarily and regularly exercising discretion and independent judgment;
19 and
- 20 h. otherwise primarily engaging in duties that meet the test of the executive or
21 administrative exemption.

22 19. The Complaint, and each of its causes of action, is barred because if plaintiff
23 performed his job duties in the manner he alleges, then plaintiff failed to perform the duties that
24 his employer realistically expected him to perform and otherwise misperformed his duties, and,
25 therefore, under *Ramirez v. Yosemite Water Co., Inc.*, 20 Cal. 4th 785 (1999), plaintiff cannot
26 support a claim for misclassification as an exempt employee. Plaintiff alleges that, “[d]uring his
27 work shifts, Plaintiff spent over 50% of his time” performing tasks “covering for non-exempt
28 employees during their rest and meal breaks, re-stocking merchandise, cleaning and taking out

1 trash, fixing merchandise displays, assisting customers and working as a Barista for the in store
2 Starbucks.” If this allegation is true, then Target neither was aware of, nor condoned, plaintiff’s
3 misperformance of his reasonably expected duties as a Target Executive Team Leader.

4 20. Plaintiff’s claim for failure to pay wages is barred because plaintiff was paid all
5 wages owed in accordance with the law.

6 21. Plaintiff’s claim for failure to pay wages is barred to the extent that the wages
7 plaintiff seeks to recover are *de minimis*.

8 22. Plaintiff’s claim for failure to pay wages is barred to the extent that plaintiff seeks
9 to recover wages for work that was not performed for the primary benefit of Target.

10 23. Plaintiff’s claim for failure to pay wages is barred to the extent that plaintiff seeks
11 to recover wages for work that Target did not suffer or permit plaintiff to perform.

12 24. Plaintiff’s claim for failure to pay wages is barred to the extent that plaintiff seeks
13 to recover wages for work that was not performed while under the direction or control of Target.

14 25. Plaintiff’s claim for failure to pay wages is barred to the extent that plaintiff
15 worked without Target’s actual or constructive knowledge.

16 26. Plaintiff’s claim for failure to pay wages under the applicable Wage Order is
17 barred because the Wage Order does not support a private right of action, and plaintiff’s exclusive
18 remedy is an action before the California Labor Commissioner.

19 27. Plaintiff’s claim for failure to pay wages is barred because the hours plaintiff
20 alleges were worked are not “hours worked” within the meaning of applicable law.

21 28. Plaintiff’s claim for failure to pay wages is barred because Target did not willfully
22 fail to wages.

23 29. Plaintiff’s claim for failure to pay wages is barred because Target had a good-faith
24 belief, based in fact and law, that no wages were due to plaintiff.

25 30. Plaintiff’s claim for failure to pay wages is barred to the extent that plaintiff
26 secreted or absented himself to avoid payment, or refused payment when fully tendered.

27 31. To the extent plaintiff’s claim for failure to reimburse or indemnify business
28 expenses is based, in turn, on the alleged failure to pay wages, Target incorporates by reference

1 and realleges its defenses to that claim as set forth in paragraphs 20-30, *supra*, to plaintiff's claim
2 for failure to reimburse or indemnify business expenses.

3 32. Plaintiff's claim for failure to reimburse business expenses is barred to the extent
4 that plaintiff seeks to recover expenses that were not reasonable and necessary business expenses.

5 33. Plaintiff's claim for failure to failure to reimburse business expenses is barred
6 because Target did not know or had no reason to know that plaintiff incurred business expenses.

7 34. Plaintiff's claim for failure to failure to reimburse business expenses is barred
8 because Target did not willfully fail to indemnify or reimburse plaintiff for business expenditures
9 or losses, if any.

10 35. Plaintiff's claim for failure to reimburse business expenses is barred because
11 Target had a good-faith belief, based in fact and law, that no reimbursements were due to
12 plaintiff.

13 36. Plaintiff's claim for failure to reimburse business expenses is barred to the extent
14 that the expenses plaintiff seeks to recover are *de minimis*.

15 37. Plaintiff's claim for failure to reimburse business expenses is barred to the extent
16 that plaintiff seeks to recover expenses that were not incurred for the primary benefit of Target.

17 38. To the extent plaintiff's claims for failure to provide meal and rest periods or
18 compensation in lieu thereof are based, in turn, on the alleged failure to pay wages or failure to
19 reimburse or indemnify business expenses, Target incorporates by reference and realleges its
20 defenses to those claims, as set forth in paragraphs 20-30 and 32-37, *supra*, to plaintiff's claims
21 for failure to provide meal and rest periods or compensation in lieu thereof.

22 39. Plaintiff's claims for failure to provide meal and rest periods or compensation in
23 lieu thereof are barred because plaintiff was provided meal and rest periods in accordance with
24 the law; plaintiff was not required to work during any meal or rest period; and any failure by
25 plaintiff to take a meal or rest period was due to his own election and not any acts or omissions by
26 Target.

27 40. Plaintiff's claims for failure to provide meal and rest periods or compensation in
28 lieu thereof are barred to the extent that plaintiff consented to the waiver of his meal and rest

1 periods.

2 41. Plaintiff's claims for failure to provide meal and rest periods or compensation in
3 lieu thereof under the applicable Wage Order are barred because the Wage Order does not support
4 a private right of action, and plaintiff's exclusive remedy is an action before the California Labor
5 Commissioner.

6 42. Plaintiff's claims for failure to provide meal and rest periods or compensation in
7 lieu thereof will not support an award of unpaid wages, or any other recovery based on an award
8 of unpaid wages, because an action under California Labor Code section 226.7 is not an action to
9 recover unpaid wages. *See Kirby v. Immoos Fire Protection, Inc.*, 53 Cal. 4th 1244 (2012); *Ling*
10 *v. PF Chang's China Bistro, Inc.*, 245 Cal. App. 4th 1242, 1261 (2016); *Jones v. Spherion*
11 *Staffing LLC*, No. CV 11-6462 JAK (JCx), 2012 U.S. Dist. LEXIS 112396, at *21-26 (C.D. Cal.
12 Aug. 7, 2012).

13 43. To the extent that plaintiff's claim for failure to provide accurate itemized wage
14 statements is based on Target's alleged failure to pay wages, failure to reimburse or indemnify
15 business expenses, or failure to provide meal and rest periods or compensation in lieu thereof,
16 Target incorporates by reference and re-alleges its defenses to those claims, as set forth in
17 paragraphs 20-30, 32-37, and 39-42, *supra*, to plaintiff's claim for failure to provide accurate
18 itemized wage statements.

19 44. Plaintiff's claim for failure to provide accurate itemized wage statements is barred
20 because Target did not knowingly or intentionally fail to provide accurate itemized wage
21 statements; and its failure, if any, to provide such wage statements was inadvertent or due to
22 clerical error.

23 45. Plaintiff's claim for failure to render accurate wage statements is barred because
24 plaintiff has suffered no harm or actual injury from Target's failure, if any, to provide accurate
25 itemized wage statements.

26 46. Plaintiff's claim for failure to provide accurate itemized wage statements is barred
27 to the extent that plaintiff seeks an award of penalties beyond the one-year limitations period
28 contained in California Code of Civil Procedure section 340.

1 47. To the extent that plaintiff's claim for failure to timely pay all wages due upon
2 termination is based on Target's alleged failure to pay wages, failure to reimburse or indemnify
3 business expenses, failure to provide meal and rest periods or compensation in lieu thereof, or
4 failure to provide accurate itemized wage statements, Target incorporates by reference and re-
5 alleges its defenses to those claims, as set forth in paragraphs 20-30, 32-37, 39-42, and 44-46,
6 *supra*, to plaintiff's claim for failure to pay timely wages upon termination.

7 48. Plaintiff's claim for failure to timely pay all wages due upon termination is barred
8 because plaintiff was paid all his final wages owed in accordance with the law.

9 49. Plaintiff's claim for failure to timely pay all wages due upon termination is barred
10 because Target did not willfully fail to timely pay wages upon termination.

11 50. Plaintiff's claim for failure to timely pay all wages due upon termination is barred
12 because Target had a good-faith belief, based in fact and law, that no wages were due to plaintiff.

13 51. Plaintiff's claim for failure to timely pay all wages due upon termination is barred
14 to the extent that plaintiff secreted or absented himself to avoid payment, or refused payment
15 when fully tendered.

16 52. To the extent that plaintiff's claim for failure to timely pay all wages due upon
17 termination is based on the alleged failure to provide meal or rest periods or pay meal- or rest-
18 period premiums, it is barred because an action under California Labor Code section 226.7 is not
19 an action to recover unpaid wages. *See Kirby v. Immoos Fire Protection, Inc.*, 53 Cal. 4th 1244
20 (2012); *Ling v. PF Chang's China Bistro, Inc.*, 245 Cal. App. 4th 1242, 1261 (2016); *Jones v.*
21 *Spherion Staffing LLC*, No. CV 11-6462 JAK (JCx), 2012 U.S. Dist. LEXIS 112396, at *21-26
22 (C.D. Cal. Aug. 7, 2012).

23 53. Plaintiff's claim for failure to timely pay all wages due upon termination is barred
24 to the extent that plaintiff seeks an award of penalties beyond the three-year limitations period
25 contained in California Code of Civil Procedure section 338.

26 54. To the extent that plaintiff's claim for violation of California Unfair Competition
27 Law, Business and Professions Code section 17200 *et seq.* (the "UCL"), is based on Target's
28 alleged failure to pay wages, failure to reimburse or indemnify business expenses, failure to

1 provide meal and rest periods or compensation in lieu thereof, failure to provide accurate itemized
2 wage statements, or failure to timely pay all wages due upon termination, Target incorporates by
3 reference and re-alleges its defenses to those claims, as set forth in paragraphs 20-30, 32-37, 39-
4 42, 44-46, and 48-53, *supra*, to plaintiff's claim for violation of the UCL.

5 55. Plaintiff's claim for violation of the UCL is barred to the extent that plaintiff seeks
6 damages, disgorgement, penalties, or meal- or rest-period premiums because section 17200
7 provides only for restitution and injunctive relief; damages, penalties, and meal and rest-period
8 premiums are not restitution.

9 56. Plaintiff is barred from seeking injunctive relief under section 17200 because
10 plaintiff lacks standing to seek such relief.

11 57. Plaintiff's claim for violation of the UCL is barred because plaintiff cannot show
12 an injury to competition, as distinguished from injury to himself, the existence of which Target
13 expressly denies.

14 58. Plaintiff's claim for violation of the UCL is barred because plaintiff cannot show a
15 deception upon the public.

16 59. Plaintiff's claim for violation of the UCL is barred because as a private litigant and
17 former employee, plaintiff lacks standing to bring a cause of action for relief under California
18 Business and Professions Code section 17200 *et seq.*, on behalf of himself or similarly-situated
19 individuals.

20 60. Plaintiff's claim for violation of the UCL is barred because California Business
21 and Professions Code section 17200 *et seq.*, as stated and sought to be applied by plaintiff,
22 violates Target's rights under the Constitution of the United States of America and the
23 Constitution of the State of California in that, among other things, it is void for vagueness,
24 violates equal protection and due process, poses an undue burden upon interstate commerce, and
25 infringes the freedom of contract.

26 61. Plaintiff's claim for violation of the UCL is barred because California Business
27 and Professions Code section 17200 *et seq.*, as stated and sought to be applied by plaintiff,
28 violates Target's rights to due process under the Constitution of the United States of America and

1 the Constitution of the State of California to the extent that the cause of action does not afford
2 Target the protections against multiple suits and duplicative liability ordinarily provided by class
3 actions.

4 62. Plaintiff's claim for violation of the UCL is barred because plaintiff has failed to
5 plead with sufficient particularity his claim of false, unfair, or fraudulent conduct.

6 63. Plaintiff's claim for violation of the UCL is barred because plaintiff is not seeking
7 recovery of a quantifiable sum owed by Target to plaintiff.

8 64. Plaintiff's claim for violation of the UCL is barred because plaintiff has adequate
9 remedies at law for the alleged violations, and the requirements for equitable relief have not been
10 met.

11 65. Plaintiff is not entitled to any statutory or civil penalty award because there is a
12 good-faith dispute as to Target's obligation to pay any wages or penalty that may be found to be
13 due.

14 66. Plaintiff is not entitled to any statutory or civil penalty award because, at all times
15 relevant to the Complaint, any failure to comply with the compensation provisions of the
16 California Labor Code or the applicable Wage Order, which Target denies, was not knowing or
17 intentional, but rather was done in good faith and with reasonable grounds.

