

VORYS SATER SEYMOUR AND PEASE LLP
Cory D. Catignani (Bar No. 332551)
cdcatignani@vorys.com
4675 MacArthur Court, Suite 700
Newport Beach, CA 92660
Telephone: (949) 526-7900
Facsimile: (949) 526-7901

Attorneys for Defendants
STERLING JEWELERS INC. and
SIGNET JEWELERS LTD

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF CALIFORNIA**

AMY MCCORMACK, as an individual
and on behalf of all others similarly
situated,

Plaintiff,

v.

STERLING JEWELERS INC., a
corporation; SIGNET JEWELERS LTD.,
a corporation; and DOES 1 through 50,

Defendants.

Case No. '22CV525 AJB BGS

**DEFENDANTS STERLING
JEWELERS INC. AND SIGNET
JEWELERS LTD'S NOTICE OF
REMOVAL**

Action Filed: March 4, 2022
Trial Date: None Set
Removal Date: April 15, 2022

TO THE CLERK OF THE ABOVE-ENTITLED COURT, AND TO AMY
MCCORMACK AND HER ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE that Defendants Sterling Jewelers Inc.
("Sterling") and Signet Jewelers LTD ("Signet") (collectively, "Defendants")
hereby remove the above-captioned action from the Superior Court for the State of
California, County of San Diego, to the United States District Court for the
Southern District of California, pursuant to 28 U.S.C. §§ 1332(d) and 1446.

As required by 28 U.S.C. § 1446(d), Defendants will file in the Superior
Court and serve upon Plaintiff and her counsel of record a Notice to State Court of
Removal of Civil Action to Federal Court (with these removal papers attached).

1 In support of this Notice of Removal, Defendants state the following:

2 **PROCEDURAL HISTORY**

- 3 1. Plaintiff Amy McCormack (“Plaintiff”) filed her Complaint, captioned *Amy*
4 *McCormack, as an individual and on behalf of all others similarly situated v.*
5 *Sterling Jewelers Inc., a corporation; Signet Jewelers LTD, a corporation; and*
6 *Does 1 through 50*, Case No. 37202200008433CUOECTL in the Superior
7 Court for the State of California for the County of San Diego (the “State Court
8 Action”) on March 4, 2022. A true and correct copy of the Complaint, including
9 the Proof of Service, is attached as **Exhibit 1** (“Complaint”).
- 10 2. The Complaint was served on Defendants on March 17, 2022. *See Exhibit 1.*
- 11 3. Defendants filed an answer to Plaintiff’s Complaint on April 13, 2022
12 (“Answer”). A true and correct copy of Defendants’ Answer is attached hereto
13 as **Exhibit 2**.

14 **STATEMENT OF JURISDICTION**

- 15 4. This Court has original jurisdiction over this action under the Class Action
16 Fairness Act of 2005 (“CAFA”). *See* 28 U.S.C. § 1332(d). In relevant part,
17 CAFA grants district courts original jurisdiction over civil class actions filed
18 under federal or state law in which any member of a class of 100 or more
19 putative class members is a citizen of a state different from any defendant and
20 the amount in controversy for the putative class members in the aggregate
21 exceeds \$5,000,000, exclusive of interest and costs. CAFA authorizes removal
22 of such actions pursuant to 28 U.S.C. § 1446. As set forth below, this case
23 meets all of CAFA’s requirements for removal and is timely and properly
24 removed by the filing of this Notice of Removal.
- 25 5. The Act applies to actions that were “commenced” on or after February 18,
26 2005. Because Plaintiff filed the State Court Action on March 4, 2022, it was
27 “commenced” on or after February 18, 2005, and removal is proper under
28 CAFA.

TIMELINESS OF REMOVAL

6. Pursuant to 28 U.S.C. § 1446(b), Defendants filed this removal within 30 days after receipt of service of the Complaint and Summons (March 17, 2022). *See Exhibit 1.*

VENUE

7. Plaintiff originally filed this action in the Superior Court for the State of California, County of San Diego. Venue is thus proper in this district, pursuant to 28 U.S.C. § 1441(a), because it encompasses the county in which this action is pending.

PROCEDURAL REQUIREMENTS

8. Pursuant to 28 U.S.C. § 1446(a), copies of all process, pleadings, and orders served upon Defendants are attached to this Notice of Removal.¹ Pursuant to 28 U.S.C. § 1446(d), a copy of this Notice of Removal is being served upon counsel for Plaintiff and a copy is being filed with the Clerk of the Superior Court for the State of California, County of San Diego.

DEFENSES

The removal of this action to the Northern District of California does not waive Defendants’ ability to assert any defense to this action. **REMOVAL UNDER**

THE CLASS ACTION FAIRNESS ACT

A. Plaintiff’s Action is Pled as a Class Action

9. Under CAFA, “‘class action’ means any civil action filed under rule 23 of the Federal Rules of Civil Procedure or similar State statute or rule of judicial procedure authorizing an action to be brought by one or more representative persons as a class action.” 28 U.S.C. § 1332(d)(1)(B).

¹ In conformity with the requirement of 28 U.S.C. § 1446(a), that copies of all process, pleadings and orders served upon Defendants in the State Court Action be included with this notice of removal, the State Court Action case file, other than those documents already attached as Exhibits 1 and 2, is attached as **Exhibit 3**.

1 10. The State Court Action has been styled as a class action, pursuant to California
2 Code of Civil Procedure section 382. *See* Complaint, ¶ 30. Cal. Code of Civ.
3 Pro. § 382 authorizes an action to be brought by one or more representative
4 persons as a class action. *See* Cal. Code of Civ. Pro. § 382.

5 **B. The Proposed Class Contains at Least 100 Members**

6 11. Pursuant to 28 U.S.C. § 1332(d)(5)(B), district courts will have original
7 jurisdiction over a class action case under CAFA if the number of members of
8 the putative plaintiff class is not less than 100.

9 12. This requirement is met here. Plaintiff’s Complaint proposes several different
10 classes, including:

- 11 a. “All Class Members who worked for Sterling Jewelers Inc. at any
12 time from March 4, 2018, through the date of trial in this action . .
13 . and were not paid all regular, overtime, or minimum wages for
14 all hours worked each pay period (‘Unpaid Wage Class’)”
- 15 b. “All Class Members who during the Class Period: [1] worked for
16 Sterling Jewelers Inc. [2] worked shifts of five hours or more
17 without a duty-free meal period of at least 30 minutes or shifts of
18 10 or more hours without a duty-free second 30-minute meal
19 period, and [3] were not paid one hour of meal period premium
20 pay at the regular rate of compensation for each of those days
21 (‘Meal Period Class’).”
- 22 c. “All Class Members who during the Class Period: [1] worked for
23 Sterling Jewelers Inc. and/or Signet Jewelers Ltd., [2] were paid a
24 meal period premium, and [3] who were paid commission,
25 bonuses, incentives, or other non-discretionary remuneration in the
26 same pay period in which they received a meal period premium
27 (‘Meal Period Premium Class’).”
- 28

- 1 d. “All Class Members who during the Class Period: [1] worked for
2 Sterling Jewelers Inc., [2] worked shifts of four hours or major
3 fraction thereof without being authorized or permitted an
4 uninterrupted rest period of at least 10 minutes, and [3] were not
5 paid one hour of rest period premium pay at the regular rate of
6 compensation for each of those days (‘Rest Period Class’).”
- 7 e. “All Class Members who during the Class Period [1] worked for
8 Sterling Jewelers Inc. and/or Signet Jewelers Ltd., [2] were paid a
9 rest period premium, and [3] who were paid commission, bonuses,
10 incentives, or other non-discretionary remuneration in the same
11 pay period in which they received a rest period premium (‘Rest
12 Period Premium Class’).”
- 13 f. “All Class Members who during the Class Period: [1] worked for
14 Sterling Jewelers Inc. and/or Signet Jewelers Ltd., [2] were paid
15 for sick leave or Covid-19 supplemental sick leave, and [3] were
16 not paid for such sick leave at a rate authorized by one of the
17 methods provided in the California Labor Code (‘Sick Leave
18 Underpayment Class’).”
- 19 g. “All Class Members who during the Class Period: [1] worked for
20 Sterling Jewelers Inc., [2] used their personal devices for required
21 work-related purposes, and [3] were not fully reimbursed for the
22 use of their personal devices (‘Reimbursement Class’).”
- 23 h. “All Class Members who: [1] belong to the Meal Period, Meal
24 Period Premium, Rest Period, Rest Period Premium, Sick Leave
25 Underpayment, and Unpaid Wage Classes, respectively, and [2]
26 who separated from employment with Sterling Jewelers Inc.
27 and/or Signet Jewelers Ltd. at any time from March 4, 2019
28 through the time of trial in this action (‘Waiting Time Class’).”

1 i. “All Class Members who: [1] belong to the Unpaid Wage, Meal
2 Period, Meal Period Premium, Rest Period, Rest Period Premium,
3 and Sick Leave Underpayment Classes, and [2] who received a
4 wage statement from Sterling Jewelers Inc. and/or Signet Jewelers
5 Ltd. at any time from March 4, 2021 through the time of trial in
6 this action (‘Wage Statement Class’).”

7 j. “All Class Members who belong to Classes (a)-(i) above and were
8 subject to Defendants unlawful or unfair business acts or practices
9 during the Class Period (‘UCL Class’).”

10 Complaint, ¶ 30(a)-(j).

11 13.Plaintiff herself alleges that there are more than 100 class members. Complaint,
12 ¶ 32. While Signet does not employ any non-exempt employees in California,
13 Sterling and Zale Delaware, Inc. (“Zale”), both subsidiaries of Signet, operate
14 a number of banners that employ non-exempt employees in the state of
15 California. See Declaration of Victoria Ortega (“Ortega Decl.”), attached
16 hereto as **Exhibit 4**, at ¶¶ 2-3.

17 14.There are approximately 5,240 potential class members (all current and former
18 non-exempt California employees (“team members”) working at one of the five
19 Sterling or Zale banners (collectively “All Banners”) during the Relevant
20 Period. See Declaration of Rebekah Smith (“Smith Decl.”), attached hereto as
21 **Exhibit 5**, at ¶ 40. Thus, the size of the proposed class is sufficient to meet
22 CAFA’s requirement for removal to federal court.

23 **C. There is Diversity Between at Least One Putative Class Member and**
24 **One Defendant**

25 15.CAFA’s minimal diversity requirement is satisfied, *inter alia*, when “any
26 member of a class of plaintiffs is a citizen of a State different from any
27 defendant.” 28 U.S.C. §§ 1332(d)(2)(A); 1453(b). Minimal diversity of
28 citizenship exists here because of Plaintiff and Sterling.

1 16. Allegations of residency in a state court complaint can create a rebuttable
2 presumption of domicile supporting diversity of citizenship. *Lew v. Moss*, 797
3 F.2d 747, 750-51 (9th Cir. 1986); *see also State Farm Mut. Auto. Ins. Co. v.*
4 *Dyer*, 19 F.3d 514, 519-20 (10th Cir. 1994) (allegation by party in state court
5 complaint of residency “created a presumption of continuing residence in [state]
6 and put the burden of coming forward with contrary evidence on the party
7 seeking to prove otherwise”); *Smith v. Simmons*, 2008 U.S. Dist. LEXIS
8 21162, at *22 (E.D. Cal. 2008) (place of residence provides “prima facie” case
9 of domicile).

10 17. Plaintiff is a resident of the State of California and alleges that she worked for
11 Defendants in the State of California. Complaint, ¶ 8. *See Lew* at 750 (holding
12 plaintiff’s place of employment can establish domicile for the purpose of
13 diversity jurisdiction). Therefore, Plaintiff is a citizen of the State of California.

14 18. Conversely, Sterling is not a citizen of California. For diversity purposes, a
15 corporation is deemed a citizen of its state of incorporation and the state where
16 it has its principal place of business. 28 U.S.C. § 1332(c)(1); *See also Hertz*
17 *Corp. v. Friend*, 559 U.S. 77, 80 (2010) (A corporation’s “principal place of
18 business” is “the place where a corporation’s officers direct, control, and
19 coordinate the corporation’s activities.”).

20 19. Sterling is a corporation organized under the laws of the State of Delaware. Its
21 principal place of business is in Akron, Ohio. Ortega Decl. at ¶ 4. For purposes
22 of diversity jurisdiction, therefore, Sterling is a citizen of Delaware and Ohio.²

23 20. The presence of Doe defendants in this case has no bearing on diversity with
24 respect to removal. *See Newcombe v. Adolf Coors Co.*, 157 F.3d 686, 690-691
25 (9th Cir. 1998); *see also* 28 U.S.C. § 1441(b) (“[f]or the purposes of
26

27 ² Although a single diverse defendant is sufficient to meet the threshold diversity requirement
28 under CAFA, Signet is a public company incorporated and with its principal offices located in
Bermuda, and thus is diverse for purposes of removal. *See Ortega Decl.* at ¶ 6.

1 removal...the citizenship of defendants sued under fictitious names shall be
2 disregarded”).

3 21. Accordingly, since Plaintiff is a citizen of a different state than Sterling,
4 minimal diversity exists for federal jurisdiction under CAFA. *See* 28 U.S.C.
5 §§ 1332(d)(2)(A).

6 **D. The Amount in Controversy Exceeds \$5,000,000³**

7 22. This Court has jurisdiction under CAFA, which authorizes the removal of class
8 actions in which, among the other factors mentioned above, the amount in
9 controversy for all class members exceeds \$5,000,000. *See* 28 U.S.C.
10 § 1332(d).

11 23. The removal statute requires that a defendant seeking to remove a case to
12 federal court must file a notice “containing a short and plain statement of the
13 grounds for removal.” 28 U.S.C. § 1446(a).

14 24. Plaintiff’s Complaint is silent as to the total amount in controversy. However,
15 Plaintiff’s failure to specify the total damages or other monetary relief sought
16 does not deprive this Court of jurisdiction. Rather, when the plaintiff fails to
17 plead a specific amount of damages, the defendant seeking removal “must prove
18 by a preponderance of the evidence that the amount in controversy requirement
19 has been met.” *See Rodriguez v. AT&T Mobility Servs.*, 728 F.3d 975, 977 (9th
20 Cir. 2013) (“the proper burden of proof imposed upon a defendant to establish
21 the amount in controversy is the preponderance of the evidence standard.”).

22 25. This burden is not onerous and does not obligate a removing defendant to
23 “research, state, and prove the plaintiff’s claims for damages.” *Korn v. Polo*
24 *Ralph Lauren Corp.*, 536 F.Supp.2d 1199, 1204-1205 (E.D. Cal. 2008). Rather,
25 “[t]he ‘ultimate inquiry’ is what amount is put ‘in controversy’ by the plaintiff’s
26

27 ³ Defendants provide the following calculations only to demonstrate that the amount in
28 controversy exceeds \$5,000,000. Defendants make no admission of liability or damages with
respect to any aspect of this case, nor do Defendants waive their right to ultimately contest the
proper amount of damages due, if any, should Plaintiff prevail with any of her claims.

1 complaint, not what a defendant will *actually* owe.” *Id.* (citing *Rippee v.*
2 *Boston Mkt. Corp.*, 408 F. Supp. 2d 982, 986 (S.D. Cal. 2005)). In determining
3 the amount in controversy for CAFA, all potential damages based on the claims
4 in the complaint, as well as attorneys’ fees, are included. *See Campbell v.*
5 *Vitran Express, Inc.*, 471 Fed. App’x 646, 648 (9th Cir. 2012) (in measuring the
6 amount in controversy, a court “must assume that the allegations of the
7 complaint are true and assume that a jury will return a verdict for the plaintiff
8 on all claims made in the complaint.”) (quotations and citations omitted).

9 26. The United States Supreme Court has held that “as specified in §1446(a), a
10 defendant’s notice of removal need include only a plausible allegation that the
11 amount in controversy exceeds the jurisdictional threshold.” *Dart Cherokee*
12 *Basin Operating Co., LLC v. Owens*, 574 U.S. 81, 89 (2014). Only if the
13 plaintiff contests or the court questions the allegations of the notice of removal,
14 is supporting evidence required. *See id.* Otherwise, “the defendant’s amount-
15 in-controversy allegation should be accepted” just as a plaintiff’s amount-in-
16 controversy allegation is accepted when a plaintiff invokes federal court
17 jurisdiction. *Id.* at 87.

18 27. In establishing the amount in controversy, a removing party is entitled to make
19 reasonable assumptions. *Ibarra v. Manheim Invs., Inc.*, 775 F.3d 1193, 1199
20 (9th Cir. 2015); *see also Oda v. Gucci Am., Inc.*, No. 2:14-cv-7468-SVW (JPRx)
21 and 2:14-cv-07469-SVW (JPRx), 2015 U.S. Dist. LEXIS 1672, at *10 (C.D.
22 Cal. 2015) (“Where, as here, a plaintiff makes generalized allegations regarding
23 the frequency of violations, a defendant may calculate the amount in
24 controversy based on reasonable assumptions.”).

25 28. Moreover, Congress intended that any uncertainty of the removability of an
26 interstate class action be resolved in favor of federal jurisdiction. *See Senate*
27 *Judiciary Committee Report*, S. REP. 109-14, at 42 (“if a federal court is
28 uncertain about whether ‘all matters in controversy’ in a purported class action

1 ‘do not in the aggregate exceed the sum or value of \$5,000,000,’ the court
2 should err in favor of exercising jurisdiction over the case.”).

3 29. In sum, Defendants deny the validity and merits of Plaintiff’s claims, the legal
4 theories upon which they are purportedly based, and the claims for monetary
5 and other relief that flow from them. Nevertheless, and notwithstanding
6 Plaintiff’s failure to allege the total amount of damages claimed, the amount in
7 controversy as alleged by Plaintiff in this case exceeds \$5,000,000.

8 30. Plaintiff worked for Sterling under the Jared banner. Complaint, ¶ 9. Therefore,
9 to the extent she is asserting claims against Sterling specifically (as opposed to
10 the claims alleged against Sterling and Signet), Defendants only considered
11 other Jared non-exempt California employees.

12 **1) Failure to Pay Overtime**

13 31. Plaintiff’s second cause of action is for the alleged failure to pay overtime
14 compensation pursuant to California Labor Code Sections 510 and 1194.
15 Complaint, ¶¶ 44-48. She asserts this on behalf of the “Unpaid Wage Class” as
16 defined in the Complaint. *Id.* at ¶ 45.

17 32. Each non-exempt employee is entitled to be paid one and one-half times her
18 regular rate of pay for time worked in excess of eight (8) hours per workday
19 and/or more than forty (40) hours per workweek. Cal. Lab. Code § 510.

20 33. Plaintiff pleads that “Defendants failed in their affirmative obligation to pay
21 Plaintiff and the Unpaid Wage Class no less than one and one-half times their
22 respective ‘regular rate of pay’ for all hours worked in excess of eight hours in
23 one day, 40 hours in one week, or the first eight hours worked on the seventh
24 day of work in any one workweek, and no less than twice their respective
25 ‘regular rate of pay’ for all hours over 12 hours in one day and any work in
26 excess of eight hours on any seventh day of a workweek in violation of Labor
27 Code sections 510, 1194, and 1198 and the IWC Wage Orders.” Complaint,
28 ¶ 46. She alleges that this was the result of “Defendants’ practice of requiring

1 employees to perform work duties during unpaid meal periods.” Complaint,
2 ¶ 16.

3 34. Courts have routinely held that an assumption of one hour of unpaid overtime
4 per week is reasonable, particularly when, as here, the complaint alleges a
5 practice of failing to pay overtime wages. *Danielsson v. Blood Ctrs. of the Pac.*,
6 No. 19-cv-04592-JCS, 2019 U.S. Dist. LEXIS 222539, at *21 (N.D. Cal. Dec.
7 30, 2019) (“Courts in this circuit have held that an hour of unpaid overtime per
8 week is a reasonable estimate when the complaint alleges a pattern and practice
9 of failing to pay overtime wages.”) (internal quotations omitted) (citing *Kastler*
10 *v. Oh My Green, Inc.*, No. 19-cv-02411-HSG, 2019 U.S. Dist. LEXIS 185484,
11 at *12 (N.D. Cal. Oct. 25, 2019) and *Arreola v. Finish Line*, No. 14-CV-03339-
12 LHK, 2014 U.S. Dist. LEXIS 170464, at *7 (N.D. Cal. Dec. 9, 2014)) (“Where,
13 as here, a proposed class includes all employees during the class period, and the
14 plaintiff pleads that an employer has a regular or consistent practice of violating
15 employment laws that harmed each class member, such an allegation supports
16 a defendant's assumptions that every employee experienced at least one
17 violation once per week.”)).

18 35. The average hourly rate of non-exempt Jared employees in California for the
19 period of time from March 4, 2018 to the present is \$18.74. Smith Decl. ¶ 35.
20 The overtime rate for this one hour of pay would therefore be \$28.11 (1.5 x
21 \$18.74).

22 36. During the Class Period, there were 25,913 weeks where a Jared employee was
23 eligible for overtime pay because they worked more than eight hours in one
24 day, forty hours in one week, or seven consecutive days (“Overtime Eligible
25 Weeks”). See Smith Decl. at ¶ 29.

26 37. As set forth above, Plaintiff alleges that Defendants maintained a policy and
27 practice of failing to properly pay overtime. As such, Defendants will
28

1 conservatively assume 1 hour of unpaid overtime per week during Overtime
2 Eligible Weeks for Jared employees.

3 38. Multiplying the assumed hours of unpaid overtime by the average hourly
4 overtime rate for the putative class, this cause of action puts **\$728,414.43** in
5 controversy (25,913 x \$28.11).

6 **2) Failure to Provide Meal Periods and Permit Rest Breaks**

7 39. In the third and fourth causes of action, Plaintiff alleges that she and others were
8 not given proper meal and rest breaks. Complaint, ¶¶ 49-58. California Labor
9 Code Section 226.7(b) establishes that an employee who does not receive a
10 meal or rest period to which she is entitled shall be paid one hour of pay at her
11 regular rate of compensation as premium pay. *See* Cal. Lab. Code 226.7(b).
12 Plaintiff asserts that she is entitled to premium pay for missed meal and rest
13 periods under Section 226.7 of the Labor Code. Complaint at Part (D) of
14 “Prayer” Section.