18 67. Plaintiff is not entitled to any statutory or civil penalties because plaintiff has
19 failed to exhaust his administrative remedies.

20 68. Imposition of any statutory or civil penalty award against Target would be unjust,
21 arbitrary and capricious, and confiscatory.

22 69. Recovery of statutory or civil penalties is barred to the extent that the
23 accumulation of penalties would be so disproportionate to the harm alleged to violate due process
24 under the Constitutions of the United States and the State of California.

25 70. Plaintiff lacks standing to seek the prospective injunctive and declaratory relief he
26 seeks in the Complaint.

27 71. Plaintiff has failed to mitigate or reasonably attempt to mitigate his damages, if
28 any, as required by law, and any recovery to which plaintiff otherwise would be entitled should

1 be precluded or reduced accordingly.

2 72. Recovery of interest, attorneys' fees, or costs is barred to the extent that such
3 amounts are based on the recovery of penalties, meal- and rest-period premiums, or equitable
4 restitution rather than unpaid wages.

5 73. If plaintiff sustained any loss, injury, damage, or detriment as alleged in the
6 Complaint, the loss, injury, damage, or detriment was caused or contributed to by plaintiff's own
7 failure to exercise due care, and therefore plaintiff's recovery of damages, if any, must be reduced
8 in proportion to the percentage of plaintiff's own fault.

9 74. Plaintiff's claim for equitable relief is barred because plaintiff has an adequate and
10 complete remedy at law.

11 75. Plaintiff has failed to satisfy the prerequisites for class certification, and therefore,
12 lacks standing and cannot represent the interests of others.

13 76. The claims alleged by plaintiff are neither common to nor typical of those, if any,
14 of the members of the putative class.

15 77. The claims alleged by plaintiff are matters in which individual questions
16 predominate and are not appropriate for class treatment.

17 78. Plaintiff's interests are in conflict with the interest of the members of the proposed
18 class or any of its members.

19 79. The members of the putative class are not so numerous that joinder is
20 impracticable.

21 80. Plaintiff's counsel is inadequate counsel for the proposed class or allegedly
22 aggrieved employees.

23 81. The interests of certain members of the proposed class are in conflict with the
24 interests of other members of the proposed class.

25 82. Plaintiff is an inadequate representative of the putative class or any of its members.

26 83. Plaintiff is not similarly situated to other allegedly aggrieved employees.

27 84. Plaintiff has not shown and cannot show that class treatment of the claims alleged
28 in the Complaint is superior to other methods of adjudicating the controversy.

1 85. Because liability or damages, if any, to each member of the putative class may not
2 be determined by a single jury or on a class-wide basis, allowing this action to proceed as a class
3 action would violate Target's rights under the Seventh and Fourteenth Amendments to the United
4 States Constitution.

5 86. Plaintiff is barred from pursuing class-wide relief to the extent he is not a member
6 of the proposed class and/or lacks cognizable claims for injuries he alleges were sustained by the
7 proposed class, or otherwise lacks standing to seek relief on behalf of absent group members.

8 87. The Complaint is barred, in whole or in part, to the extent members of the
9 Proposed Class have executed agreements releasing or waiving the claims set forth in the
10 Complaint.

11 88. The Complaint is barred, in whole or in part, to the extent members of the
12 proposed class have agreed to arbitrate any or all of the causes of action asserted in the
13 Complaint, and the prosecution of the Complaint violates such agreement to arbitrate.

14 89. To the extent that plaintiff or any member of the proposed class owes money to
15 Target, Target is entitled to offset such amounts against any damages awarded.

16 90. In the event that a class should be certified in this matter, Target incorporates by
17 reference and re-alleges all of its defenses in response to plaintiff's claims on behalf of the class
18 or classes and each class member.

19 **RELIEF REQUESTED**

20 Target asks the Court to deny plaintiff's request for class certification, to enter judgment
21 in favor of Target and against plaintiff, to award to plaintiff nothing on the Complaint and instead
22 to dismiss the Complaint with prejudice, and to award to Target its costs of suit, including
23 reasonable attorneys' fees, and such further or other relief as the Court may deem proper.

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Dated: July 2, 2019.

JEFFREY D. WOHL
RYAN D. DERRY
ANNA M. SKAGGS
JEFFREY G. BRIGGS
PAUL HASTINGS LLP

By: Jeffrey D. Wohl / AMS
Jeffrey D. Wohl
Attorneys for Defendant
Target Corporation

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JURY DEMAND

To the extent that any issue is triable, defendant Target Corporation hereby demands trial by jury on all issues triable to a jury.

Dated: July 2, 2019.

JEFFREY D. WOHL
RYAN D. DERRY
ANNA M. SKAGGS
JEFFREY G. BRIGGS
PAUL HASTINGS LLP

By: Jeffrey D. Wohl/AMS
Jeffrey D. Wohl
Attorneys for Defendant
Target Corporation

PROOF OF SERVICE

I am employed in the City and County of San Francisco, State of California. I am over the age of 18 years, and not a party to the within action. My business address is 101 California Street, 48th Floor, San Francisco, California 94111.

On July 2, 2019, I served the foregoing document described as:

- **DEFENDANT TARGET CORPORATION’S ANSWER TO PLAINTIFF SERGIO GARCIA’S UNVERIFIED COMPLAINT**

on the interested parties by placing a true and correct copy thereof in an envelope addressed as follows:

James R. Hawkins
Isandra Fernandez
James Hawkins APLC
9880 Research Drive, Suite 200
Irvine, CA 92618

Attorneys for plaintiff Sergio Garcia
Telephone: (949) 387-7200
Facsimile: (949) 387-6676

- VIA UPS OVERNIGHT MAIL:** By delivering such document(s) to an overnight mail service or an authorized courier in a sealed envelope or package designated by the express service courier addressed to the person(s) on whom it is to be served.
- VIA U.S. MAIL:** The envelope was then sealed. I am readily familiar with Paul Hastings LLP’s practice of collection and processing correspondence for mailing. Under that practice the envelope would be deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.
- VIA PERSONAL DELIVERY:** I personally caused to be delivered such sealed envelope by hand to the offices of the addressee(s) pursuant to CCP § 1011.
- BY ELECTRONIC SERVICE:** Based on a court order or an agreement of the parties to accept electronic service, the documents were electronically served to the email addresses indicated above.

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

Executed on July 2, 2019, at San Francisco, California.



Meredith Mitchell

EXHIBIT D

RECEIVED
MAIN LOBBY DROP BOX

2019 JUL -2 PM 3:25

GDSSC COURT HOUSE
SUPERIOR COURT
OF CALIFORNIA
SACRAMENTO COUNTY

1 James R. Hawkins, Esq. SBN 192925
Isandra Fernandez, Esq. SBN 220482
2 **JAMES HAWKINS APLC**
9880 Research Drive, Suite 200
3 Irvine, CA 92618
TEL: (949) 387-7200
4 FAX: (949) 387-6676

5 Attorneys for Plaintiff, SERGIO GARCIA
on behalf of himself and all others similarly situated
6

7 SUPERIOR COURT OF THE STATE OF CALIFORNIA
8 FOR THE COUNTY OF SACRAMENTO
9

10 SERGIO GARCIA on behalf of himself and all
others similarly situated

11 Plaintiff,

12 vs.
13

14 TARGET CORPORATION., a Minnesota
corporation, and DOES 1 through 50, inclusive,

15 Defendants.
16
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19

Case No. 34-2019-254638
ASSIGNED FOR ALL PURPOSES TO:
JUDGE: Hon. Geoffrey A. Goodman
DEPT: 29

**FIRST AMENDED CLASS ACTION
COMPLAINT**

- 1) Failure to Reimburse Employee Expenses
- 2) Violations of the Unfair Competition Law
- 3) Labor Code Private Attorney General Act (Lab. Code § 2699 *et seq.*)

JURY TRIAL DEMANDED

20
21
22 Plaintiff SERGIO GARCIA on behalf of himself and all others similarly situated assert
23 claims against Defendants as follows:

24 **I.**

25 **INTRODUCTION**

26 1. This is a Class Action, pursuant to Code of Civil Procedure section 382, brought
27 against Defendant TARGET CORPORATION., and Does 1 through 50 inclusive (hereinafter
28 "TARGET" and/or "Defendants") on behalf of Plaintiff SERGIO GARCIA (hereinafter

BY FAX

1 “Plaintiff”) and all employees who occupied position of “Executive Team Leaders,” “Store
2 Team Leaders,” managers and similar positions within the state of California. (“Class
3 Members”).

4 2. During the liability period, defined as the applicable statute of limitations for each
5 and every cause of action contained herein, Plaintiff and Class Members used an instant
6 messaging app called “GroupMe” downloaded to their personal phones which they were
7 required to use on a daily basis in the performance of their job duties. Through the GroupMe
8 App, Plaintiff and Class Members communicated amongst themselves and with management
9 regarding work related topics and directives. Plaintiff was required to use the GroupMe App
10 multiple times a day during his work shifts.

11 3. During the liability period, Defendants did not reimburse Plaintiff and, on
12 information and belief, Class Members for the use of their personal phones in the performance of
13 their job duties as required under California Labor Code section 2802.

14 4. Plaintiff, on behalf of himself and all Class Members, bring this action pursuant to
15 Labor Code sections 2802, 2699 and any other applicable Industrial Welfare Commission
16 (“IWC”) Wage Orders, seeking unpaid business reimbursement, penalties and other equitable
17 relief, and reasonable attorneys’ fees and costs.

18 5. Plaintiff, on behalf of himself and others similarly situated, pursuant to Business
19 and Professions Code sections 17200-17208, also seeks restitution from Defendants for their
20 failure to reimburse all wages owed including overtime compensation and rest and meal period
21 premiums to Class Members.

22 **II.**

23 **VENUE**

24 6. Venue as to each Defendant is proper in this judicial district pursuant to Code of
25 Civil Procedure section 395. Defendant conducts substantial and continuous business activities
26 in Sacramento County, California and each Defendant is within the jurisdiction of this Court
27 for service of process purposes. Defendants employ numerous Class Members in Sacramento
28 County, California.

1 **III.**

2 **PARTIES**

3 7. Plaintiff is, and at all times mentioned in this complaint was, a resident of
4 California.

5 8. On information and belief, Defendant TARGET, headquartered in Minnesota,
6 owns and operates a chain of retail stores throughout California and the United States.

7 9. The true names and capacities of Defendants, whether individual, corporate,
8 associate, or otherwise, sued herein as DOES 1 through 50, inclusive, are currently unknown to
9 Plaintiff, who therefore sues Defendants by such fictitious names under Code of Civil Procedure
10 section 474. Plaintiff is informed and believes, and based thereon alleges that each of the
11 Defendants designated herein as a DOE is legally responsible in some manner for the unlawful
12 acts referred to herein. Plaintiff will seek leave of court to amend this Complaint to reflect the
13 true names and capacities of the Defendants designated hereinafter as DOES when such
14 identities become known.

15 10. Plaintiff is informed and believes, and based thereon alleges, that Defendants
16 acted in all respects pertinent to this action as the agent of the other Defendants, carried out a
17 joint scheme, business plan or policy in all respects pertinent hereto, and the acts of each
18 Defendant are legally attributable to the other Defendants.

19 **IV.**

20 **FACTUAL BACKGROUND**

21 11. Plaintiff was employed by TARGET from on or about June 13, 2016 through on
22 or about May 2, 2018 and occupied the position of Executive Team Leader- Human Resources.
23 (hereinafter "ETL")

24 12. After Plaintiff became employed as an ETL, he was required to undertake a six
25 week training period provided by TARGET. During his training, Plaintiff was made aware of the
26 GroupMe App by the trainers. Also, during his training, Plaintiff noticed that the ETLs from
27 other Target locations were using the GroupMe App.

28

1 19. This action has been brought and may properly be maintained as a class action
2 under the provisions of section 382 of the Code of Civil Procedure because there is a well-
3 defined community of interest in the litigation and the proposed Class is easily ascertainable.

4 **A. Numerosity**

5 20. The potential members of the Class as defined are so numerous that joinder of all
6 the members of the Class is impracticable. While the precise number of Class Members has not
7 been determined at this time, Plaintiff is informed and believes that Defendants currently
8 employ, and/or during the relevant time period employed, approximately over 100 Class
9 Members in California who are or have been affected by Defendants' unlawful practices as
10 alleged herein.

11 **B. Commonality**

12 21. There are questions of law and fact common to the Class predominating over any
13 questions affecting only individual Class Members. These common questions of law and fact
14 include, without limitation:

- 15 i. Whether Defendants violated Labor Code §2802 for failing to indemnify Class
16 Members for the expenditures incurred in the performance of their job duties (i.e.
17 requiring Class Members to use their personal phones in the discharge of their job
18 duties);
- 19 ii. Whether Defendants violated section 17200 *et seq.* of the Business and
20 Professions Code by failing to reimburse employee expenses in violation of Labor
21 Code § 2802.
- 22 iii. Whether Defendants violated section 17200 *et seq.* of the Business and
23 Professions Code and Labor Code section §2802 which violation constitutes a violation
24 of fundamental public policy;

25 **C. Typicality**

26 22. The claims of the named Plaintiff are typical of the claims of the Class. Plaintiff
27 and all members of the Class sustained injuries and damages arising out of and caused by
28

1 Defendants' common course of conduct in violation of California laws, regulations, and statutes
2 as alleged herein.

3 **D. Adequacy of Representation**

4 23. Plaintiff will fairly and adequately represent and protect the interests of the
5 members of the Class. Counsel who represents Plaintiff is competent and experienced in
6 litigating large employment class actions.

7 **E. Superiority of Class Action**

8 24. A class action is superior to other available means for the fair and efficient
9 adjudication of this controversy. Individual joinder of all Class Members is not practicable, and
10 questions of law and fact common to the Class predominate over any questions affecting only
11 individual members of the Class. Each member of the Class has been damaged and is entitled to
12 recovery by reason of Defendants' unlawful policy and/or practice herein complained of.

13 25. Class action treatment will allow those similarly situated persons to litigate their
14 claims in the manner that is most efficient and economical for the parties and the judicial system.
15 Plaintiff is unaware of any difficulties that are likely to be encountered in the management of this
16 action that would preclude its maintenance as a class action.

17 **VI.**

18 **CAUSES OF ACTION**

19 **First Cause of Action**

20 Failure to Reimburse Employee Expenses

(Lab. Code § 2802)

(Against All Defendants)

21 26. Plaintiff repeats and incorporates herein by reference each and every allegation set
22 forth above, as though fully set forth herein.

23 27. As set forth herein, by their policy and/or practice of unlawfully requiring that
24 Plaintiff and Class Members use their personal phones in the performance of their job duties
25 without reimbursement, Defendant willfully violated the provisions of Lab. Code § 2802.
26
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1 28. As a result of the unlawful acts of Defendants, Plaintiff and the Class he seeks to
2 represent are entitled to recovery of full amount of expenses incurred plus interest, attorneys'
3 fees, and costs, under Labor Code § 2802.

4 29. WHEREFORE, Plaintiff and the Class he seeks to represent request relief as
5 described herein and below.

6 **Second Cause of Action**
7 Violation of Unfair Competition Law
8 (Bus. & Prof. Code, §§ 17200-17208)
9 (Against All Defendants)

10 30. Plaintiff repeats and incorporates herein by reference each and every allegation
11 set forth above, as though fully set forth herein.

12 31. Business & Professions Code Section 17200 provides:

13 As used in this chapter, unfair competition shall mean and include any *unlawful*,
14 *unfair* or fraudulent business act or practice and unfair, deceptive, untrue or
15 misleading advertising and any act prohibited by Chapter 1 (commencing with
16 Section 17500) of Part 3 of Division 7 of the Business and Professions Code.)
17 (Emphasis added.)

18 32. Defendants' violations of the Labor Code provisions set forth above constitute
19 unlawful and/or unfair business acts or practices.

20 33. The actions of Defendants, as alleged within this Complaint, constitute false,
21 fraudulent, unlawful, unfair, fraudulent and deceptive business practices, within the meaning of
22 Business and Professions Code section 17200, *et seq.*

23 34. Plaintiff and Class Members have been personally aggrieved by Defendants'
24 unlawful and unfair business acts and practices alleged herein.

25 35. As a direct and proximate result of the unfair business practices of Defendants,
26 and each of them, Plaintiff, individually and on behalf of all employees similarly situated, is
27 entitled to restitution of all wages which have been unlawfully withheld from Plaintiff and
28 members of the Plaintiff Class as a result of the business acts and practices described herein.

36. WHEREFORE, Plaintiff and the Class he seeks to represent request relief as
described herein and below.

Third Cause of Action

Labor Code Private Attorney General Act
(Cal. Labor Code §2699 et seq.)
(Against All Defendants)

37. Plaintiff repeats and incorporates herein by reference each and every allegation set forth above, as though fully set forth herein.

38. Plaintiff brings these claims for civil penalties as a representative action on behalf of himself and all similarly situated persons who occupied positions of “Executive Team Leaders,” “Store Team Leaders,” managers and similar positions employed by, or formerly employed by Defendants in the state of California during the applicable liability period under Lab. Code §2699.

39. Plaintiff gave written timely notice by certified mail to the Labor and Workforce Development Agency (the “Agency”) in or about April 16, 2019 and the employer of the specific provisions of the California Labor Code alleged to have been violated as required by Lab. Code § 2699.3. Plaintiff did not receive a response from the Agency within the proscribed time period.

40. The policies, acts and practices of Defendants, heretofore described give rise to statutory penalties including Labor Code § 2802 through Defendants’ failure to reimburse expenses incurred by employees in the performance of their job duties.

41. Plaintiff as an aggrieved employee hereby seeks recovery of civil penalties as prescribed by the Labor Code Private Attorney General Act of 2007 on behalf of himself and other current and former employees of Defendants against whom one or more of the violations of the Labor Code was committed during the applicable period.

VII.

PRAYER

WHEREFORE, Plaintiff prays for judgment as follows:

1. That the Court determine that this action may be maintained as a class action;
2. For compensatory damages in an amount according to proof with interest thereon;

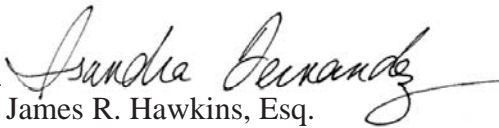
3. For penalties pursuant to Labor Code § 2699;
4. For attorneys' fees, interests and costs of suit under Labor Code §§ 2802, 2699;
5. For such other and further relief as the Court deems just and proper.

DEMAND FOR JURY TRIAL

Plaintiff hereby demands trial of her claims by jury to the extent authorized by law.

Dated: July 2, 2019

JAMES HAWKINS, APLC



James R. Hawkins, Esq.
Isandra Y. Fernandez, Esq.
Attorneys for Plaintiff
Sergio Garcia

PROOF OF SERVICE, COUNTY OF ORANGE

I am a resident of the State of California, County of Orange. I am over the age of eighteen years and not a party to the within action. My business address is 9880 Research Drive., Suite 200, Irvine, California 92618.

On July 2, 2019, I served on the interested parties in this action the following document(s) entitled:

- **FIRST AMENDED CLASS ACTION COMPLAINT**

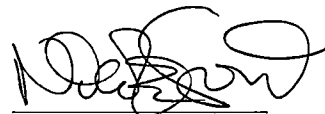
BY MAIL: I enclosed the document(s) in a sealed envelope or package addressed to the persons at the addresses listed in the Service List below and placed the envelope for collection and mailing, following our ordinary business practices. I am readily familiar with the firm's practice for collecting and processing correspondence for mailing. On the same day that the correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service, in a sealed envelope with postage fully prepaid.

SERVICE LIST

Target Corporation
c/o CT Corporation
818 Seventh Street, Ste. 930
Los Angeles, CA 90017

STATE: I declare under penalty of perjury, under the laws of the State of California, that the above is true and correct.

Executed on July 2, 2019, at Irvine, California



Nicole Solt

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

Sergio Garcia

(b) County of Residence of First Listed Plaintiff (EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number) James R. Hawkins (SBN 192925); Isandra Fernandez (SBN 220482) James Hawkins APLC; 9880 Research Drive, Suit 200 Irvine, California 92618; Tel: (949) 387-7200

DEFENDANTS

Target Corporation

County of Residence of First Listed Defendant Hennepin Minnesota (IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known) Jeffrey D. Wohl (SBN 096838); Ryan D. Derry (SBN 244337); Anna M. Skaggs (SBN 319179); Paul Hastings LLP, 101 California Street, 48th Floor, San Francisco, CA 94111; Tel: (415) 856-7000

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- 1 U.S. Government Plaintiff, 2 U.S. Government Defendant, 3 Federal Question (U.S. Government Not a Party), 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- Citizen of This State, Citizen of Another State, Citizen or Subject of a Foreign Country, PTF DEF, Incorporated or Principal Place of Business In This State, Incorporated and Principal Place of Business In Another State, Foreign Nation

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Click here for: Nature of Suit Code Descriptions.

Table with 5 columns: CONTRACT, REAL PROPERTY, TORTS, CIVIL RIGHTS, PRISONER PETITIONS, FORFEITURE/PENALTY, LABOR, IMMIGRATION, BANKRUPTCY, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES. Contains various legal categories and codes.

V. ORIGIN (Place an "X" in One Box Only)

- 1 Original Proceeding, 2 Removed from State Court, 3 Remanded from Appellate Court, 4 Reinstated or Reopened, 5 Transferred from Another District, 6 Multidistrict Litigation - Transfer, 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity): 28 U.S.C. section 1332. Brief description of cause: failure to pay wages; failure to provide rest and meal periods; failure to reimburse; failure to timely pay wages; wage statement violations; etc.

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$ CHECK YES only if demanded in complaint: JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY

(See instructions): JUDGE DOCKET NUMBER

DATE SIGNATURE OF ATTORNEY OF RECORD

July 3, 2019 /s/ Jeffrey D. Wohl

FOR OFFICE USE ONLY

RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE

Case 2:19-at-00574 Document 1-1 Filed 07/05/19 Page 2 of 2
INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I.(a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
- (b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
- (c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.
 United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.
 United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.
 Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.
 Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)
- III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. Nature of Suit.** Place an "X" in the appropriate box. If there are multiple nature of suit codes associated with the case, pick the nature of suit code that is most applicable. Click here for: [Nature of Suit Code Descriptions](#).
- V. Origin.** Place an "X" in one of the seven boxes.
 Original Proceedings. (1) Cases which originate in the United States district courts.
 Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.
 Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
 Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
 Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
 Multidistrict Litigation – Transfer. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407.
 Multidistrict Litigation – Direct File. (8) Check this box when a multidistrict case is filed in the same district as the Master MDL docket.
PLEASE NOTE THAT THERE IS NOT AN ORIGIN CODE 7. Origin Code 7 was used for historical records and is no longer relevant due to changes in statute.
- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service
- VII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.
 Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.
 Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

Date and Attorney Signature. Date and sign the civil cover sheet.

1 JEFFREY D. WOHL (Cal. State Bar No. 096838)
RYAN D. DERRY (Cal. State Bar No. 244337)
2 ANNA M. SKAGGS (Cal. State Bar No. 319179)
PAUL HASTINGS LLP
3 101 California Street, 48th Floor
San Francisco, California 94111
4 Telephone: (415) 856-7000
Facsimile: (415) 856-7100
5 jeffwohl@paulhastings.com
ryanderry@paulhastings.com
6 annaskaggs@paulhastings.com

7 Attorneys for Defendant
Target Corporation

8
9 UNITED STATES DISTRICT COURT
10 EASTERN DISTRICT OF CALIFORNIA

11
12 SERGIO GARCIA, on behalf of himself
and all others similarly situated,

13
14 Plaintiff,

15 vs.

16 TARGET CORPORATION, a Minnesota
corporation; and DOES 1 through 50,
17 inclusive,

18 Defendants.
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No.

**DECLARATION OF MICHAEL BREWER IN
SUPPORT OF DEFENDANT TARGET
CORPORATION'S NOTICE OF REMOVAL OF
CIVIL ACTION**

Sacramento County Superior Court,
No. 34-2019-00254638-CU-OE-GDS

1 I, Michael Brewer, declare:

2 1. I am a Director of Employee Relations for Target Corporation (“Target”), the defendant
3 in this action. I have personal knowledge of the facts set forth in this declaration, or know them in my
4 capacity as an employee for Target based on records that Target keeps in the regular course of its
5 business and according to its regular practice of keeping those records, and could and would
6 competently testify to them under oath if called as a witness.

7 2. I have held my current position for Target since December 2016 and have worked for
8 Target’s Employee Relations Compliance Workgroup since August 2011. In my position, I have access
9 to Target’s California employee data records, including employee payroll data, salary information, and
10 personnel records such as employment history, which Target maintains in the normal course of its
11 business and relies upon for a variety of business and human resource functions.