15 40. Plaintiff alleges that “Defendants had a pattern and practice of failing to provide
16 timely, off-duty 30-minute meal periods...” and that “Defendants had a pattern
17 and practice of failing to authorize or *permit* ten-minute rest periods for every
18 four hours of work or major fraction thereof as required by Labor Code section
19 226.7 and section 12 of the applicable IWC Wage Order.” Complaint, ¶¶ 17,
20 20. Plaintiff further alleges that “Defendants willfully failed in their affirmative
21 obligation to consistently provide Plaintiff and the Meal Period Class
22 compliant, duty-free meal periods” and “willfully failed in their affirmative
23 obligation to consistently authorize and permit Plaintiff and the Rest Period
24 Class to receive complaint, duty-free rest periods.” Complaint, ¶¶ 51, 56.

25 41. Numerous Courts have held that assuming a 100% violation rate is permissible
26 for determining the amount in controversy when a Complaint does not contain
27 more detailed allegations that would suggest such an assumption is incorrect.
28 *See, e.g., Mejia v. DHL Express (USA), Inc.*, No. 15-890-GHK (JCx), 2015 U.S.

1 Dist. LEXIS 67212, at *10 (C.D. Cal May 21, 2015) (using a 100% violation
2 rate to calculate the amount in controversy where the plaintiff’s complaint “does
3 not contain any allegations that suggest a 100% violation rate is an
4 impermissible assumption.”); *Muniz v. Pilot Travel Ctrs.*, No. CIV. S-07-0325
5 FCD EFB, 2007 U.S. Dist. LEXIS 31515, at *12-*13 (E.D. Cal. April 30, 2007)
6 (“[P]laintiff includes no fact-specific allegations that would result in a ...
7 violation rate that is discernibly smaller than 100% Plaintiff is the master
8 of her claims, and if she wanted to avoid removal, she could have alleged facts
9 specific to her claims which would narrow the scope of the putative class or the
10 damages sought.”). This is especially true here since Plaintiff has alleged that
11 Defendants had a “pattern and practice” of not providing complaint meal and
12 rest periods. In such situations, courts regularly find that 50% to 100% assumed
13 violation rates are appropriate. *See Giannini v. Nw. Mut. Life Ins. Co.*, No. C
14 12-77 CW, 2012 U.S. Dist. LEXIS 60143, at *11 (N.D. Cal. Apr. 30, 2012)
15 (allegations of “routine” violations supported assumption of 100% violation
16 rate); *Elizarraz v. United Rentals, Inc.*, No. 2:18-CV-09533-ODW (JC), 2019
17 U.S. Dist. LEXIS 62065, at *10-11 (C.D. Cal. Apr. 9, 2019) (finding a 50%
18 violation rate (of every day worked) for missed meal periods and a 25%
19 violation rate (of every day worked) for missed rest periods reasonable based
20 on ‘pattern and practice’ allegations); *see also Long v. Destination Maternity*
21 *Corp.*, No. 15cv2836-WQH-RBB, 2016 U.S. Dist. LEXIS 54323, at *24 (S.D.
22 Cal. Apr. 21, 2016) (finding a violation rate of once per week for both meal
23 periods and rest periods).

24 42. Nonetheless, and in spite of an allegation of consistent violations, Defendants
25 will conservatively assume that Plaintiff alleges a missed meal period for 25%
26 of meal-period-eligible shifts and a missed rest period for 25% of rest-period-
27 eligible shifts. This assumption is reasonable and more conservative than those
28 discussed above. It is less than the 50% or 100% violation rates that courts have

1 found reasonable. It is also more conservative than a once-per-week assumption
2 that is not limited to meal or rest-period eligible shifts. Defendants' approach,
3 conversely, only focuses on shifts that would entitle employees to meal or rest
4 breaks and assumes a relatively low violation rate for those shifts.

5 43. Defendants used the average hourly rate of all Jared employees to calculate the
6 amount these claims place into controversy. *Sanchez v. Russell Sigler, Inc.*, No.
7 CV 15-01350-AB (PLAx), 2015 U.S. Dist. LEXIS 55667, at *11 (C.D. Cal.
8 April 28, 2015) ("Defendant's use of an average hourly wage was proper for
9 determining the amount in controversy."); *Coleman v. Estes Express Lines, Inc.*,
10 730 F. Supp. 2d 1141, 1150 (C.D. Cal. 2010) ("it is preferable for defendants to
11 calculate the average hourly wage based on the average wage of all class
12 members." (internal citation and quotation marks omitted)).

13 44. The average hourly rate of non-exempt Jared employees in California for the
14 period of time from March 4, 2018 to the present is \$17.56. Smith Decl. ¶ 25.
15 Additionally, Jared employees worked 140,877 meal-period-eligible shifts and
16 152,081 rest-period-eligible shifts during that same time period. *See* Smith
17 Decl. ¶¶ 30, 33.

18 45. As specified above, for purposes of calculating the amount in controversy,
19 Defendants assume a violation rate of 25% for both the meal- and rest-period
20 claims. Thus, the meal-period claim places \$618,450.03 in controversy ($\$17.56$
21 $\times 140,877 \times .25$) and the rest-period claim places \$667,635.59 in controversy
22 ($\$17.56 \times 152,081 \times .25$).

23 46. In total, then, the third and fourth causes of action place **\$1,286,085.62** in
24 controversy.

25 **3) Failure to Timely Pay Wages During Employment**

26 47. Plaintiff's fifth cause of action is for the failure to timely pay wages during
27 employment, pursuant to California Labor Code Sections 204 and 210. Labor
28 Code Section 204 provides that "labor performed between the 1st and 15th days,

1 inclusive, of any calendar month shall be paid for between the 16th and the 26th
2 day of the month during which the labor was performed, and labor performed
3 between the 16th and the last day, inclusive, of any calendar month, shall be
4 paid for between the 1st and 10th day of the following month.” Cal. Lab. Code
5 § 204.

6 48. Plaintiff alleges that “Defendants willfully failed in their affirmative obligation
7 to timely pay all wages and premiums earned by Plaintiff and certain Class
8 Members twice during each calendar month on days designated in advance by
9 the employer as regular paydays (for employees paid on a non-weekly basis)
10 and on regularly-scheduled weekly payday weekly employees, if any, in
11 violation of Labor Code sections 204 and 204b and the IWC Wage Orders.”
12 Complaint, ¶ 61.

13 49. Plaintiff asserts this claim on behalf of employees at All Banners for the period
14 beginning one year prior to the filing of the Complaint. Complaint, ¶ 60.

15 50. This claim is derivative of Plaintiff’s other alleged Labor Code Violations.
16 Specifically, Plaintiff alleges that “Because Defendants did not pay Plaintiff and
17 the Class for all wages/premiums owed each pay period [during] their
18 employment (*i.e.*, overtime, sick leave pay, supplemental sick leave pay, meal
19 and rest premiums), Defendants failed to timely pay all wages owed on time
20 each pay day....” Complaint, ¶ 25.

21 51. Plaintiff alleges that the penalties for not complying with Labor Code Section
22 204 are \$100 for each initial violation for each putative class member and \$200
23 for each subsequent violation for each putative class member. Complaint, ¶ 62;
24 Cal. Lab. Code § 210.

25 52. During the period beginning one year prior to the filing of the Complaint, there
26 were 37,671 pay periods for 2,499 different non-exempt employees in
27 California working for All Banners. Smith Decl. ¶¶ 23, 41.
28

1 53. Since this claim is derivative of several other underlying Labor Code claims that
2 were alleged to occur “consistently” and/or as a “pattern and practice”
3 (Complaint, ¶¶ 17, 20, 52, 57), it is reasonable to assume a 100% violation rate.
4 *Wheatley v. MasterBrand Cabinets, LLC*, No. EDCV 18-2127 JGB (SPx), 2019
5 U.S. Dist. LEXIS 26201, at *19-20 (C.D. Cal. Feb. 19, 2019).

6 54. Moreover, Plaintiff alleges that *all* meal period premiums, sick pay, and
7 COVID-19 Supplemental Sick Leave were paid at the incorrect rate in weeks
8 where putative class members had “remuneration in addition to their respective
9 base hourly rate for hours worked (*e.g.*, bonuses, commissions, etc.)”
10 Complaint, ¶¶ 22-23, 52, 72-73. There were 10,879 pay period where a meal-
11 period premium was paid to an employee in a week where the employee also
12 received other remuneration above their base rate of pay, 3,345 pay periods
13 where an employee used sick hours during a week where the employee also
14 received other remuneration above their base rate of pay, and 501 pay periods
15 where an employee used supplemental COVID-19 sick leave during a week
16 where the employee also received other remuneration above their base rate of
17 pay, for a total of 14,725 pay periods, or 39.08% of all pay periods during the
18 year preceding the Complaint. *See* Smith Decl., ¶¶ 31, 34, 36.

19 55. Nonetheless, Defendants will conservatively use a 25% violation rate, meaning
20 that 9,417 pay periods would contain a timely pay violation for purposes of this
21 assumption (37,671 x .25, rounded down).

22 56. Thus, the proper measure of damages is \$100 to each class member for the first
23 violation they experienced, resulting in \$249,900.00 in penalties for first
24 statements (\$100 x 2,499 employees). The remaining 6,918 pay periods would
25 allegedly represent subsequent violations paid at \$200 per violation, for a total
26 of \$1,383,600.00 in penalties for subsequent violations (\$200 x 6,918 pay
27 periods). Thus, in total, this claim places **\$1,633,500.00** in controversy
28 (\$249,900 + \$1,383,600).

4) Failure to Provide Accurate Wage Statements

57. Plaintiff's sixth cause of action alleges that Defendants failed to include all required information on the wage statements it provided to non-exempt employees working for All Banners in California and thus failed to provide accurate wage statements in violation of California law. Complaint, ¶ 65.

58. Specifically, Plaintiff alleges, "Defendants knowingly and intentionally failed in their affirmative obligation provide [sic] accurate itemized wage statements to Plaintiff and the Wage Statement Class in violation of Labor Code section 226(a)." *Id.*

59. California Labor Code Section 226(e) requires an employer to pay fifty dollars (\$50.00) for the first pay period where a violation occurred and one-hundred dollars (\$100.00) per employee for each violation in subsequent pay periods. Claims have a statute of limitations of one year. Cal. Lab. Code §§ 226(e), 340.

60. Wage-statement claims are typically derivative of other alleged Labor Code violations, as they are here. This Court has held that a 100% violation rate is reasonable when a plaintiff "provides no evidence . . . that there were ever any wage statements that included the requisite 'accurate itemization' of overtime, missed meal breaks, and rest breaks." *Ramirez v. Caefusion Res., LLC*, No. 18-cv-2852-BEN-MSB, 2019 U.S. Dist. LEXIS 112995, at *11 (S.D. Cal. Jul. 1, 2019). Here, Plaintiff offers the additional argument that Defendants incorrectly calculated the regular rate of pay used to pay out meal- and rest-break premiums and sick-leave benefits, meaning that she is alleging that Defendants paid meal- and rest-break premiums and sick pay inaccurately even in the instances where such payments were made. *See* Complaint, ¶¶ 19, 21-23. She also alleges that Defendants' "pattern and practice" was to fail to authorize or permit rest periods and to "consistently provide timely, off-duty 30-minute meal periods." Complaint, ¶¶ 17, 20.