12 3. Target is now and was at the time that this action was commenced a corporation
13 incorporated under the laws of the State of Minnesota with its principal place of business in the State of
14 Minnesota. The majority of Target’s executive and administrative functions are performed, and the
15 majority of Target’s executive and administrative officers are located in, the State of Minnesota.

16 4. It is my understanding that plaintiff seeks to represent a class of current and former
17 Executive Team Leaders-Human Resources (“ETLs-HR”) and other team members employed in similar
18 positions who were paid a salary and classified as exempt, who have worked for Target in California
19 during the period from April 17, 2015, to the present (the “Relevant Time Period”).

20 5. Target maintains employment history and employee salary information (including
21 historical salary data) for ETLs-HR in the regular course of business, and makes regular use of this data
22 for a variety of business and personnel functions.

23 6. Target provided its counsel with employment history and salary data containing
24 information for ETLs-HR, who were employed by Target in California for the time period from
25 April 17, 2015, to June 8, 2019. I understand that Target’s counsel then provided these data to Dr. Paul
26 White as “Salary.csv.”

27 7. Target maintains payroll data for ETLs-HR in the regular course of business, and makes
28 regular use of these data for a variety of business and personnel functions.

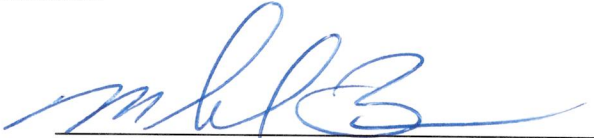
1 8. Target provided its counsel with payroll data containing information for ETLs-HR, who
2 were employed by Target in California for the time period from April 17, 2015, to June 8, 2019. I
3 understand that Target's counsel then provided these data to Dr. Paul White as "Payroll.csv."

4 9. On July 3, 2019, I accessed personnel records showing employment history for plaintiff
5 Sergio Garcia that are maintained in the regular course of Target's business. Those records reflect that
6 Mr. Garcia was employed as an ETL-HR at Target's Van Nuys retail store between July 2016 and May
7 2019.

8 10. On July 3, 2019, I also accessed the team member file for Mr. Garcia that includes
9 documents such as new-hire paperwork and is maintained by Target in the regular course of its business.
10 Attached hereto as **Exhibit A** is a true and correct redacted copy of the Employment Eligibility
11 Verification form (Form I-9) contained in Mr. Garcia's team member file, dated June 25, 2016.
12 Mr. Garcia listed Reseda, California as his address at hire.

13 I declare under penalty of perjury under the laws of the United States that the foregoing is true
14 and correct.

15 Executed on July 3, 2019, at Minneapolis, Minnesota.

16
17 

18 Michael Brewer

EXHIBIT A



Employment Eligibility Verification

Department of Homeland Security
U.S. Citizenship and Immigration Services

USCIS
Form I-9
OMB No. 1615-0047
Expires 03/31/2016

▶ START HERE. Read instructions carefully before completing this form. The instructions must be available during completion of this form.
ANTI-DISCRIMINATION NOTICE: It is illegal to discriminate against work-authorized individuals. Employers **CANNOT** specify which document(s) they will accept from an employee. The refusal to hire an individual because the documentation presented has a future expiration date may also constitute illegal discrimination.

Section 1. Employee Information and Attestation (<i>Employees must complete and sign Section 1 of Form I-9 no later than the first day of employment, but not before accepting a job offer.</i>)				
Last Name (<i>Family Name</i>) Garcia		First Name (<i>Given Name</i>) Sergio		Middle Initial
Other Names Used (<i>if any</i>)				
Address (<i>Street Number and Name</i>) Redacted		Apt. Number	City or Town Reseda	State CA
Zip Code 91335				
Date of Birth (<i>mm/dd/yyyy</i>) Redacted	U.S. Social Security Number	E-mail Address		Telephone Number

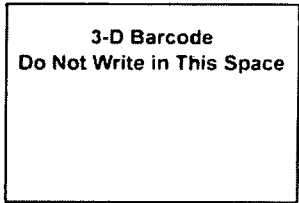
I am aware that federal law provides for imprisonment and/or fines for false statements or use of false documents in connection with the completion of this form.

I attest, under penalty of perjury, that I am (check one of the following):

- A citizen of the United States
- A noncitizen national of the United States (*See instructions*)
- A lawful permanent resident (Alien Registration Number/USCIS Number): _____
- An alien authorized to work until (expiration date, if applicable, mm/dd/yyyy) _____. Some aliens may write "N/A" in this field. (*See instructions*)

For aliens authorized to work, provide your Alien Registration Number/USCIS Number OR Form I-94 Admission Number:

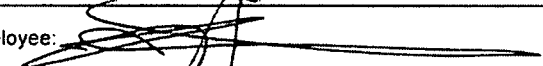
- 1. Alien Registration Number/USCIS Number: _____
- OR**
- 2. Form I-94 Admission Number: _____



If you obtained your admission number from CBP in connection with your arrival in the United States, include the following:

Foreign Passport Number: _____
Country of Issuance: _____

Some aliens may write "N/A" on the Foreign Passport Number and Country of Issuance fields. (*See instructions*)

Signature of Employee: 	Date (<i>mm/dd/yyyy</i>): 06/25/2006
--	--

Preparer and/or Translator Certification (*To be completed and signed if Section 1 is prepared by a person other than the employee.*)

I attest, under penalty of perjury, that I have assisted in the completion of this form and that to the best of my knowledge the information is true and correct.

Signature of Preparer or Translator:			Date (<i>mm/dd/yyyy</i>):	
Last Name (<i>Family Name</i>)		First Name (<i>Given Name</i>)		
Address (<i>Street Number and Name</i>)		City or Town	State	Zip Code

 **Employer Completes Next Page** 

1 JEFFREY D. WOHL (Cal. State Bar No. 096838)
RYAN D. DERRY (Cal. State Bar No. 244337)
2 ANNA M. SKAGGS (Cal. State Bar No. 319179)
PAUL HASTINGS LLP
3 101 California Street, 48th Floor
San Francisco, California 94111
4 Telephone: (415) 856-7000
Facsimile: (415) 856-7100
5 jeffwohl@paulhastings.com
ryanderry@paulhastings.com
6 annaskaggs@paulhastings.com

7 Attorneys for Defendant
Target Corporation

9 UNITED STATES DISTRICT COURT
10 EASTERN DISTRICT OF CALIFORNIA

12 SERGIO GARCIA, on behalf of himself
and all others similarly situated,

14 Plaintiff,

15 vs.

16 TARGET CORPORATION, a Minnesota
corporation; and DOES 1 through 50,
17 inclusive,

18 Defendants.

No.

**DECLARATION OF ANNA M. SKAGGS AND
REQUEST FOR JUDICIAL NOTICE IN
SUPPORT OF DEFENDANT TARGET
CORPORATION'S NOTICE OF REMOVAL OF
CIVIL ACTION**

Sacramento County Superior Court,
No. 34-2019-00254638-CU-OE-GDS

1 I, Anna M. Skaggs, declare:

2 1. I am a member of the Bar of this Court, an associate with Paul Hastings LLP, and one of
3 the attorneys representing defendant Target Corporation (“Target”) in this action. I make this
4 declaration and request for judicial notice in support of Target’s notice of removal of this action to this
5 Court. I have personal knowledge of the facts set forth in this declaration and request and could and
6 would competently testify to them under oath if called as a witness.

7 2. In the course of this litigation, we received from Target employment history and salary
8 data containing information for exempt employees holding the Executive Team Leader-Human
9 Resources (“ETL-HR”) position, who were employed by Target in California for the time period from
10 April 17, 2015, to June 8, 2019. This data was labeled as “Salary.csv.” We produced the same data to
11 Target’s expert, Dr. Paul F. White of Resolution Economics Group, LLC.

12 3. In the course of this litigation, we received from Target payroll data containing
13 information for exempt employees holding the ETL-HR position, who were employed by Target in
14 California for the time period from April 17, 2015, to June 8, 2019. This data was labeled as
15 “Payroll.csv.” We produced the same data to Target’s expert, Dr. Paul F. White of Resolution
16 Economics, LLC.

17 4. On July 5, 2019, I accessed the website maintained by the California Superior Court in
18 and for the County of Sacramento:

19 <https://services.saccourt.ca.gov/PublicCaseAccess/Civil/SearchByCaseNumber>

20 From the website I retrieved the Register of Actions (“ROA”) (docket report) for this action. A true
21 copy of the ROA I retrieved is attached to this declaration as Exhibit A. Pursuant to Rule 201, Federal
22 Rules of Evidence, I request on behalf of Target that the Court take judicial notice of the ROA.

23 I declare under penalty of perjury under the laws of the United States of America that the
24 foregoing is true and correct.

25 Executed on July 5, 2019, at San Francisco, California.

26
27 /s/ Anna M. Skaggs

28 Anna M. Skaggs

EXHIBIT A

 Register of Actions

Click the Preview button to see a preview of the document. Previewed documents contain every other page, up to a maximum of five pages. To purchase a full version containing all pages, check the checkbox for the document(s) you want and then click the Document Cart link at the top of the page to review your cart / check out.

ROA#	ROA Entry	Filed Date	Filed By	Pages
11	Answer (Defendant Target Corporation's Answer to Plaintiff Sergio Garcia's Unverified Complaint) filed.	07/02/2019	Target Corporation a Minnesota corporation(Defendant)	
10	Case Management Conference - Complex scheduled for 08/02/2019 at 10:00:00 AM in Department 29 at Gordon D Schaber Courthouse .	05/03/2019		
9	Correspondence (Notice of Assignment for Complex Case Management Determination) filed.	05/03/2019		4
8	Clerk's Certificate of Service By Mail (out of process) generated .	04/30/2019		1
7	Case reassigned to 29 effective 04/23/2019 .	04/30/2019		
6	Notice and Order of Complex Case Determination filed.	04/30/2019		1
5	Case assigned to Department 47 .	04/17/2019		
4	Designated a complex action on 04/18/2019 .	04/18/2019		
3	Civil Case Cover Sheet filed.	04/17/2019	Sergio Garcia on behalf of himself and all others similarly situated(Plaintiff)	
2	Summons filed.	04/17/2019	Sergio Garcia on behalf of himself and all others similarly situated(Plaintiff)	
1	Complaint filed.	04/17/2019	Sergio Garcia on behalf of himself and all others similarly situated(Plaintiff)	

1 JEFFREY D. WOHL (Cal. State Bar No. 096838)
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3 ANNA M. SKAGGS (Cal. State Bar No. 319179)
4 PAUL HASTINGS LLP
5 101 California Street, 48th Floor
6 San Francisco, California 94111
7 Telephone: (415) 856-7000
8 Facsimile: (415) 856-7100
9 jeffwohl@paulhastings.com
10 ryanderry@paulhastings.com
11 annaskaggs@paulhastings.com

12 Attorneys for Defendant
13 Target Corporation

14 UNITED STATES DISTRICT COURT
15 EASTERN DISTRICT OF CALIFORNIA

16 SERGIO GARCIA, on behalf of himself and all
17 others similarly situated,

18 Plaintiffs,

19 vs.

20 TARGET CORPORATION, a Minnesota
21 corporation; and DOES 1 through 50, inclusive,

22 Defendants.

No.

**DECLARATION OF PAUL F. WHITE,
PH.D., IN SUPPORT OF
DEFENDANT TARGET
CORPORATION'S NOTICE OF
REMOVAL OF CIVIL ACTION**

Sacramento County Superior Court,
No. 34-2019-00254638-CU-OE-GDS

1 I, Dr. Paul F. White, state as follows:

- 2 1. I am a Partner at Resolution Economics Group, LLC (“Resolution Economics”)
3 and head of the firm’s Washington, D.C. office. I have personal knowledge of the
4 matters set forth herein, and if called upon to testify, I could and would do so
5 competently under oath.
- 6 2. I have a Ph.D. in Labor Economics and I have been conducting economic and
7 statistical analyses of employment data professionally for 26 years. My work as a
8 professional Labor Economist includes experience analyzing data, preparing
9 reports of my findings, and testifying in wage and hour matters such as this. My
10 current résumé, including a list of cases in which I have provided expert
11 testimony, is found in Appendix A of this declaration.
- 12 3. Resolution Economics charges \$650 per hour for my services. I am supported by
13 members of my team whose times are charged at lower hourly rates.
- 14 4. I have been asked by Target Corporation (“Target”) through its outside counsel,
15 Paul Hastings LLP, to determine whether the sum of the statutory waiting-time
16 penalties, meal-period premiums and overtime wages for those classified as “ETL
17 Human Resources” exceed \$5 million for the time periods from April 17, 2015 to
18 present or April 17, 2016 to present, depending on the analysis.
- 19 5. I understand plaintiff alleges that since at least April 17, 2016, he experienced off-
20 the-clock work and therefore was not paid all of his earned wages at termination.
21 Furthermore, I understand plaintiff alleges that since at least April 17, 2015, he
22 was prohibited from taking meal breaks and not compensated in full for all
23 overtime work.
- 24 6. For purposes of this declaration, I analyzed the following data:
- 25 a. Payroll data that contains payment amounts and hours worked, entitled
26 “Payroll.csv.”
- 27 b. Salary data that contains most recent rates of pay and termination dates,
28

1 entitled "Salary.csv."