1 61. Plaintiff claims that these underlying alleged Labor Code violations, resulted in
2 at least forth different wage statement inaccuracies. *See* Complaint, ¶¶ 26, 66
3 (alleging failure to state gross wages earned, failure to state net wages earned,
4 failure to state all applicable hourly rates, and inaccurate listing of total hours
5 worked because of other alleged Labor Code violations). If any one of these
6 listed inaccuracies were shown on a given wage statement, Plaintiff claims a
7 wage-statement violation would be present. In these circumstances, other
8 courts have also held that a “Defendant may reasonably assume every wage
9 statement contained at least one inaccuracy.” *Wheatley*, 2019 U.S. Dist. LEXIS
10 26201, at *20. The reasonableness of assuming at least one inaccuracy on every
11 wage statement is particularly strong when the complaint, like the Complaint
12 here, alleges a lengthy list of potential violations. *Mejia*, 2015 U.S. Dist. LEXIS
13 67212, at *12-14.

14 62. Thus, it would be proper to add penalties to each wage statement provided in
15 the relevant period. Nonetheless, to be conservative, Defendants assume that
16 only 50% of wage statements contained at least one inaccuracy.

17 63. During the period beginning one year prior to the filing of the Complaint, there
18 were 37,671 wage statements issued to 2,499 different non-exempt employees
19 in California working at All Banners. Smith Decl. ¶¶ 23, 41.

20 64. Thus, the proper measure of damages is \$50 to each class member for the first
21 violation they experienced, resulting in \$124,950.00 in penalties for first
22 statements (\$50 x 2,499 class members). The remaining 16,336 wage
23 statements, then, would presumably represent second violations paid at \$100
24 per violation, for a total of \$1,633,600.00 in penalties for subsequent violations
25 (\$100 x 6,918 wage statements). Thus, in total, this claim places **\$1,758,550.00**
26 in controversy (\$124,950 + \$1,633,600).

1 **5) Failure to Timely Pay Wages Due at Termination**

2 65.Plaintiff’s eighth cause of action is for the failure to timely pay wages upon
3 separation, pursuant to California Labor Code Sections 201, *et al.* Each
4 employee is entitled to be paid her normal wages for every day the wages are
5 late, up to a 30-day maximum. Cal. Lab. Code § 203.

6 66.Again, this claim appears to be derivative of Plaintiff’s myriad other claims. As
7 discussed throughout, Plaintiff alleges that Defendants regularly failed to
8 calculate the regular rate of pay, had a pattern and practice of denying meal and
9 rest periods, and failed to pay all overtime wages, among other violations.
10 Given the extent of these claims and the lack of language limiting the claims to
11 a smaller subset of employees, it is reasonable for Defendants to assume that
12 Plaintiff alleges that all former employees were owed some wages on
13 termination. *See e.g. Cavada v. Inter-Continental Hotels Grp., Inc.*, No.
14 19cv1675-GPC(BLM), 2019 U.S. Dist. LEXIS 190302, at * (S.D. Cal. Nov. 1,
15 2019) (“Because waiting time penalties are also based on the one missed meal
16 and one missed rest breaks, a 100% violation rate . . . is based on a reasonable
17 assumption”); *Marquez v. Southwire Co., LLC*, No. EDCV 21-252 JGB (SPx),
18 2021 U.S. Dist. LEXIS 97011, at *17-*18 (C.D. Cal. May 21, 2021) (citing
19 *Noriesta v. Konica Minolta Bus. Solutions U.S.A., Inc.*, No. ED CV 19-0839-
20 DOC (SPx), 2019 U.S. Dist. LEXIS 227644, at *19 (C.D. Cal. June 21, 2019))
21 (holding that if “Defendant had a ‘pattern and practice’ of refusing to grant meal
22 and rest breaks or pay class members for all hours worked, then it is likely that
23 all or nearly all class members experienced [waiting time] violations”).

24 67.This assumption is logical because recovery of waiting time penalties does not
25 hinge on the number of violations committed. Defendants “need only have
26 caused and failed to remedy a single violation per employee for waiting time
27 penalties to apply.” *Noriesta*, 2019 U.S. Dist. LEXIS 227644, at *19; *see also*
28 Cal. Lab. Code § 203(b).

1 68. Thus, courts have routinely held that a 100% violation rate using the full 30-
2 day period is appropriate. *See, e.g., Altamirano v. Shaw Indus.*, No. C-13-0939
3 EMC, 2013 U.S. Dist. LEXIS 84236, at *34 (N.D. Cal. 2013) (“[A]warding
4 penalties for the entire 30 pay [sic] period is reasonable.”); *see also*
5 *Rahmatullah v. Charter Communs.*, No. EDCV 20-354 PSG (SPx), 2020 U.S.
6 Dist. LEXIS 127235, at *12 (C.D. Cal. July 15, 2020) (“The thirty-day
7 maximum is supported by Plaintiff’s complaint because Plaintiff seeks the
8 maximum penalty, and Plaintiff’s complaint contains broad and general
9 allegations and does not contain limiting language.”).

10 69. Nonetheless, Defendants conservatively assume a 75% violation rate, which is
11 reasonable given that Plaintiff repeatedly claims that the violations alleged are
12 the result of Defendants’ regular practices and that Plaintiff asserts several
13 claims against Defendants. *See, e.g.,* Complaint ¶¶ 17 (alleging a “pattern and
14 practice of failing to consistently provide timely, off-duty 30-minute meal
15 periods to certain Class Members”), 19 (alleging failure to factor in bonuses,
16 commissions, and incentives in calculating the meal-period penalty paid
17 “[w]hen Defendants did not provide compliant meal periods), 20 (alleging a
18 “pattern and practice of failing to authorize or *permit* ten-minute rest periods
19 for every four hours of work or major fraction thereof”). Thus, an assumption
20 that 75% of employees who separated their employment in the three-year
21 preceding the filing of this lawsuit experienced at least one violation during the
22 course of their employment is reasonable.

23 70. To calculate penalties owed, courts have held that it is reasonable to assume an
24 eight-hour workday. *See Altamirano*, 2013 U.S. Dist. LEXIS 84236, at *34;
25 *see also Archuleta v. Avcorp Composite Fabrication, Inc.*, No. CV 18-8106
26 PSG (FFMx), 2018 U.S. Dist. LEXIS 206495, at *14 (C.D. Cal. Dec. 6, 2018)
27 (Defendant “conservatively estimate[ed] an eight-hour workday”); *see also*
28 *Wheatley*, 2019 U.S. Dist. LEXIS 26201, at *17.

1 71.As some putative class members may have been part-time employees,
2 Defendants assume a workday that consists of six hours in order to account for
3 a combination of full- and part-time employees.

4 72.The applicable average daily wage here is \$105.36 (\$17.56 per hour x 6 hours
5 per day). *See* Smith Decl., ¶ 25. Thus, if liability was established, each putative
6 Class Member who has separated their employment would be entitled to
7 \$3,160.80 (\$105.36 x 30 days).

8 73.Given that there are approximately 2,760 non-exempt employees who separated
9 from their employment for All Banners during the three years prior to the filing
10 of this lawsuit, Smith Decl., ¶ 42, this claim places **\$6,542,856.00** in
11 controversy (2,760 x \$3,160.80 x .75).

12 **6) Failure to Reimburse Business Expenses**

13 74.Plaintiff’s ninth cause of action alleges that Sterling failed to indemnify and
14 reimburse Plaintiff and class members for required business expenses in the
15 discharge of their job duties and that it “did not maintain a lawful
16 reimbursement policy.” Complaint, ¶¶ 24, 84. The claim is based on Plaintiff’s
17 contention that Sterling required non-exempt employees to use their personal
18 cell phones for work purposes without reimbursement. Complaint, ¶ 30(g).

19 75.California Labor Code Section 2802 requires an employer to “indemnify his or
20 her employee for all necessary expenditures or losses incurred by the employee
21 in direct consequence of the discharge of his or her duties...” California Lab.
22 Code § 2802.

23 76.This Court has accepted, for purposes of calculating the amount in controversy,
24 an estimate of 50% of employees’ cell phone bill costs. *Anderson v. Starbucks*
25 *Corp.*, No. 3:20-cv-01178-JD, 2020 U.S. Dist. LEXIS 245356, at *12-13 (N.D.
26 Cal. Dec. 31, 2020) (reduction of bill cost by 50% was “reasonable basis for
27 estimating an amount on [*sic*] controversy”).
28

1 77. Plaintiff has not pled the amount of reimbursement allegedly unpaid, or the cost
2 of her or any putative class member's cell phone bill. The United States Bureau
3 of Labor Statistics reports that, as of the 2018-2019 years, the mean annual cost
4 of cellular phone service in California was \$1,299.07 (approximately \$24.98
5 per week (\$1,299.07 divided by 52)). See U.S. Bureau of Labor Statistics,
6 "California: Quintiles of income before taxes, 2017-2018,"
7 <https://www.bls.gov/cex/2018/research/income-ca.htm> (last accessed Apr. 14,
8 2022).

9 78. The Court may take judicial notice of this governmental statistic. See Fed. R.
10 Evid. 201(b)(2); see also *Castro v. ABM Indus.*, No. 14-cv-05359-YGR, 2015
11 U.S. Dist. LEXIS 44887, at *2 n.1 (N.D. Cal. Apr. 2, 2015) (taking judicial
12 notice of similar Bureau of Labor Statistics reports).

13 79. There were 19,508 biweekly pay periods/wage statements issued to Jared
14 employees since March 4, 2018, or 39,016 workweeks, potentially at issue in
15 this matter. Smith Decl. ¶ 24. Assuming that reimbursement was owed for 50%
16 of an employee's weekly cell phone cost (\$12.49 per week), the resulting
17 amount in controversy would be **\$487,309.84** (39,016 workweeks x \$12.49 per
18 week).

19 7) Attorneys' Fees

20 80. Plaintiff seeks to recover attorneys' fees. Complaint at Part (i) of "Prayer for
21 Relief" Section. Under CAFA, attorneys' fees are included in determining the
22 amount in controversy, regardless of whether they are mandatory or
23 discretionary. *Galt G/S v. JSS Scandinavia*, 142 F.3d 1150, 1155-56 (9th Cir.
24 1998); see also *Dawsey*, No. 3:15-cv-05188-RBL, 2015 U.S. Dist. LEXIS
25 93051, at *2-3, 7 (W.D. Wash. Jul. 16, 2015) (calculating both statutory and
26 "reasonable" attorneys' fees to determine the amount in controversy under
27 CAFA). For class action settlements, the Ninth Circuit has found that 25% of
28 the common fund is a reasonable attorneys' fees award. See *id.* at *7 (citing

1 *Hanlon v. Chrysler Corp.*, 150 F.3d 1011, 1029 (9th Cir. 1998) (“benchmark”
2 level for reasonable attorneys’ fees in class actions in the Ninth Circuit is 25%)).

3 81. Therefore, “[i]f Defendant can establish by a preponderance of the evidence
4 that the [amount in controversy is] at least \$4 million dollars, the addition of
5 twenty-five percent in attorneys’ fees would necessarily meet the \$5 million
6 amount in controversy requirement under CAFA.” *Garcia v. Wal-Mart Stores*,
7 No. 16-01645-BRO (RAO), 2016 U.S. Dist. LEXIS 142807, at *18 (C.D. Cal.
8 Oct. 14, 2016) (citing *Garibay v. Archstone Communities LLC*, 539 Fed. App’x
9 763, 764 (9th Cir 2013)).

10 82. Here, as set forth above, there is “substantial, plausible evidence” that the
11 amount in controversy in Plaintiff’s second third, fourth, fifth, sixth, eighth, and
12 ninth causes of action in the Complaint totals **\$12,436,715.89**. A reasonable
13 estimate of Plaintiff’s attorneys’ fees is **\$3,109,178.97**, which is 25% of the total
14 amount in controversy for these claims. Thus, a conservative calculation of the
15 amount in controversy, based on the allegations in Plaintiff’s Complaint
16 addressed herein and the data cited herein, is **\$15,545,894.86**. Although this
17 amount does not include all of Plaintiff’s claims, it exceeds the \$5,000,000.00
18 threshold required by CAFA. *See* 28 U.S.C. § 1332(d).

19 83. Although Defendants specifically deny Plaintiff’s claims and deny Plaintiff is
20 entitled to recover any of the relief she seeks, it is clear from the allegations in
21 the Complaint and the scope of the relief sought that the amount in controversy
22 exceeds the \$5,000,000.00 jurisdictional threshold of 28 U.S.C. § 1332(d).

23 ///

24 ///

25 ///

26 ///

27 ///

28 ///

CONCLUSION

84. Based on the foregoing, Defendants respectfully request that the Court remove the above-entitled action to federal court.

Dated: April 15, 2022

Respectfully submitted,

/s/Cory D. Catignani
Cory D. Catignani
VORYS SATER SEYMOUR AND PEASE LLP
4675 MacArthur Court
Suite 700
Newport Beach, CA 92660

PROOF OF SERVICE

1
2 **STATE OF CALIFORNIA**)
3 **COUNTY OF ORANGE**) **ss.**

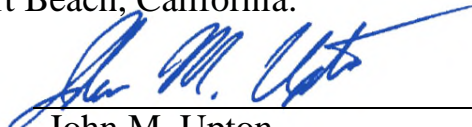
4 I, John M. Upton, declare:

5 I am employed in the County of Orange, State of California. I am over the age of
6 18 and not a party to the within action. My business address is 4675 MacArthur
Court, Suite 700, Newport Beach, CA 92660.

7 On April 15, 2022, I served the document(s) described as **DEFENDANTS**
8 **STERLING JEWELERS INC. and SIGNET JEWELERS LTD's NOTICE**
9 **OF REMOVAL** on all interested parties in said action as stated on the
ATTACHED SERVICE LIST by delivery as described below:

10 **BY EMAIL SERVICE** as follows: By email or electronic
11 transmission: I sent the document(s) to the person(s) at the email
12 address(es) listed on the service list. I did not receive, within a
reasonable time after the transmission, any electronic message or other
indication that the transmission was unsuccessful.

13 **STATE** I declare under penalty of perjury under the laws of the
14 State of California that the above is true and correct. Executed on
15 April 15, 2022, at Newport Beach, California.

16 
17 _____
18 John M. Upton
19
20
21
22
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25
26
27
28

SERVICE LIST

Amy McCormack v. Sterling Jewelers Inc. and Signet Jewelers LTD

Nicholas J. Ferraro
Lauren N. Vega
Elida M. Espinoza
Ferraro Vega Employment Lawyers, Inc.
3160 Camino de Rio South, Suite 308
San Diego, California 92108
Telephone: (619) 693-7727
Facsimile: (619) 350-6855
nick@ferrovega.com
lauren@ferrarovega.com

Attorneys for Plaintiff

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

Amy McCormack

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

(c) Attorneys (Firm Name, Address, and Telephone Number) Nicholas J. Ferraro, Lauren N. Vega, and Elida M. Espinoza Ferraro Vega Employment Lawyers, Inc. 3160 Camino del Rio South, Suite 308, San Diego, CA 92108 Tel: 619-693-7727

DEFENDANTS

Sterling Jewelers Inc. and Signet Jewelers LTD

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

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

Attorneys (If Known) '22CV525 AJB BGS Cory D. Catignani Vorys, Sater, Seymour and Pease LLP 4675 MacArthur Ct., Ste. 700, Newport Beach, CA 92660 Email: cdcattignani@vorys.com Tel: 949-526-7900

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)

Table with columns for Plaintiff (PTF) and Defendant (DEF) citizenship: Citizen of This State, Citizen of Another State, Citizen or Subject of a Foreign Country, 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.

Large table with categories: CONTRACT, REAL PROPERTY, CIVIL RIGHTS, PRISONER PETITIONS, TORTS, PERSONAL INJURY, LABOR, IMMIGRATION, FORFEITURE/PENALTY, BANKRUPTCY, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES.

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 (specify), 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. 1332(d) and 1446 (Removal). Brief description of cause: Alleged violations of California wage-and-hour law.

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

April 15, 2022 /s/ Cory D. Catignani

FOR OFFICE USE ONLY

RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE

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.
- 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.



**Service of Process
Transmittal**

03/17/2022
CT Log Number 541242402

TO: Bethany Spain
Signet Jewelers Limited
375 GHENT RD
FAIRLAWN, OH 44333-4601

RE: Process Served in California

FOR: Sterling Jewelers Inc. (Domestic State: DE)

ENCLOSED ARE COPIES OF LEGAL PROCESS RECEIVED BY THE STATUTORY AGENT OF THE ABOVE COMPANY AS FOLLOWS:

TITLE OF ACTION: Re: AMY MCCORMACK, as an individual and on behalf of all others similarly situated,
// To: Sterling Jewelers Inc.

DOCUMENT(S) SERVED: --

COURT/AGENCY: None Specified
Case # 37202200008433CUOECTL

NATURE OF ACTION: Employee Litigation

ON WHOM PROCESS WAS SERVED: C T Corporation System, GLENDALE, CA

DATE AND HOUR OF SERVICE: By Process Server on 03/17/2022 at 11:47

JURISDICTION SERVED : California

APPEARANCE OR ANSWER DUE: None Specified

ATTORNEY(S) / SENDER(S): None Specified

ACTION ITEMS: CT will retain the current log
Image SOP
Email Notification, Jessica Glasper jessica.glasper@signetjewelers.com
Email Notification, Bethany Spain bethany.spain@signetjewelers.com
Email Notification, Victoria Ortega victoria.ortega-1@signetjewelers.com
Email Notification, Amanda Vance amanda.vance@signetjewelers.com

REGISTERED AGENT ADDRESS: C T Corporation System
330 N BRAND BLVD
STE 700
GLENDALE, CA 91203
866-331-2303
CentralTeam1@wolterskluwer.com

The information contained in this Transmittal is provided by CT for quick reference only. It does not constitute a legal opinion, and should not otherwise be relied on, as to the nature of action, the amount of damages, the answer date, or any other information contained in the included documents. The recipient(s) of this form is responsible for reviewing and interpreting the included documents and taking appropriate action, including consulting with its legal and other



**Service of Process
Transmittal**

03/17/2022

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Signet Jewelers Limited
375 GHENT RD
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FOR: Sterling Jewelers Inc. (Domestic State: DE)

advisors as necessary. CT disclaims all liability for the information contained in this form, including for any omissions or inaccuracies that may be contained therein.



PROCESS SERVER DELIVERY DETAILS

Date: Thu, Mar 17, 2022

Server Name: DROP SERVICE

Entity Served	STERLING JEWELERS INC
Case Number	37202200008433CUOECTL
Jurisdiction	CA





SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO

ALTERNATIVE DISPUTE RESOLUTION (ADR) INFORMATION

CASE NUMBER: 37-2022-00008433-CU-OE-CTL CASE TITLE: McCormack vs Sterling Jewelers Inc [E-FILE]

NOTICE: All plaintiffs/cross-complainants in a general civil case are required to serve a copy of the following three forms on each defendant/cross-defendant, together with the complaint/cross-complaint:

- (1) this Alternative Dispute Resolution (ADR) Information form (SDSC form #CIV-730),
- (2) the Stipulation to Use Alternative Dispute Resolution (ADR) form (SDSC form #CIV-359), and
- (3) the Notice of Case Assignment form (SDSC form #CIV-721).

Most civil disputes are resolved without filing a lawsuit, and most civil lawsuits are resolved without a trial. The courts, community organizations, and private providers offer a variety of Alternative Dispute Resolution (ADR) processes to help people resolve disputes without a trial. The San Diego Superior Court expects that litigants will utilize some form of ADR as a mechanism for case settlement before trial, and it may be beneficial to do this early in the case.

Below is some information about the potential advantages and disadvantages of ADR, the most common types of ADR, and how to find a local ADR program or neutral. A form for agreeing to use ADR is attached (SDSC form #CIV-359).

Potential Advantages and Disadvantages of ADR

ADR may have a variety of advantages or disadvantages over a trial, depending on the type of ADR process used and the particular case:

Potential Advantages

- Saves time
- Saves money
- Gives parties more control over the dispute resolution process and outcome
- Preserves or improves relationships

Potential Disadvantages

- May take more time and money if ADR does not resolve the dispute
- Procedures to learn about the other side's case (discovery), jury trial, appeal, and other court protections may be limited or unavailable

Most Common Types of ADR

You can read more information about these ADR processes and watch videos that demonstrate them on the court's ADR webpage at <http://www.sdcourt.ca.gov/adr>.

Mediation: A neutral person called a "mediator" helps the parties communicate in an effective and constructive manner so they can try to settle their dispute. The mediator does not decide the outcome, but helps the parties to do so. Mediation is usually confidential, and may be particularly useful when parties want or need to have an ongoing relationship, such as in disputes between family members, neighbors, co-workers, or business partners, or when parties want to discuss non-legal concerns or creative resolutions that could not be ordered at a trial.

Settlement Conference: A judge or another neutral person called a "settlement officer" helps the parties to understand the strengths and weaknesses of their case and to discuss settlement. The judge or settlement officer does not make a decision in the case but helps the parties to negotiate a settlement. Settlement conferences may be particularly helpful when the parties have very different ideas about the likely outcome of a trial and would like an experienced neutral to help guide them toward a resolution.

Arbitration: A neutral person called an "arbitrator" considers arguments and evidence presented by each side and then decides the outcome of the dispute. Arbitration is less formal than a trial, and the rules of evidence are usually relaxed. If the parties agree to binding arbitration, they waive their right to a trial and agree to accept the arbitrator's decision as final. With nonbinding arbitration, any party may reject the arbitrator's decision and request a trial. Arbitration may be appropriate when the parties want another person to decide the outcome of their dispute but would like to avoid the formality, time, and expense of a trial.

Other ADR Processes: There are several other types of ADR which are not offered through the court but which may be obtained privately, including neutral evaluation, conciliation, fact finding, mini-trials, and summary jury trials. Sometimes parties will try a combination of ADR processes. The important thing is to try to find the type or types of ADR that are most likely to resolve your dispute. Be sure to learn about the rules of any ADR program and the qualifications of any neutral you are considering, and about their fees.