2 **Statutory Waiting-Time Penalties**

- 3 7. I calculated waiting-time penalties as follows, the full methodological details of
4 which can be found in Appendix B:
- 5 a. First, I identified relevant terminations as those "ETLs Human Resources" with a
6 non-missing termination date using the "Salary.csv" file for termination dates
7 from, and including, April 17, 2016 to present.
 - 8 b. I then calculate the hourly pay rate at termination by dividing the most recent pay
9 rate annual salaries assuming 2,080 hours worked per year.
 - 10 c. I then calculate the daily pay rate at termination by assuming eight hours worked
11 per day.
 - 12 d. For individuals with multiple termination records during the relevant time period,
13 I assume only one termination per person.
 - 14 e. For each individual with a relevant termination, I assume 30 days' worth of
15 penalties at the daily pay rate at termination.
 - 16 f. Based on the methodology and assumptions above, the value of statutory waiting-
17 time penalties placed at issue in the plaintiff's complaint is \$2,836,560 for 327
18 terminated individuals during the relevant time period.

19 **Meal-Period Premiums**

- 20 8. I calculated meal-period premiums as follows, the full methodological details of
21 which can be found in Appendix B:
- 22 a. First, I identified relevant payroll records as those records for "ETLs Human
23 Resources" with non-zero hours and amounts with earnings end date from, and
24 including, April 17, 2015 to present using the "Salary.csv" file.
 - 25 b. I then calculate the hourly wage rate for each record by using the comp rate, if
26 available, and dividing pay amount by hours otherwise.
 - 27 c. I then determine the number of pay periods associated with the relevant records
28

1 by identifying distinct values of payroll end date for each individual. The hourly
2 wage rate associated with each pay period is the minimum hourly wage rate for
3 pay periods with multiple records.

4 d. For each pay period, I assume two workweeks. For each workweek, I assume one
5 meal-period violation per workweek.

6 e. Based on the methodology and assumptions above, the value of meal-period
7 premiums placed at issue in the plaintiff's complaint is \$2,113,909 for 810
8 individuals during the relevant time period.

9 **Overtime Wages**

10 9. I calculated overtime wages as follows, the full methodological details of which
11 can be found in Appendix B:

12 a. First, I identified relevant payroll records as those records for "ETLs Human
13 Resources" with non-zero hours and amounts with earnings end date from, and
14 including, April 17, 2015 to present using the "Salary.csv" file.

15 b. I then calculate the overtime hourly wage rate for each record by using the comp
16 rate, if available, and dividing pay amount by hours otherwise. The overtime
17 hourly rate is 1.5 multiplied by the hourly wage rate.

18 c. I then determine the number of pay periods associated with the relevant records
19 by identifying distinct values of payroll end date for each individual. The
20 overtime hourly wage rate associated with each pay period is the minimum
21 overtime hourly wage rate for pay periods with multiple records.

22 d. For each pay period, I assume two workweeks. For each workweek, I assume one
23 overtime violation per workweek.

24 e. Based on the methodology and assumptions above, the value of overtime wages
25 placed at issue in the plaintiff's complaint is \$3,170,863 for 810 individuals
26 during the relevant time period.

Summary

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10. After calculating statutory waiting-time penalties, meal-period premiums and overtime wages, I note the following:
 - a. There are 810 individuals working in “ETL Human Resources” for the time period of April 17, 2015 to present, according to the payroll data.
 - b. For statutory waiting-time penalties, I calculate \$2,836,560 for 327 terminated individuals during the relevant time period
 - c. For meal-period premiums, I calculate \$2,113,909 for 810 individuals during the relevant time period.
 - d. For overtime wages I calculate \$3,170,863 for 810 individuals during the relevant time period.
 - e. After summing total values associated with statutory waiting-time penalties, meal-period premiums and overtime wages, I calculate a total of at least \$8,121,332 in controversy.

1 I declare under penalty of perjury under the laws of the United States that the
2 foregoing is true and correct to the best of my knowledge. If I receive additional
3 information that significantly changes my opinions, this declaration may be subject to
4 revision.

5
6
7 Paul F. White

Date: July 3, 2019

8 Paul F. White, Ph.D.
9 Partner
10 Resolution Economics, LLC
11 Washington, D.C.
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Appendix A

PAUL F. WHITE, Ph.D.
Partner

Professional Experience

Resolution Economics LLC – Washington D.C.

Dr. White is a labor economist with significant experience in all aspects of the application of labor economics and statistical methods to problems involving labor and employment issues. His practice areas cover all aspects of employment discrimination cases, including compensation, hiring, promotion, and termination. Dr. White's labor and employment practice also includes FLSA wage and hour cases, EEOC investigations, OFCCP investigations of federal contractors, proactive monitoring of compensation and employee selections, economic damages (single-plaintiff, multi-plaintiff, and class actions), union contract negotiations, and NLRB hearings. Additionally, Dr. White has conducted analyses on Title VI matters, police dispatch models, mutual fund trading practices, asbestos exposure, and prescription drug pricing. Dr. White has testified numerous times in local, state, and federal courts.

The Institute for Workplace Equality (Formerly “The OFCCP Institute”)

The Institute for Workplace Equality is a non-profit organization formed to assist the federal contractor community in responding to compliance regulations.

- Faculty Member (2014 – present)

ERS Group

- Managing Director – Washington, D.C. Office (2002 – 2015)
- Vice President (1998 – 2002)
- Research Economist (1993-1998)



Florida State University

Member of the graduate faculty for the Executive Management program. Taught courses in Economics and Analytic Research Methods.

- Adjunct Professor (1996 - 2002)

National Institutes of Health

Awarded fellowship to study the economics of aging.

- Research Fellow (1990 - 1993)

Womble, Carlyle, Sandridge, and Rice, Winston-Salem, NC

Researched and analyzed health insurance statistics to be used as evidence in a medical malpractice case.

- Consultant (1992)

Testimony

- *Everette Prince v. Barnes Group, Inc. and Bowman Distribution*; No. 5:94-CV-483-F(3), U.S. District Court, Eastern District of North Carolina, Western Division. (Declaration)
- *Kenneth Causey v. City of Gretna, Florida, et al.*; No. 94-40586-WS, U.S. District Court, Northern District of Florida, Tallahassee Division. (Deposition)
- *Joseph C. Mulé, et al. v. Larry Alton Carr, et al.*; No. 93-7395 Division "O" Civil Division, Circuit Court, 13th Judicial Circuit, in and for Hillsborough County, Florida. (Deposition)
- *Stuart N. Robins v. Flagship Airlines and AMR Corporation*; No. 94-C3589, Circuit Court, Davidson County, Tennessee. (Declaration)
- *Louise L. Wilson, Beowulf L. Snell, et al. v. Macon Telegraph Publishing Company, Inc.*; No. 5:95- CV-522-2 (DF), U.S. District Court, Middle District of Georgia, Macon Division. (Affidavit)



- David Hipp, Harry W. McKown, Jr., et al. v. Liberty National Life Insurance Company; No. 95- 1332-CIV-T-17A, U.S. District Court, Middle District of Florida, Tampa Division. (Deposition)
- Margaret H. Daniel v. University of Southwestern Louisiana; No. 95-2170, U.S. District Court, Western District of Louisiana, Lafayette-Opelousas Division. (Trial)
- Lois Gordon, et al. v. Columbia Gas & Electric, et al., No. 95-CI-0095, Court of Common Pleas, Civil Division, Marion County, Ohio. (Deposition)
- Connie Yon and Delores Bryant v. Department of Corrections and Steve Comeford; No. 93-4635, Second Judicial Circuit, Leon County, Florida. (Hearing)
- Sergio Bonich, et al. v. Herman Miller, Inc., No. 95-3455/CA21, Circuit, Court, 11th Judicial Circuit, Dade County, Florida. (Deposition)
- Caroline Burney v. Rheem Manufacturing Company, Inc., No. CV-97-D-1300-N, U.S. District Court, Middle District of Alabama, Northern Division. (Affidavit)
- Pamela L. Biggs v. State of Florida, Board of Regents, No. 1:96-CV-185-MMP, U.S. District Court, Northern District of Florida, Gainesville Division. (Deposition)
- Faith D. McKnight v. State of Florida, Department of Health and Rehabilitative Services, et al., No. 96-1167-CIV-J99(S), U.S. District Court, Middle District of Florida, Jacksonville Division. (Deposition)
- Grant H. Danskine, et al. v. Metro Dade County, No. 97-2068-CIV-HIGHSMITH, U.S. District Court, Southern District of Florida, Miami Division. (Affidavit and Deposition)
- Michael Corlett v. Fine Air Services, Inc., No. 97-3906-CIV-UNGARO-BENAGES, U.S. District Court, Southern District of Florida, Miami Division. (Affidavit)
- Gina Edwards v. University of Central Florida, Florida Board of Regents, et. al, No. CI 97-3420(32), Circuit Court, 9th Judicial Circuit, Orange County, Florida. (Deposition)
- Garry Joe Tawney v. The Bolles School, No. 97-03038 CA, Circuit Court, 4th Judicial Circuit, Duval County, Florida. (Deposition)
- Waymond Pollocks, et al., v. Sunland Training Center at Marianna, Florida, et al., No. TCA 87- 40103-RH, U.S. District Court, Northern District of Florida, Tallahassee Division. (Trial)



- Jeanette Robinson Ward v. Florida State Hospital, Department of Labor and Employment Security, Division of Workers' Compensation, District "A East". (Affidavit)
- Craig H. Hull v. Cash America International, Inc., No.98-607-CIV-ORL-19A, U.S. District Court, Middle District of Florida, Orlando Division. (Deposition)
- Robert Schanzer, and Robert R. Madison v. United Technologies Corporation, Pratt & Whitney Aircraft Division, No. 3:98CV00834, U.S. District Court, District of Connecticut. (Deposition and Trial)
- Donna Aldret v. State of Florida Department of Labor and Employment Security Division of Workers' Compensation, Claim No. 261-92-1891. (Deposition and Hearing)
- Wilma Nicole Stout v. Baxter Healthcare Corporation, No. 4:99 CV 129-EMB, U.S. District Court, Northern District of Mississippi, Greenville Division. (Affidavit)
- Theodore R. Perin v. County of Nassau, Nassau County Department of General Services and R.A. Augisiewicz, No. 95-024094, Supreme Court of the State of New York, County of Nassau. (Affidavit)
- National Association for the Advancement of Colored People, et al. v. State of Florida Department of Corrections, et al., No. 5:00-CV-100-OC-10, U.S. District Court, Middle District of Florida, Ocala Division. (Affidavits, Hearings, Depositions and Trial Testimony)
- Kenneth Epperson, et al. v. Pennzoil Products Company, No. CV97-1797, U.S. District Court, Western District of Louisiana, Shreveport Division. (Affidavits)
- American Federation of Government Employees, Local 1617, Kelly Air Force Base, San Antonio, Texas v. San Antonio Air Logistics Center, Kelly Air Force Base, San Antonio, Texas, FMCS No. 990929-17655-3. (Arbitration Testimony)
- Birmingham Airport Authority v. Alabama State Licensing Board for General Contractors, No. CV- 99-G-1504-S, U.S. District Court, Northern District of Alabama, Southern Division. (Deposition)
- Linda Rice Chapman v. Florida Department of Health and Rehabilitative Services, No. 96-23274- CA-09, Circuit Court for the Eleventh Judicial Circuit, Dade County, Florida. (Trial)
- Dunkin' Donuts/Third Dunkin' Donuts Realty, Inc. v. Al-Karim Kassam, et al., No. CIV00-1428 LH, U.S. District Court, District of New Mexico. (Affidavit)