Local ADR Programs for Civil Cases

Mediation: The San Diego Superior Court maintains a Civil Mediation Panel of approved mediators who have met certain minimum qualifications and have agreed to charge \$150 per hour for each of the first two (2) hours of mediation and their regular hourly rate thereafter in court-referred mediations.

On-line mediator search and selection: Go to the court's ADR webpage at www.sdcourt.ca.gov/adr and click on the "Mediator Search" to review individual mediator profiles containing detailed information about each mediator including their dispute resolution training, relevant experience, ADR specialty, education and employment history, mediation style, and fees and to submit an on-line Mediator Selection Form (SDSC form #CIV-005). The Civil Mediation Panel List, the Available Mediator List, individual Mediator Profiles, and Mediator Selection Form (CIV-005) can also be printed from the court's ADR webpage and are available at the Mediation Program Office or Civil Business Office at each court location.

Settlement Conference: The judge may order your case to a mandatory settlement conference, or voluntary settlement conferences may be requested from the court if the parties certify that: (1) settlement negotiations between the parties have been pursued, demands and offers have been tendered in good faith, and resolution has failed; (2) a judicially supervised settlement conference presents a substantial opportunity for settlement; and (3) the case has developed to a point where all parties are legally and factually prepared to present the issues for settlement consideration and further discovery for settlement purposes is not required. Refer to SDSC Local Rule 2.2.1 for more information. To schedule a settlement conference, contact the department to which your case is assigned.

Arbitration: The San Diego Superior Court maintains a panel of approved judicial arbitrators who have practiced law for a minimum of five years and who have a certain amount of trial and/or arbitration experience. Refer to SDSC Local Rules Division II, Chapter III and Code Civ. Proc. § 1141.10 et seq or contact the Arbitration Program Office at (619) 450-7300 for more information.

More information about court-connected ADR: Visit the court's ADR webpage at www.sdcourt.ca.gov/adr or contact the court's Mediation/Arbitration Office at (619) 450-7300.

Dispute Resolution Programs Act (DRPA) funded ADR Programs: The following community dispute resolution programs are funded under DRPA (Bus. and Prof. Code §§ 465 et seq.):

- In Central, East, and South San Diego County, contact the National Conflict Resolution Center (NCRC) at www.ncrconline.com or (619) 238-2400.
- In North San Diego County, contact North County Lifeline, Inc. at www.nclifeline.org or (760) 726-4900.

Private ADR: To find a private ADR program or neutral, search the Internet, your local telephone or business directory, or legal newspaper for dispute resolution, mediation, settlement, or arbitration services.

Legal Representation and Advice

To participate effectively in ADR, it is generally important to understand your legal rights and responsibilities and the likely outcomes if you went to trial. ADR neutrals are not allowed to represent or to give legal advice to the participants in the ADR process. If you do not already have an attorney, the California State Bar or your local County Bar Association can assist you in finding an attorney. Information about obtaining free and low cost legal assistance is also available on the California courts website at www.courtinfo.ca.gov/selfhelp/lowcost.

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO STREET ADDRESS: 330 West Broadway MAILING ADDRESS: 330 West Broadway CITY, STATE, & ZIP CODE: San Diego, CA 92101-3827 BRANCH NAME: Central	FOR COURT USE ONLY
PLAINTIFF(S): Amy McCormack	
DEFENDANT(S): Sterling Jewelers Inc et.al.	
SHORT TITLE: MCCORMACK VS STERLING JEWELERS INC [E-FILE]	
STIPULATION TO USE ALTERNATIVE DISPUTE RESOLUTION (ADR)	CASE NUMBER: 37-2022-00008433-CU-OE-CTL

Judge: Eddie C Sturgeon

Department: C-67

The parties and their attorneys stipulate that the matter is at issue and the claims in this action shall be submitted to the following alternative dispute resolution (ADR) process. Selection of any of these options will not delay any case management timelines.

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| <input type="checkbox"/> Mediation (court-connected)
<input type="checkbox"/> Mediation (private)
<input type="checkbox"/> Voluntary settlement conference (private)
<input type="checkbox"/> Neutral evaluation (private)
<input type="checkbox"/> Other (specify e.g., private mini-trial, private judge, etc.): _____ | <input type="checkbox"/> Non-binding private arbitration
<input type="checkbox"/> Binding private arbitration
<input type="checkbox"/> Non-binding judicial arbitration (discovery until 15 days before trial)
<input type="checkbox"/> Non-binding judicial arbitration (discovery until 30 days before trial) |
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It is also stipulated that the following shall serve as arbitrator, mediator or other neutral: (Name) _____

Alternate neutral (for court Civil Mediation Program and arbitration only): _____

Date: _____

Date: _____

Name of Plaintiff

Name of Defendant

Signature

Signature

Name of Plaintiff's Attorney

Name of Defendant's Attorney

Signature

Signature

If there are more parties and/or attorneys, please attach additional completed and fully executed sheets.

It is the duty of the parties to notify the court of any settlement pursuant to Cal. Rules of Court, rule 3.1385. Upon notification of the settlement, the court will place this matter on a 45-day dismissal calendar.

No new parties may be added without leave of court.

IT IS SO ORDERED.

Dated: 03/07/2022

JUDGE OF THE SUPERIOR COURT

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): Nicholas J. Ferraro (SBN 306528) / Lauren N. Vega (SBN 306525) Ferraro Vega Employment Lawyers, Inc. 3160 Camino Del Rio South, Suite 308 San Diego, CA 92108 TELEPHONE NO.: 619-693-7727 FAX NO.: 619-350-6855 ATTORNEY FOR (Name): Plaintiff Amy McCormack	FOR COURT USE ONLY
SUPERIOR COURT OF CALIFORNIA, COUNTY OF San Diego STREET ADDRESS: 330 West Broadway MAILING ADDRESS: 330 West Broadway CITY AND ZIP CODE: San Diego, CA BRANCH NAME: Hall of Justice	
CASE NAME: Amy McCormack v. Sterling Jewelers, Inc. et al.	
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)
	CASE NUMBER: JUDGE: DEPT:

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 PI/PD/WD (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 PI/PD/WD (23) Non-PI/PD/WD (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/PD/WD 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 b. <input type="checkbox"/> Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve c. <input checked="" type="checkbox"/> Substantial amount of documentary evidence	d. <input checked="" type="checkbox"/> Large number of witnesses 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 f. <input type="checkbox"/> Substantial postjudgment judicial supervision
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3. Remedies sought (check all that apply): a. monetary b. nonmonetary; declaratory or injunctive relief c. punitive

4. Number of causes of action (specify): **11 - Labor Code violations**

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: **March 4, 2022**
 Nicholas J. Ferraro

Nicholas J. Ferraro
 (SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

NOTICE
<ul style="list-style-type: none"> 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.

1 Nicholas J. Ferraro (State Bar No. 306528)
2 Lauren N. Vega (State Bar No. 306525)
3 Elida M. Espinoza (State Bar No. 314001)
4 Ferraro Vega Employment Lawyers, Inc.
5 3160 Camino del Rio South, Suite 308
6 San Diego, California 92108
7 (619) 693-7727 / (619) 350-6855 facsimile
8 nick@ferrarovega.com / lauren@ferrarovega.com

9 Attorneys for Plaintiff Amy McCormack

10
11 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
12 **FOR THE COUNTY OF SAN DIEGO**

13 AMY MCCORMACK, as an individual and on
14 behalf of all others similarly situated,

15 Plaintiff,

16 v.

17 STERLING JEWELERS INC., a corporation;
18 SIGNET JEWELERS LTD., a corporation; and
19 DOES 1 through 50,

20 Defendants.

Case No.

CLASS ACTION

CLASS ACTION COMPLAINT

1. Failure to Pay All Minimum Wages
2. Failure to Pay All Overtime Wages
3. Meal Period Violations
4. Rest Period Violations
5. Untimely Payment of Wages
6. Wage Statement Violations
7. Underpaid Sick Leave
8. Underpaid Covid-19 Supplemental Sick Leave
9. Waiting Time Penalties
10. Failure to Reimburse Business Expenses
11. Violations of the Unfair Competition Law

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Class Action Complaint

Amy McCormack v. Sterling Jewelers Inc. et al.

1 Plaintiff AMY MCCORMACK ("Plaintiff"), as individual and on behalf of all others
2 similarly situated, brings this action against Defendants STERLING JEWELERS INC. and
3 SIGNET JEWELERS LTD., and DOES 1 through 50 (collectively, "Defendants"), alleging as
4 follows:

5 **INTRODUCTION**

6 1. Plaintiff was an employee of Defendants, Sterling Jewelers Inc. and Signet
7 Jewelers Ltd. Plaintiff's allegations concerning Sterling Jewelers involve the policies and
8 practices at Jared the Galleria of Jewelry store locations. Sterling Jewelers maintained a policy
9 and practice of unpaid, off-the-clock work during uncompensated meal periods. She and other
10 Class Members were required to be available on the salesfloor, to communicate with customers,
11 and complete various tasks, but were required to clock out. As a result, Sterling Jewelers deprived
12 Plaintiff and other Class Members of minimum, regular, and overtime wages for these hours
13 worked, along with meal period premiums.

14 2. Separately, Plaintiff seeks to recover rest period premiums for non-compliant rest
15 periods for Class Members at Sterling Jewelers.

16 3. Additionally, Plaintiff seeks to recover cell phone reimbursements for a Class of
17 individuals who worked at the Sterling Jewelers Jared locations, because Plaintiff alleges that
18 they were required to use their personal devices to communicate with jewelry-purchasing clients,
19 and post to social media, among other requirements.

20 4. With respect to Signet Jewelers, Signet Jewelers is the parent company of Sterling
21 Jewelers, and also, on information and belief, operates Kay Jewelers, Zales, Jared, Banter by
22 Piercing Pagoda, Diamonds Direct, JamesAllen.com, Rocksbox, Peoples Jewelers, H. Samuel,
23 and Ernest Jones. Plaintiff's allegations against Signet Jewelers address a Signet-wide policy and
24 practice of payroll administration across these different locations, whereby Signet failed to pay
25 meal and rest period premiums and paid sick leave at the lawful hourly rate, instead electing to
26 pay those earnings at a straight time base hourly rate, contrary to California law.

1 12. The true names and capacities, whether individual, corporate, or otherwise, of the
2 parties sued as DOES 1 through 50, are presently unknown to Plaintiff, who sue them by such
3 fictitious names under Code of Civil Procedure section 474. Plaintiff is informed, believes, and
4 alleges that each of the factiously-named defendants is responsible in some manner for the acts
5 and omissions alleged herein. Plaintiff may later seek leave to amend this Complaint to reflect
6 their true names and capacities.

7 13. Plaintiff is informed, believes, and alleges that all defendants in this action are
8 employers and/or joint employers and part of an integrated employer enterprise, as each defendant
9 exercises control over the wages, hours, and working conditions of Plaintiff and the Class
10 Members, suffer and permit them to work, and engage the workforce creating a common law
11 employment relationship.

12 14. Additionally, all defendants have common ownership, common management,
13 interrelationship of operations, and centralized control over labor relations and are therefore part
14 of an integrated enterprise and thus jointly and severally responsible for the acts and omissions
15 alleged herein.