- Jerry R. Pike and Patrick A. Thomas v. Lucent Technologies, Inc., No. 1 00-CV-1406 RWS, U.S. District Court, District of Georgia, Atlanta Division. (Deposition)
- Mary E. O'Shea v. Summit Bancorp, Jill Christians, Antoinette Foti, Kevin Gillen, and Mary Przybyla, No. L-9865-98, Superior Court of New Jersey, Law Division: Bergen County. (Affidavit)
- Michelle Iliadis and Angela Nelson-Croxtton v. Wal-Mart Stores, Inc., et al., No. L-5498-02, Superior Court of New Jersey, Middlesex County. (Deposition)
- John Kohlbek, William Schrack, and Michael Pritchard v. The City of Omaha, Nebraska, a Municipal Corporation, No. 8:03CV68, U.S. District Court, District of Nebraska. (Deposition)
- Shelley Hnot, et al. v. Willis Group Holdings Ltd., et al., No. 01-CV-6558 (GEL), U.S. District Court, Southern District of New York. (Declaration)
- International Association of Machinists and Aerospace Workers, et al. v. U-Haul International, Inc., et al., No. 28-CA-18783, National Labor Relations Board, Region 28. (Hearing)
- Rosa Scott v. Eastman Chemical Company, No. 2:03-CV-311, U.S. District Court, Eastern District of Tennessee, Greenville Division. (Deposition and Affidavit)
- Jacqueline McCoy v. Alberto Gonzales, No. 1:05 CV 371, U.S. District Court, Eastern District of Virginia, Alexandria Division. (Deposition)
- Lewis v. City of Chicago, No. 1:98 CV 05596, U.S. District Court, Northern District of Illinois, Eastern Division. (Deposition and Trial)
- Barkley, et al. v. Kmart Corporation and Melinda Hart, Civil Action 06-C-69, Circuit Court of Randolph County, West Virginia. (Deposition)
- Hillmann v. City of Chicago, No. 04 C 6671, U.S. District Court, Northern District of Illinois, Eastern Division. (Deposition)
- King v. ISG Weirton, Inc., Mittal Steel USA, Inc., et al., No. 5:06-CV-74, U.S. District Court, Northern District of West Virginia. (Affidavits)



- C. Westbrook Murphy and Harold Schuler v. PricewaterhouseCoopers, LLP, et al., No. 1:02cv982 (RJL)(DAR), U.S. District Court, District of Columbia. (Deposition)
- Shiloh, et al. v. New Cingular Wireless Services, Inc., et al., Case No. 05AS00372, Superior Court of the State of California, County of Sacramento. (Declaration)
- Vernon Walton v. Bluefield Regional Medical Center, Inc., No. 05-C-768-F, Circuit Court of Mercer County, West Virginia. (Deposition)
- Corline Allen, et al. v. McWane, Inc., No. 2-06CV-158, U.S. District Court, Eastern District of Texas, Marshall Division. (Affidavit)
- Lisa Svensson v. Putnam Investments LLC, et al., Case No. 04-12711-PBS, U.S. District Court, District of Massachusetts. (Deposition, Affidavit and Trial)
- Sharon Dye, et al. v. Kmart Corporation, et al., No. 06-C-121, Circuit Court of Wood County, West Virginia. (Affidavit)
- Keith Sharick v. Southeastern University of the Health Sciences, et al., No. 93-15077 (32), Circuit Court of the Eleventh Judicial Circuit, Dade County, Florida. (Deposition and Trial)
- Reginald Moore, et al. v. Chertoff, No. 00-953 (RWR)(DAR), U.S. District Court, District of Columbia. (Deposition)
- Claude Grant, et al. v. Metropolitan Government of Nashville and Davidson County, Tennessee, No. 3:04-0630, U.S. District Court, Middle District of Tennessee, Nashville Division. (Trial)
- Thomas Janusz v. City of Chicago, No. 03 C 4402, U.S. District Court, Northern District of Illinois, Eastern Division. (Deposition)
- Smithfield Food, Inc. and Smithfield Packaging Company v. United Food and Commercial Workers International Union, et al., No. 3:07CV641, U.S. District Court, Eastern District of Virginia, Richmond Division. (Deposition)
- Jason Campbell and Sarah Sobek v. PricewaterhouseCoopers LLP, No. 06-CV-02376 LKK GGH, U.S. District Court, Eastern District of California. (Declaration)



- Burch, et al. v. Qwest Communications International, Inc., et al., No. 06-CV-3523, U.S. District Court, District of Minnesota. (Deposition)
- Forrest Thomas v. Centennial Communications Corp., et al., Civil No. 2003/163, District Court of the Virgin Islands, Division of St. Croix. (Deposition)
- Starks, et al. v. H&R Block, Inc., No. 0622-CC00029, Circuit Court of the City of St. Louis, State of Missouri. (Affidavit)
- Dalton, et al. v. Lee Publications, et al., No. 08-CV-1072, U.S. District Court, Southern District of California. (Declaration)
- Taylor, et al. v. District of Columbia Water and Sewer Authority, Civil Action No. 01CV00561(HHK), U.S. District Court, District of Columbia. (Declaration and Deposition)
- Diaz, et al. v. Target Corporation, No. 8:10-CV-01103-AG-MLG, U.S. District Court, Central District of California. (Declaration)
- Zivali, et al. v. AT&T Mobility, et al., No. 08-CV-10310, U.S. District Court, Southern District of New York. (Deposition)
- Rodney Gooch, et al. v. Metropolitan Government of Nashville and Davidson County, Tennessee, No. 3:09-cv-00826, U.S. District Court, Middle District of Tennessee, Nashville Division. (Deposition)
- Parks, et al. v. Alpharma, Inc., et al., No. RBD-06-2411, U.S. District Court, District of Maryland. (Deposition)
- Young and Leite v. Simon, et al. and Acosta v. Simon, et al., Case Nos. BC433329 and BC434287, Superior Court of California, County of Los Angeles. (Deposition)
- Bickley, et al. v. Schneider National Carriers, Inc., Case No. 3:08-cv-05806-JSW (NMC), U.S. District Court, Northern District of California. (Declaration)
- Jeff Parmet v. PricewaterhouseCoopers LLP, Case No. 13 107 Y 00860 11, Before the American Arbitration Association. (Deposition and Arbitration)
- Hall, et al. v. Rite Aid Corporation, Case No. 37-2009-00087938-CU-OE-CTL, Superior Court of the State of California in and for the County of San Diego. (Deposition)



- David Moore v. Gilead Sciences, Inc., Case No. 3:07-cv-03850 SI, U.S. District Court, Northern District of California. (Deposition)
- Misty Neal, et al. v. The Cheesecake Factory Restaurants, Inc. (Arbitration Testimonies)
- Jesus Hernandez, et al. v. Ashley Furniture Industries, et al., Case No. 5:10-cv-05459-BMS, U.S. District Court, Eastern District of Pennsylvania. (Deposition)
- Miguel De La Cueva v. Alta-Dena Certified Dairy, LLC, et al., Civil Action No. CV 12-1804-GHK (CWx), U.S. District Court, Central District of California, Western Division. (Declaration)
- Nobles, et al. v. State Farm Mutual Automobile Insurance Company, Case No. 2:10-cv-04175, U.S. District Court, Central District of Missouri. (Declarations and Deposition)
- Linda Roberts v. Target Corporation, Case No. CV-11-951-HE, U.S. District Court, Western District of Oklahoma. (Declaration and Deposition)
- Gabriel Hernandez, et al. v. Creative Concepts, Inc., et al., Case No. 2:10-cv-02132-PMP-VCF, U.S. District Court, District of Nevada. (Deposition and Declaration)
- Romero, et al. v. Kmart Corporation, et al., Case No. BC527557, Superior Court of California, County of Los Angeles. (Declaration)
- Stacy Thompson v. Target Corporation, Case No. CV12-00010 MWF (MRWx), U.S. District Court, Central District of California. (Declarations)
- Hart, et al. v. Rick's Cabaret International, et al., No. 1:09-cv-03043-PAE-RLE, U.S. District Court, Southern District of New York. (Deposition and Declaration)
- Gasio v. Target Corporation, Case No. 2:14-cv-2214, U.S. District Court, Central District of California. (Declaration)
- Betties, et al. v. Target Corporation, Case No. 5:14-cv-00926, U.S. District Court, Central District of California. (Declaration)
- Grogan, et al. v. Holder, Case No. 1:08-cv-01747-BJR, U.S. District Court, District of Columbia. (Deposition)



- Fitzpatrick v. Booz Allen Hamilton, Inc., Civil Action No. 2011 CA 006775, Superior Court of the District of Columbia, Civil Division. (Deposition)
- EEOC v. Mavis Discount Tire, Inc., et al., No. 12-CV-0741 (KPF)(GWG), U.S. District Court, Southern District of New York. (Deposition and Affidavit)
- Gonzalez v. Local 52, International Alliance of Theatrical Stage Employees, et al., Case No. 2:14- cv-03407-JS-GRB, U.S. District Court, Eastern District of New York. (Deposition)
- Jimenez, et al. v. Moark LLC, et al. (dba Land O'Lakes), Case No. BC583048, Superior Court of the State of California for the County of Los Angeles – Central District. (Declaration)
- Sanchez, et al. v. McDonald's Restaurants of California, et al., Case No. BC499888, Superior Court of the State of California for the County of Los Angeles – Central District. (Depositions, Declarations and Trial)
- Rojas, et al. v. Target Corporation, Case No. 8:14-cv-01229-AG-RNB, U.S. District Court, Central District of California. (Declaration)
- Savannah, et al. v. Sodexo, Inc., et al., Case No. C15-02147, Superior Court of the State of California for the County of Contra Costa. (Declaration)
- LaPointe, et al. v. Target Corporation, Case No. 8:14-cv-01229-AG-RNB, U.S. District Court, Central District of California. (Declaration)
- Pitt, et al. v. The Times Picayune, L.L.C. and Advance Publications, Inc., Case No. 2:14-cv-68, et al., U.S. District Court, Eastern District of Louisiana. (Declaration)
- Bokanoski, et al. v. LePage Bakeries, et al., Case No. 3:15-cv-00021, U.S. District Court, District of Connecticut. (Declaration)
- Bowen v. Target Corporation, Case No. BC 602994, Los Angeles County Superior Court. (Declaration)
- Craft v. Target Corporation, Case No. BC 613268, Los Angeles County Superior Court. (Declaration)
- Daniels v. Target Corporation, Case No. BC 607742, Los Angeles County Superior Court. (Declaration)



- OFCCP v. WMS Solutions, LLC, Case No. 2015-OFC-00009, United States Department of Labor, Office of Administrative Law Judges. (Deposition and Hearing)
- Nesbitt v. University of Maryland Medical System, et al., Case No. 1:13-CV-00125-WDQ, U.S. District Court, District of Maryland. (Deposition)
- Artiaga, et al. v. Target Corporation, Case No. 16CECG01530, Fresno County Superior Court. (Declaration)
- Stuart Green v. Actin Biomed LLC, et al., No. 01-16-0000-6593, American Arbitration Association. (Deposition and Hearing)
- Lisa Ferguson, et al. v. Jeff B. Sessions and Federal Bureau of Prisons, EEOC No. 480-2016-00563x, Agency No. BOP-2012-0053, Equal Employment Opportunity Commission, Los Angeles Office. (Deposition)
- Halley, et al. v. Target Corporation, Case No. BC653367, Los Angeles County Superior Court. (Declaration)
- OFCCP v. Enterprise RAC Company of Baltimore, LLC, Case No. 2016-OFC-00006, United States Department of Labor, Office of Administrative Law Judges. (Declaration, Deposition and Hearing)
- Shoots, et al. v. iQor Holdings US Inc., Case No. 0:15-cv-00563, United States District Court, District of Minnesota. (Deposition)
- Urbina v. Comcast Inc., et al., Case No. 3:16-cv-09348-LB, United States District Court, Northern District of California. (Deposition)
- Loughrie, et al. v. Target Corporation, Case No. CIVDS1720075, San Bernardino County Superior Court. (Declaration)
- Espinoza, et al. v. Target Corporation, Case No. CIVDS1724914, San Bernardino County Superior Court. (Declaration)
- Sampson v. Vita-Mix Corporation, Case No. 17-cv-0233 GPC-BGS, United States District Court, Southern District of California. (Declaration)
- Anger v. General Motors LLC, Case No. 2:17-cv-10083, United States District Court, Eastern District of Michigan. (Deposition)



- Huang, et al. v. Twitter, Inc., Case No. CGC-15-544813, San Francisco County Superior Court. (Declaration)
- Noll, et al. v. Flowers Foods, Inc., et al. Case No. 1:15-cv-00493, United States District Court, District of Maine. (Deposition)
- Neff, et al. v. Flowers Foods, Inc., et al. Case No. 5:15-cv-00254, United States District Court, District of Vermont. (Deposition)
- De La Cruz, et al. v. Target Corporation, Case No. 37-2018-DDD11389-CU-OE-CTL, San Diego County Superior Court. (Declaration)
- Dennis Turner, et al. v. Jeff B. Sessions and Federal Bureau of Prisons, EEOC No. 541-2008-00255X, Agency No. P-2004-0296 and P2000-0138, Equal Employment Opportunity Commission, Denver Field Office. (Deposition)
- Amezquita, et al. v. Target Corporation, Case No. CIVDS1808827, San Bernardino County Superior Court. (Declaration)
- Topete, et al. v. Target Corporation, Case No. BCV-18-101145, Kern County Superior Court. (Declaration)
- Hudgins, et al. v. Total Quality Logistics, LLC, Case No. 1:16-cv-07331, United States District Court, Northern District of Illinois. (Deposition)
- Franklin v. Flowers Baking Co. of Houston, LLC, Case No. 01-17-0007-1081, American Arbitration Association. (Deposition)
- Lokosky v. Acclarent, Inc., Case No. 1:11-CA-11217-WGY, United States District Court, District of Massachusetts. (Deposition)
- Lara-Brown v. Flowers Baking Co. of Houston, LLC, Case No. 01-17-0007-1097, American Arbitration Association. (Arbitration)
- Marques, et al. v. Centerplate, Inc., et al., Case No. CGC-18-567402, San Francisco County Superior Court. (Declaration)



- Ayala, et al. v. GEICO, Case No. 7-18-cv-03583, United States District Court, Southern District of New York. (Declaration)
- Carr, et al. v. Flowers Foods, Inc., et al., Civil Action No. 15-6391 and Boulange, et al. v. Flowers Foods, Inc., et al., Civil Action No. 16-2581. (Deposition)
- Thomas, et al. v. Target Corporation, Case No. 19CIV00584, San Mateo County Superior Court. (Declaration)
- Eidson v. Board of Regents of the University of California, et al., Case No. RG17856649, Alameda County Superior Court. (Deposition and Trial)
- Langley v. International Business Machines Corporation, Case No. 1:18-cv-00443-LY, United States District Court, Western District of Texas. (Declaration)

Publications and Research Papers

- “9 Ways to Manage Risks Associated with Year-End Bonuses,” (with Rick Holt), Law360, December 16, 2016
- “Compensation Self-Audits,” Chicago Lawyer, Vol. 32, No. 8, August 2009
- “Layoffs and Statistical Evidence of Discrimination,” (with Edward Bierhanzl), Law360, December 18, 2008
- Reply to “Comments on ‘The Use of Attrition Rates for Economic Loss Calculations in Employment Discrimination Cases: A Hypothetical Case Study,’” (with Josefina V. Tranfa-Abboud and Fredrick M. Holt), Journal of Forensic Economics, Vol. XVIII, No. 1.
- “Recent Developments in the Analysis of Employment Practices,” (with Joan Haworth and Janet Thornton), Development in Litigation Economics, Vol. 87. Eds. Patrick Gaughan and Robert Thornton, Contemporary Studies in Economic and Financial Analysis. New York: Elsevier, 2005.
- “The Use of Attrition Rates for Economic Loss Calculations in Employment Discrimination Cases: A Hypothetical Case Study,” (with Josefina V. Tranfa-Abboud and Fredrick M. Holt), Journal of Forensic Economics, Vol. XVI, No. 2, Spring/Summer 2003 (Published September 2004).



- “The Numbers Game: Statistics offered to show discrimination may promise more than they prove,” (with Leslie Turner), Legal Times, Volume XXVII, No. 16, April 2004.
- “Cost-Efficient Use of Your Expert Witness – From the Expert Witness’ Point of View,” Bar Bulletin, Maryland State Bar Association, October 2002.
- “The Use of an Economist in Labor and Employment Disputes: Legal and Practical Considerations,” (with James Garrity), The Florida Bar Journal, Vol. LXXIV, No. 11, December 2000.
- “Approaches for Dealing With Small Sample Sizes in Employment Discrimination Litigation,” (with Michael J. Piette), Journal of Forensic Economics, Vol. XII, No. 1, Winter 1999.
- “Use of ‘Reverse Regression’ in Employment Discrimination Analysis,” (with Michael J. Piette), Journal of Forensic Economics, Vol. XI, No. 2, Spring/Summer 1998.
- Review of “Tenure, Discrimination, and the Courts” by Terry L. Leap, Journal of Forensic Economics, Vol. IX, No. 2, Spring/Summer 1996.
- Long-Term Care of the Disabled Elderly, “Working vs. Helping - A Caregiver's Dilemma,” Ph.D. Dissertation, Department of Economics, North Carolina State University, August, 1993.
- “The Proposed Virginia Coal Slurry Pipeline and Its Employment Effects on the Railroad Industry,” (with Ehsan Ahmed), Journal of Applied Business Research, Fall, 1990.

Presentations and Professional Meetings

- “Employment Class Action and FLSA Litigation: Tools and Techniques You Must Know,” (with JoAnna Brooks, Allegra Lawrence-Hardy, Cheryl Orr and Katherine Den Bleyker) The Knowledge Group Webinar, 2019.
- “International Equal Pay Legislation and Proactive Analysis” (with Kenneth Gage), The Institute for Workplace Equality Webinar, 2019.
- “Making and Messaging Pay Adjustments” (with David Fortney), The Institute for Workplace Equality 2019 Higher Education Compliance Symposium, Washington, DC, 2019.
- “Conducting Proactive Pay Analysis” (with Michael Aamodt), The Institute for Workplace Equality 2019 Higher Education Compliance Symposium, Washington, DC, 2019.



- “Pay Equity in Law Firms: Using Data to Identify and Address Potential Issues,” (with Julie Frizell) Association of Legal Administrators Webinar, 2019.
- “Pay Equity Compliance: Practical Guide for Employers in 2019,” (with Lynne Anderson, Amy Traub and Jonathan Segal) The Knowledge Group Webinar, 2019.
- “Pay Equity Analyses: Insights from the Experts,” (with David Cohen and Dan Kuang) Northeast Region Corporate Industry Liaison Group Conference, Newark, NJ, 2018.
- “Privileged Pay Equity Analysis,” (with Gretchen Ewalt) Capital Associated Industries Compensation and Benefits Conference, Raleigh, NC, 2018.
- “A Look at Federal and State Equal Pay Laws: Unique Perspectives from In-House Counsel, Outside Counsel, and a Labor Economist,” (with Zina Deldar and Peter Cooper) The Knowledge Group Webinar, 2018.
- “A Wave Of Audits Will Soon Be Upon Us: What Do We Do? How Do We Prepare?” (with Mickey Silberman), The Institute for Workplace Equality Fall Compliance Conference, Denver, CO, 2018.
- “UK and International Equal Pay Laws and Proactive Analysis” (with Jon Geier), The Institute for Workplace Equality Fall Compliance Conference, Denver, CO, 2018.
- “Strategic Issues When Conducting EEO Pay Studies?” (with Chris Wilkinson), The Institute for Workplace Equality Fall Compliance Conference, Denver, CO, 2018.
- “Big Data Algorithms and EEO: A Primer for Institute Attendees,” (with Eric Dunleavy) The Institute for Workplace Equality Annual Summit, Washington, D.C., 2018.
- “Pay Equity: Legal Developments and Practical Steps,” (with Joseph Sellers, Kris Meade, Jeremy Guinta and Lisa Lupion) Roundtable with ABA Section of Litigation, Employment and Labor Relations Committee, 2018.
- “UK Gender Pay Gap Disclosures: Lessons Learned and Next Steps,” (with David Cohen and Jon Geier) The Institute for Workplace Equality Webinar, 2018.
- “Pay Equity: Legal, Data, and Practical Considerations,” (with Elaine Reardon, Krissy Katzenstein and Tauseef Rahman) The Knowledge Group Webinar, 2017.



- “Using Big Data to Make Employment Decisions,” (with David Baffa, Annette Tyman and Kathleen Lundquist) Seyfarth Shaw Webinar, 2017.
- “Gender Pay Disparity – OFCCP and the New Reporting Regulations,” (with Andrew Kingsley and Liz Washko) The College of Labor and Employment Lawyers - 5th Circuit Annual CLE Event, New Orleans, LA, 2017.
- “Effective Use of Statistical Evidence in Employment Class Action Litigation: Practical Guide in 2017,” (with Dubravka Tomic, Brian Kriegler and Eric Savage) The Knowledge Group webinar. 2017.
- “Statistical Analysis of Discrimination,” moderator and session organizer (with Carole Amidon, Stephen Bronars and Elaine Reardon) Southern Economic Association conference, Washington, D.C., 2016.
- “Pay Equity in Practice: What Are Employers Doing, What Can They Do, and What Works?” (with Rachel Geman, Samantha C. Grant, Wendy L. Kahn and Tamika Lynch) ABA Labor and Employment Law Conference, Chicago, IL, 2016.
- “Data Issues Every Federal Contractor Needs to Understand” (with David Cohen and Jon Geier) The Institute for Workplace Equality Compliance Conference, Chicago, IL. 2016.
- “Pay Equity De-mystified: Practical Legal, Data, and Statistical Considerations,” (with Lori Andrus and Katie Mantoan) State Bar of California Labor & Employment Law Section webinar. 2016.
- “Pay Equity De-mystified: Practical Legal, Data, and Statistical Considerations,” (with Michael Lieder and Alison Marshall) Seminar and webinar presented by the Washington D.C. Bar Association. 2016.
- “Compensation: Data Issues Every Federal Contractor Needs to Understand,” (with David Cohen and Jon Geier) presented as part of a webinar series through The Institute for Workplace Equality. 2016.
- “What is Big Data and how Big Data Impacts Federal Contractors,” (with Valerie Hoffman and David Fortney) presented as part of The Institute for Workplace Equality’s “Big Data Webinar,” 2016.
- “Pay Equity Legislation and EEO-1 Reporting: Practical Strategies for Reducing Pay Discrimination,” (with Leigh M. Nason) presented as part of Ogletree Deakins’ “The Capital Area Employment Law Conference: The Changing Landscape Facing Employers in 2016,” Bethesda, MD, 2016.



- “Strategies for Successful OFCCP Compensation Compliance” (with Gary Siniscalco and David Cohen) presented as part of The Institute for Workplace Equality Compliance Conference, San Francisco, CA, 2016.
- “Adverse Impact Analysis” (with David Cohen) presented as part of The Institute for Workplace Equality Compliance Conference, San Francisco, CA, 2016.
- “Successful Testing and Validation Strategies” (with Eric Dunleavy and Mickey Silberman) presented as part of a webinar series through The Institute for Workplace Equality. 2015.
- “Conducting a Compensation Analysis in response to the New Scheduling Letter” (with W. Carter Younger and Mickey Silberman) presented as part of a webinar series through The Institute for Workplace Equality. 2015.
- “Strategies for Successful OFCCP Compensation Compliance” (with David Cohen, Leigh Nason, and Mickey Silberman) presented as part of The Institute for Workplace Equality Annual Summit, Washington, D.C., 2015.
- “Systemic Compensation” (with David Fortney) presented as part of The Institute for Workplace Equality Annual Summit, Washington, D.C., 2015.
- “Employment Discrimination: Economic and Statistical Evident,” ERS Group seminar, various dates and locations.
- “Crafting Effective and OFCCP Compliant Affirmative Action Plans,” ERS Group seminar, various dates and locations.
- “Analyzing and Monitoring Compensation in Today’s Regulatory Environment,” ERS Group seminar, various dates and locations.
- “Defending and Managing the Latest Off-the-Clock Claims Involving the Use of Smartphones/Mobile Devices Outside of Scheduled Hours and Working Remotely,” (with Linda M. Doyle and John J. Myers), presented as part of a seminar entitled "ACI Wage & Hour Claims and Class Actions," Miami, FL, 2015.
- “OFCCP Compliance Evaluations: Understanding and Using HR Data to Aid Compliance and Diversity Efforts,” (with Jon Geier and David Cohen), webinar presented by The Institute for Workplace Equality, September 2014.