16 15. Plaintiff is informed, believes, and alleges that each defendant acted in all respects
17 pertinent to this action as an alter-ego, agent, servant, joint employer, joint venturer, co-
18 conspirator, partner, in an integrated enterprise, or in some other capacity on behalf of all other
19 co-defendants, such that the acts and omissions of each defendant are legally attributable to all
20 others.

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GENERAL ALLEGATIONS

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2 16. Defendants failed to pay certain Class Members for all hours worked at the
3 applicable minimum, regular, overtime, and/or double time hourly rate, because of Defendants'
4 practice of requiring employees to perform work duties during unpaid meal periods. Defendants
5 required employees to clock out for meal periods, but employees were required to perform various
6 work-related tasks although they were clocked out and were not compensated for that time. This
7 resulted in unpaid regular and overtime wages to Plaintiff and certain Class Members.
8 Defendants' have failed to pay for all hours worked and are liable accordingly for unpaid
9 minimum wage, liquidated damages, and any corresponding overtime wages owed.

10 17. Defendants had a pattern and practice of failing to consistently provide timely, off-
11 duty 30-minute meal periods to certain Class Members within the first five hours of work, and
12 timely second off-duty 30-minute meal periods to the extent they worked shifts of 10 hours or
13 more, in violation of Labor Code sections 226.7, 512 and section 11 of the applicable IWC Wage
14 Orders. (*Donohue v. AMN Services, LLC* (2021) 11 Cal. 5th 58, 61 [“[T]ime records showing
15 noncompliant meal periods raise a rebuttable presumption of meal period violations, including at
16 the summary judgment stage”].) Plaintiff’s time records establish meal period violations without
17 a corresponding meal period premium payment (although Defendants did pay some meal period
18 premiums). Plaintiff’s time records reveal instances of Defendants’ agents editing her time
19 records to make it appear as though her meal periods were compliant (*i.e.*, not short or late).
20 Plaintiff is informed and believes this practice applies to certain Class Members.

21 18. During some of the times when certain Class Members were clocked out for a meal
22 period, they were still forced to work during the meal periods. Defendants required employees to
23 complete various non-sales tasks, including cold calling 10 customers each day, writing thank
24 you notes, training videos and quizzes, communicating with existing customers, and posting to
25 their personal social media accounts, among other activities. The tasks required of certain Class
26 Members made it incredibly difficult to consistently take duty-free meal and rest periods.
27 Additionally, employees were forced to clock out for meal periods and continue making
28 themselves available to customers or else they would be penalized by being taken out of the sales

1 “rotation” and would lose out on sales (*i.e.*, commissions). Defendants operated under a system
2 whereby salespeople were assigned to customers to fairly spread out the ability to earn
3 commissions. However, whenever an employee took a meal period or a rest period, they would
4 be *taken out* of the sales “rotation” and would essentially be placed at the back of the line rather
5 than simply returning to their place in line once the break was over. As a result, certain Class
6 Members often clocked out for lunch and would remain on the sales floor so they would not lose
7 their place in the rotation.

8 19. When Defendants did not provide fully compliant meal periods, Defendants failed
9 to pay Plaintiff and certain Class Members a meal period premium at the regular rate of
10 compensation, in violation of Labor Code section 226.7. (*See e.g., Ferra v. Loews Hollywood*
11 *Hotel, LLC* (2021) 11 Cal. 5th 858, 863 [“We hold that the terms are synonymous: “regular rate
12 of compensation” under section 226.7(c), like “regular rate of pay” under section 510(a),
13 encompasses all nondiscretionary payments, not just hourly wages.”]). Instead, Defendants paid
14 meal period premiums at Plaintiff’s and the other Class Member’s straight time hourly rate and
15 failed to factor in the additional remuneration earned by Plaintiff and Class Members, such as
16 bonuses, commissions, and incentives. Defendants’ failure to pay meal period premiums at the
17 correct rate is a widespread payroll issue that impacted all Class Members. Plaintiff alleges that
18 both Sterling Jewelers Inc. and Signet Jewelers Ltd. failed to pay meal period premiums at the
19 regular rate of compensation.

20 20. Moreover, Defendants had a pattern and practice of failing to authorize or *permit*
21 ten-minute rest periods for every four hours of work or major fraction thereof as required by Labor
22 Code section 226.7 and 516 and section 12 of the applicable IWC Wage Order. Plaintiff and
23 certain Class Members were unable to take all the rest periods to which they were entitled due to
24 the same limitations employees faced with respect to meal periods (*i.e.*, inability to take rest
25 periods due to numerous tasks required by Defendants). In the same manner as described above,
26 Plaintiff and certain Class Members would be taken out of the “rotation” each time they took a
27 rest period, thereby discouraging employees from taking rest periods at all. Further, Defendants
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1 had a policy and practice of not paying rest period premiums to employees who were unable to
2 take rest periods.

3 21. To the extent Defendants did pay rest period premiums, Plaintiff alleges that they
4 were underpaid because they were paid at the straight time rate and not the regular rate of
5 compensation, which would have factored in employees' commissions, bonuses, incentives, and
6 other compensation. (*Loews Hollywood Hotel*, 11 Cal. 5th at 863.) Plaintiff alleges that both
7 Sterling Jewelers Inc. and Signet Jewelers Ltd. failed to pay rest period premiums at the regular
8 rate of compensation.

9 22. In pay periods where Defendants provided Plaintiff and certain Class Members
10 with remuneration in addition to their respective base hourly rate for hours worked (*e.g.*, bonuses,
11 commissions, etc.), Defendants failed to properly calculate and pay paid sick leave at the
12 appropriate rate of pay, in violation of Labor Code § 246. One example of this violation occurs
13 on Plaintiff's wage statement dated July 2, 2021. During that pay period, Plaintiff was paid
14 commissions and incentives and used 8 hours of sick leave. Defendants paid the sick leave at her
15 straight time hourly rate of \$19.75 rather than one of the methods required by statute (*i.e.*, failed
16 to factor in commissions/incentives). Plaintiff alleges that both Sterling Jewelers Inc. and Signet
17 Jewelers Ltd. failed to pay sick leave at a rate under one of the methods authorized by statute.

18 23. Defendants also failed to pay Covid-19 Supplemental Sick Leave at a rate
19 authorized by statute because when paying such leave because Defendants failed to factor in
20 employees' commissions, bonuses, incentives, and other compensation. On information and
21 belief, Defendants instead paid Supplemental Sick Leave at employees' straight time hourly rate
22 rather than by one of the methods authorized by Labor Code sections 248.2 and 248.6. Plaintiff
23 alleges that both Sterling Jewelers Inc. and Signet Jewelers Ltd. failed to pay Covid-19
24 supplemental sick leave under one of the methods authorized by statute.

25 24. Defendants did not maintain a lawful reimbursement policy, in violation of Labor
26 Code section 2802. Defendants required Plaintiff and certain Class Members to incur costs for
27 work-related purposes, including expenses associated with their cell phones, data, and/or cell
28 phone apps. For example, Defendants required employees to make social media posts during

1 their shift to their personal social media accounts and employees used their own cell phones to
2 access their social media accounts, to take photos, and to access Jared photos from an app.
3 Plaintiff and certain Class Members were also required to use their cell phones to text guests about
4 their orders, to answer questions, etc. Plaintiff also incurred expenses associated with using apps
5 to text customers and to post on social media. As such and in direct consequence of their job
6 duties, Plaintiff and certain Class Members unavoidably and necessarily incurred losses,
7 expenditures, costs and expenses that were unreimbursed in violation of Labor Code sections
8 2800 and 2802.

9 25. With respect to the unpaid wages and premiums owed to Plaintiff and Class
10 Members, Defendants failed to pay those wages on time each pay period or upon separation of
11 employment. Because Defendants did not pay Plaintiff and the Class for all wages/premiums
12 owed each pay period their employment (*i.e.*, overtime, sick leave pay, supplemental sick leave
13 pay, meal and rest period premiums), Defendants failed to timely pay all wages owed on time
14 each pay day or upon separation of employment (or within 72 hours thereof, as applicable), in
15 violation of Labor Code sections 201 through 203 (waiting time) and 204 and 204b (paydays).

16 26. Defendants equally failed in their affirmative obligation to provide accurate
17 itemized wage statements each pay period to Plaintiff and Class Members. Defendants issued
18 wage statements to Plaintiff and, on information and belief, other Class Members, which contain
19 at least several types of violations. First, on each wage statement furnished, Defendants failed to
20 accurately state the “gross wages earned” and “net wages earned” in violation of Labor Code
21 § 226(a)(1) and (5), as Plaintiff and certain Class Members earned regular and overtime wages,
22 but were underpaid due to the off-the-clock hours worked during meal periods and were not paid
23 for sick leave and meal and rest period premiums payments at the lawful rate, resulting in an
24 inaccurate itemization of gross and net wages earned on those wage statements. Second, on each
25 wage statement furnished to Plaintiff and, on information and belief, certain Class Members,
26 Defendants failed to accurately state “all applicable hourly rates in effect during the pay period
27 and the corresponding number of hours worked at each hourly rate by the employee” in violation
28 of Labor Code § 226(a)(9), as the wage statements issued to Plaintiff and certain Class Members

1 do not accurately list the actual hours worked by employees (due to off the clock work), but
2 instead list deflated hours and wages, and list the incorrect hourly rates for paid sick leave,
3 overtime, meal and rest period premiums, as such amounts were not paid at the lawful regular
4 rate of pay. Third, Defendants inaccurately listed total hours worked during the pay period in
5 violation of Labor Code § 226(a)(2), as Plaintiff and certain Class Members worked off-the-clock
6 during uncompensated meal periods.

7 27. Defendants' wage statement issues described above rendered the wage statements
8 inaccurate and confusing to Plaintiff and Class Members, concealing the underpayments and
9 presenting a false portrayal of accuracy on the wage statements relied upon by Plaintiff and Class
10 Members as the sole documentary evidence of their respective earnings. Plaintiff and, on
11 information and belief, Class Members were misinformed and misled by the wage statements
12 wages, hours, rates, and earnings. Defendants' wage statement violations were knowing and
13 intentional as a matter of law with respect to Plaintiff and Class Members given that the legal
14 obligation was not disputed, the wage statement and wage laws are clear and unambiguous as
15 written, and because Defendants nevertheless failed to comply despite the means and ability to
16 do so.

17 28. Because of the violations set forth in this Complaint, including Defendants' failure
18 to accurately maintain records of pay for all hours worked at the appropriate lawful rates of pay
19 (*i.e.*, unrecorded off-the-clock hours), Defendants violated Labor Code section 1174 and the IWC
20 Wage Orders by failing to maintain records showing accurate daily hours worked at the
21 corresponding wage rate, and the wages paid to each employee.

22 29. Plaintiff is informed, believes, and alleges that Defendants' acts and omissions
23 have knowingly and intentionally caused harm to Plaintiff and the Class. Plaintiff is informed,
24 believes, and alleges that Defendants have engaged in systemic violations of the Labor Code and
25 IWC Wage Orders by maintaining practices, policies, and customs that are inconsistent with their
26 obligations under California law.