- “Latest Developments in Class Actions: Update on Class Certification of Title VII and Other Discrimination Claims post-Dukes, and the Enforceability of Class Action Waivers in Arbitration Agreements,” (with William Martucci and Jeffrey Wohl), presented as part of a seminar entitled "ACI's Forum on Defending and Managing Employment Discrimination Litigation," New York, NY, 2014.
- “Understanding Multiple Regression Analysis,” (with David Cohen), and “Conducting the Statistical and Non-Statistical Analysis,” (with Jon Geier) presented as part of The Institute for Workplace Equality's “Assessing Compensation and Pay Equity Compliance with a Self-Audit” seminar, Washington, D.C., 2014.
- “Equal Pay Enforcement: Minimizing the Risks,” (with Leigh M. Nason and T. Scott Kelly) presented as part of Ogletree Deakins' “Corporate Labor and Employment Counsel” seminar, Charleston, SC, 2013.
- “How Labor Economists Correctly Analyze Contractor Pay Data in Anticipation of, or in Defense of, OFCCP Compensation Audits,” presented as part of a seminar entitled “National Employment Law Institute Affirmative Action Briefing,” Chicago, IL and Washington, D.C., 2013.
- “Class Actions: Update on Standards For Class Certification in the Wake of Walmart v. Dukes, McReynolds v. Merrill Lynch and Progeny, and the Intersection of Class Action Waivers and Arbitration in Light of Recent Supreme Court Rulings,” (with Donald R. Livingston, Gerald Maatman, and Jay W. Waks), presented as part of a seminar entitled "ACI's Forum on Defending and Managing Employment Discrimination Litigation," New York, NY, 2013.
- “Use (And Abuse) Of Experts In Class And Collective Actions,” (with A. Craig Cleland, Tracey T. Barbaree, and Chris R. Pace) presented as part of Ogletree Deakins' “Workplace Strategies 2013” seminar, New Orleans, LA, 2013.
- “The OFCCP And Affirmative Action—What Every Federal Contractor Must Know And Do,” (with Leigh M. Nason, Gretchen W. Ewalt, and T. Scott Kelly) presented as part of Ogletree Deakins' “Workplace Strategies 2013” seminar, New Orleans, LA, 2013.
- “Expert Analysis in FLSA Cases,” presented at the Florida Bar Association – Labor & Employment Law Section's Advanced Labor Topics 2013 Conference, Duck Key, FL, 2013.
- “Selection and Compensation Audits – A Statistical Review,” (with Rick Holt) presented to a meeting of the Maryland Association of Affirmative Action Officers, Columbia, MD, 2012.



- “Wage and Hour Litigation and Government Investigations: Trends, Types and the Turbulent Landscape for Employers,” (with Anne Marie Estevez, Howard M. Radzely, and John C. Ryan) presented as part of “ALM’s Litigation Summit and Exposition,” Washington, D.C., 2012.
- “Class and Pattern Cases: Emerging Trends and Issues,” (with Apalla Chopra, David Offen-Brown, and Roberta Steele) presented as part of Practising Law Institute’s “California Employment Law, 2012.
- “Class Actions: How to Advise Your Clients Given the Uncertainty of Class Action Law and Waivers post-Wal-Mart v. Dukes, AT&T Mobility v. Concepcion, and the NLRB Decision in DR Horton,” (with Jay W. Waks, Steven W. Suflas, Elise M. Bloom and Lynn C. Hermle), presented as part of a seminar entitled "ACI Defending and Managing Employment Discrimination Litigation," New York, NY, 2012.
- “I Was Told There Would Be No Math: What Every Employment Lawyer Should Know About Statistical Proof In Employment Matters,” (with Susan Dunning and Kris Meade) presented to the Washington Metropolitan Area Corporate Counsel Association (WMACCA), Washington, D.C., 2012.
- “Economic and Statistical Considerations in Wage & Hour Litigation” (with Jeff Goodman and Sarah Graves) presented as part of Heenan Blaikie’s CLE seminar entitled “The Overtime Bomb: Employee Class Actions,” Toronto, Ontario, 2012.
- “Employment Discrimination—Hot Topics & Trends” (with Craig Cleland) presented as part of the ALM “In-House Counsel Labor and Employment Forum,” New York, NY, 2012.
- “Keep It Ethical: Identifying and Addressing Wage and Hour Compliance Gaps, and Responding to Wage and Hour Division Investigations,” (with Paul DeCamp, Judith E. Kramer and Maritoni D. Kane) presented as part of Practising Law Institute’s “Managing Wage & Hour Risks 2012” program, New York, NY, 2012.
- “Expert Witnesses in Wage and Hour Litigation: Selection and Permissible Use of Expert Testimony” (with Michael Alaimo, Todd Jackson and Michael Rubin), presented as part of a seminar entitled "ACI Wage & Hour Claims and Class Actions," San Francisco, CA, 2011.
- “New Tools for the Calculation of Infringement Damages,” (with Roy Weinstein and Janet Thornton). Prepared for The Center of American and International Law, Plano, TX, October 2010.
- “Statistical Analyses of Compensation and Employee Selection – Practical Tips,” (with Edward Bierhanzl, Ph.D.). for the Triangle Industry Liaison Group. Raleigh, NC, 2010.



- Invited Mock Trial Witness. National Institute for Trial Advocacy. Advanced Advocates Program. Georgetown University Law School. Washington, D.C., 2009.
- “Use of Statistics in Employment Litigation,” presented as part of a seminar entitled “Federal Aviation Administration Personnel and Labor Law Conference,” Atlanta, GA, 2005.
- “Economic Damages: The Effects of Explicit and Implicit Methodological Decisions,” paper presented as part of a seminar entitled “Current Developments in Labor & Employment Law,” The Center of Continuing Professional Development, Louisiana State University, Baton Rouge, LA, 2005.
- “Employment Class Actions: Case Law Developments, Statistical Issues and Practical Suggestions,” (with Alison B. Marshall). Sponsored by the Bar Association of the District of Columbia, Washington, D.C., 2004.
- “The Use of Statistics in Employment Litigation: The Importance of Assumptions,” Employment Law Seminar, Sponsored by: Federal Bar Association, Broward County Chapter, Broward County Bar Association - Employment Law Section, Broward County Women Lawyers Association, Fort Lauderdale, Florida, 2003.
- “What Happens When We Assume: Don't Let It Happen to Your Economic and Statistical Expert,” paper presented as part of a seminar entitled “Current Developments in Labor & Employment Law,” The Center of Continuing Professional Development, Louisiana State University, Baton Rouge, LA, 2003.
- “The Use (and Misuse) of Economics and Statistics in Employment Litigation,” paper presented as part of a seminar entitled “Employment Law 2000: The Right Mix,” Louisiana State Bar Association, New Orleans, LA, 2000.
- “Analyzing Allegations of Discrimination in Termination Cases,” paper presented as part of a seminar entitled “Employee Discharge and Documentation,” Tallahassee, Florida, 1995-2000.
- “Private Sector Employment Opportunities for Economics Majors,” presentation for Omicron Delta Epsilon, Florida State University's economics honor society, Tallahassee, FL, 1998.
- “Approaches for Dealing With Small Sample Sizes in Employment Discrimination Litigation,” (with Michael J. Piette) paper presented at the Southern Economic Association Annual Meetings, Atlanta, GA, 1997.



- “The Use of ‘Reverse Regression’ in Employment Discrimination Analysis” (with Michael J. Piette), paper presented at the Allied Social Science Association Annual Meetings, New Orleans, Louisiana, 1997.
- “Employment Discrimination,” presentation for Alpha Kappa Psi, Florida State University's professional business fraternity, Tallahassee, FL, 1996.
- “Informal Caregivers of the Disabled: Applications for the Forensic Economist,” paper presented at the Southern Economic Association Annual Meetings, New Orleans, Louisiana, 1995.
- “Allocating Time to Caring and Working: Evidence from the National Long-Term Care Survey,” paper presented at the Southern Economic Association Annual Meetings, Orlando, Florida, 1994.
- “Estimating the Shadow Price of Informal Care,” paper presented at the Allied Social Science Association Annual Meetings, Boston, Massachusetts, 1994.
- “What President Clinton's Health Care Plan Will Mean to You,” lecture presented as part of the Valencia Community College Notable Speaker Series, Orlando, Florida, 1994.

Professional Association and Memberships

American Economics Association

National Association of Forensic Economics

Professional Journal Referee

Contemporary Economic Policy, Western Economic Association

Journal of Forensic Economics, National Association of Forensic Economics

Litigation Economics Review, National Association of Forensic Economics

Professional Journal Board of Editors

Journal of Business Valuation and Economic Loss Analysis, National Association of Certified Valuation Analysts.



Education

North Carolina State University

Doctor of Philosophy Labor/Health Economics, Minor in Statistics, 1993

Master's of Education, Economics, 1992

James Madison University

Bachelor of Science, Economics, 1989

Honors and Awards

National Institutes of Health Fellowship, 1990 to 1993

Specialization

Labor Economics, Health Economics, Economics of Aging

Appendix B

A) Data Used

1. Payroll Data: *Payroll.csv* (38,736 records)
2. Salary Data: *Salary.csv* (1,322 records)

B) Waiting Time Penalties

Using the *Salary* data, perform the following steps.

1. Retrieve relevant salary data for all salaried ETLs – Human Resources.
2. Calculate daily pay rate – For each relevant record, calculate daily pay rates using the below formula.

$$\text{Daily Pay Rate} = \text{Recent Pay Rate} / 52 \text{ weeks} / 5 \text{ days per week}$$

3. Flag termination records – Flag records as a termination record if the termination date is non-missing.
4. Limit to terminations during relevant time period – For records flagged as terminations, limit to instances where the termination date is on 4/17/2016 or later.
5. Calculate waiting-time penalties for each individual – For each individual (Employee ID) with a termination during the relevant time period, perform the following calculation.

$$\text{Waiting-Time Penalty by Person} = \text{Daily Pay Rate} * 30$$

(Note: Assume only one termination per person)

6. Calculate total waiting-time penalties – Total waiting-time penalties is the sum of all of the penalties associated with each individual with a relevant termination.

C) Meal-Period Premiums

Using the *Payroll* data, perform the following steps.

1. Flag and limit to relevant records – Flag records based on the below criteria. Limit to ETL-Human Resources records where all of the below are true. (n=201 records excluded)
 - Earnings end date is on or after 4/17/2015
 - Hours is non-zero
 - Pay amount is non-zero
2. Calculate hourly rate – Calculate hourly rate for each record using the below methodology.
 - If the comp rate is non-zero, set the Hourly Rate to the comp rate. For the four records with a negative comp rate, assume it should be positive (both amount and hours are negative for those four records).
 - If the comp rate is zero, then Hourly Rate = Pay Amount / Hours.

3. Group records within the same pay period – Group records based on the following criteria.
 - Group records with the same combination of TM # and pay period end date.
 - Determine the minimum hourly rate associated with each set of grouped ID/Dates (for pay periods with multiple records).
 - Exclude pay periods where pay period end date does fall on Saturday (n=11).
4. Calculate # workweeks per pay period – Generally assume two workweeks per pay period. If there are seven days between the current and previous pay period end date, assume one workweek for the pay period.
5. Calculate meal-period premiums per person – For each pay period perform the following calculation.

Meal-Period Premium by Pay Period = Hourly Rate * # Workweeks

At this point, sum up the premiums for each individual (TM #).
6. Calculate total meal-period premiums – The total meal-period premiums is the sum of all of the meal-period premiums associated with each individual.

D) Overtime Wages

The methodology is identical to the meal-period premiums. The only difference is the hourly rate calculated is multiplied by 1.5 to convert to an overtime rate. Otherwise, the methodology is the exact same (again, assuming one violation per workweek).

1 JEFFREY D. WOHL (Cal. State Bar No. 096838)
RYAN D. DERRY (Cal. State Bar No. 244337)
2 ANNA M. SKAGGS (Cal. State Bar No. 319179)
PAUL HASTINGS LLP
3 101 California Street, 48th Floor
San Francisco, California 94111
4 Telephone: 1(415) 856-7000
Facsimile: 1(415) 856-7100
5 jeffwohl@paulhastings.com
ryanderry@paulhastings.com
6 annaskaggs@paulhastings.com

7 Attorneys for Defendant
Target Corporation

9 UNITED STATES DISTRICT COURT
10 EASTERN DISTRICT OF CALIFORNIA

12 SERGIO GARCIA, on behalf of himself
and all others similarly situated,

14 Plaintiff,

15 vs.

16 TARGET CORPORATION, a Minnesota
17 corporation; and DOES 1 through 50,
inclusive,

18 Defendants.

No.

**DEFENDANT TARGET CORPORATION'S
DISCLOSURE STATEMENT**

Sacramento County Superior Court,
No. 34-2019-00254638-CU-OE-GDS

ClassAction.org

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