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CLASS ACTION ALLEGATIONS

30. *Class Definition.* The named individual Plaintiff seeks class certification under California Code of Civil Procedure section 382. Plaintiff proposes the following classes of individuals currently or formerly employed by Defendants in the State of California (referred to herein together as the “Class” or “Class Members”):

- a. All Class Members who worked for Sterling Jewelers Inc. at any time from **March 4, 2018**, through the date of trial in this action (“Class Period”) and who were not paid all regular, overtime, or minimum wages for all hours worked each pay period (“Unpaid Wage Class”).
- b. All Class Members who during the Class Period: [1] worked for Sterling Jewelers Inc. [2] worked shifts of five hours or more without a duty-free meal period of at least 30 minutes or shifts of 10 or more hours without a duty-free second 30-minute meal period, and [3] were not paid one hour of meal period premium pay at the regular rate of compensation for each of those days (“Meal Period Class”).
- c. All Class Members who during the Class Period: [1] worked for Sterling Jewelers Inc. and/or Signet Jewelers Ltd., [2] were paid a meal period premium, and [3] who were paid commission, bonuses, incentives, or other non-discretionary remuneration in the same pay period in which they received a meal period premium (“Meal Period Premium Class”).
- d. All Class Members who during the Class Period: [1] worked for Sterling Jewelers Inc., [2] worked shifts of four hours or major fraction thereof without being authorized or permitted an uninterrupted rest period of at least 10 minutes, and [3] were not paid one hour of rest period premium pay at the regular rate of compensation for each of those days (“Rest Period Class”).

- 1 e. All Class Members who during the Class Period: [1] worked for Sterling
2 Jewelers Inc. and/or Signet Jewelers Ltd., [2] were paid a rest period
3 premium, and [3] who were paid commission, bonuses, incentives, or other
4 non-discretionary remuneration in the same pay period in which they
5 received a rest period premium ("Rest Period Premium Class").
- 6 f. All Class Members who during the Class Period: [1] worked for Sterling
7 Jewelers Inc. and/or Signet Jewelers Ltd., [2] were paid for sick leave or
8 Covid-19 supplemental sick leave, and [3] were not paid for such sick leave
9 at a rate authorized by one of the methods provided in the California Labor
10 Code ("Sick Leave Underpayment Class").
- 11 g. All Class Members who during the Class Period: [1] worked for Sterling
12 Jewelers Inc., [2] used their personal devices for required work-related
13 purposes, and [3] were not fully reimbursed for the use of their personal
14 devices ("Reimbursement Class").
- 15 h. All Class Members who: [1] belong to the Meal Period, Meal Period
16 Premium, Rest Period, Rest Period Premium, Sick Leave Underpayment,
17 and Unpaid Wage Classes, respectively, and [2] who separated from
18 employment with Sterling Jewelers Inc. and/or Signet Jewelers Ltd. at any
19 time from **March 4, 2019** through the time of trial in this action ("Waiting
20 Time Class").
- 21 i. All Class Members who: [1] belong to the Unpaid Wage, Meal Period,
22 Meal Period Premium, Rest Period, Rest Period Premium, and Sick Leave
23 Underpayment Classes, and [2] who received a wage statement from
24 Sterling Jewelers Inc. and/or Signet Jewelers Ltd. at any time from
25 **March 4, 2021** through the time of trial in this action ("Wage Statement
26 Class").
- 27
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1 j. All Class Members who belong to Classes (a)-(i) above and were subject
2 to Defendants unlawful or unfair business acts or practices during the Class
3 Period (“UCL Class”).

4 31. Plaintiff reserves the right to amend or modify the class definitions and to establish
5 additional classes and subclasses. California Rule of Court 3.765(b).

6 32. **Numerosity.** The members of the Class are so numerous that joinder of all
7 individuals is impracticable. The identity of the Class Members is readily ascertainable by review
8 of Defendants’ employment and payroll records. Plaintiff is informed, believes, and alleges there
9 are more than 100 Class Members.

10 33. **Adequacy of Representation.** Plaintiff is an adequate class representative.
11 Plaintiff will take all necessary steps to adequately and fairly represent and protect the interest of
12 the Class. Plaintiff is represented by attorneys who have substantial experience prosecuting and
13 resolving wage-and-hour class actions in California state and federal courts, including as both
14 plaintiff and defense counsel.

15 34. **Manageability.** This class action is manageable because the liability and damages
16 to Class Members can be ascertained by review of corporate and employer timekeeping and
17 payroll records, along with other evidence that Defendants maintained and are required to
18 maintain under the California Labor Code, IWC Wage Orders and federal law. This class action
19 is manageable because the contact information and identity of percipient witnesses—namely,
20 Defendants’ employees (the putative class members)—is readily maintained by Defendants.

21 35. **Superiority.** A class action is superior to other means for adjudication of the
22 claims of the Class and is beneficial and efficient for the parties and the Court. Class treatment
23 will allow for the common issues to be resolved in a single forum, simultaneously and without
24 duplication of effort and expense.

25 36. **Commonality.** Common questions of law and fact and a community of interest
26 exists amongst Plaintiff and the Class. These common issues arise from the employment
27 relationship with Defendants and predominate over any individual issues.

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SECOND CAUSE OF ACTION

FAILURE TO PAY ALL OVERTIME WAGES

Labor Code §§ 510 and 1194

44. Plaintiff incorporates all outside paragraphs of this Complaint as if set forth herein.

45. Plaintiff brings this cause of action on behalf of the Unpaid Wage Class.

46. Defendants failed in their affirmative obligation to pay Plaintiff and the Unpaid Wage Class no less than one and one-half times their respective “regular rate of pay” for all hours worked in excess of eight hours in one day, 40 hours in one week, or the first eight hours worked on the seventh day of work in any one workweek, and no less than twice their respective “regular rate of pay” for all hours over 12 hours in one day and any work in excess of eight hours on any seventh day of a workweek in violation of Labor Code sections 510, 1194, and 1198 and the IWC Wage Orders (the “Hours and Days of Work” sections of the applicable orders).

47. Defendants failed to pay overtime to the Unpaid Wage Class at the required 1.5x multiple of the regular rate of pay or 2.0x multiple of the regular rate of pay for double time hours. As alleged, Defendants knew or should have known the Unpaid Wage Class worked off-the-clock during uncompensated meal periods, resulting in unpaid hours worked and corresponding liability for minimum wages and overtime.

48. Defendants’ unlawful acts and omissions deprived Plaintiff and the Unpaid Wage Class of overtime wages in amounts to be determined at trial. Plaintiff and the Unpaid Wage Class are entitled to recover to the full amount of the unpaid overtime wages, in addition to interest, attorneys’ fees, and costs to the extent permitted by law, including under Labor Code section 1194.

THIRD CAUSE OF ACTION

MEAL PERIOD VIOLATIONS

Labor Code §§ 226.7 and 512

49. Plaintiff incorporates all outside paragraphs of this Complaint as if set forth herein.

50. Plaintiff brings this cause of action on behalf of the Meal Period and Meal Period Premium Classes.

1 violation of Labor Code sections 204 and 204b and the IWC Wage Orders (the “Minimum
2 Wages” sections of the applicable orders).

3 62. Defendants’ unlawful acts and omissions deprived Plaintiff and certain Class
4 Members of timely wages in amounts to be determined at trial. Plaintiff and certain Class
5 Members are entitled to recover to the full amount of the unpaid wages, in addition to a statutory
6 penalty in the amount of \$100 for the initial violation for each failure to pay each employee and
7 \$200 for all subsequent violations and for all willful or intentional violations for each failure to
8 pay each employee, plus 25 percent of the amount unlawfully withheld under provided in Labor
9 Code section 210, in addition to interest, attorneys’ fees, and costs to the extent permitted by law.

10 **SIXTH CAUSE OF ACTION**

11 **WAGE STATEMENT VIOLATIONS**

12 **Labor Code § 226**

13 63. Plaintiff incorporates all outside paragraphs of this Complaint as if set forth herein.

14 64. Plaintiff brings this cause of action on behalf of the Wage Statement Class.

15 65. Defendants knowingly and intentionally failed in their affirmative obligation
16 provide accurate itemized wage statements to Plaintiff and the Wage Statement Class in violation
17 of Labor Code section 226(a).

18 66. Based on the wage statements issued by Defendants to the Wage Statement Class,
19 Plaintiff alleges that these wage statements fail to correctly list (1) gross wages earned each pay
20 period, (2) total hours actually worked each pay period, (5) net wages earned, (9) all hourly rates
21 in effect and the total number of hours worked each pay period.

22 67. Defendants’ unlawful acts and omissions deprived Plaintiff and the Wage
23 Statement Class of accurate itemized wage statements, causing confusion and concealing wage
24 and premium underpayments. As a result, Plaintiff and the Wage Statement Class are entitled to
25 recover the statutory penalty of \$50 per employee for the initial pay period in which a violation
26 occurred and \$100 per employee for each violation in a subsequent pay period, up to an aggregate
27 penalty of \$4,000 per employee, in addition to interest, attorneys’ fees, and costs to the extent
28 permitted by law, including under Labor Code section 226(e).

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SEVENTH CAUSE OF ACTION

FAILURE TO PROVIDE PAID SICK LEAVE & SUPP. PAID SICK LEAVE

Labor Code §§ 246 *et seq.*

68. Plaintiff incorporates all outside paragraphs of this Complaint as if set forth herein.

69. Plaintiff brings this cause of action on behalf of the Sick Leave Underpayment Class.

70. Defendants knowingly and intentionally failed in their affirmative obligation provide and pay paid sick leave to Plaintiff and the Sick Leave Underpayment Class in violation of Labor Code section 246.

71. Labor Code section 246(b)(1) requires that employees accrue sick leave at the commencement of employment at a rate of 1 hour for every thirty hours worked. Section 246(c) entitles employees to use any accrued sick leave beginning on their 90th day of employment. Labor Code section 246(l) governs how Defendants were required to calculate paid sick leave:

[A]n employer shall calculate paid sick leave using any of the following calculations:

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

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

(3) Paid sick time for exempt employees shall be calculated in the same manner as the employer calculates wages for other forms of paid leave time.

72. Defendants failed to pay Plaintiff and the Sick Leave Underpayment Class paid sick leave at one of the lawful rates set forth in the statute because Defendants failed to include in their sick leave calculation the additional remuneration received by Plaintiff and the Sick Leave Underpayment Class.

1 73. Furthermore, Defendants knowingly and intentionally failed in their affirmative
2 obligation to pay Covid-19 Supplemental Sick Leave to the Sick Leave Underpayment Class at
3 the correct rate in violation of Labor Code sections 246, 247.5, 248.2, and 248.6.

4 74. Under Labor Code section 248.2, non-exempt employees must be paid
5 supplemental paid sick leave according to the highest of the following four methods:

6 (I) Calculated in the same manner as the regular rate of pay for the workweek
7 in which the covered employee uses COVID-19 supplemental paid sick leave,
8 whether or not the employee actually works overtime in that workweek.

9 (II) Calculated by dividing the covered employee's total wages, not including
10 overtime premium pay, by the employee's total hours worked in the full pay
11 periods of the prior 90 days of employment.

12 (III) The state minimum wage.

13 (IV) The local minimum wage to which the covered employee is entitled.

14 75. Labor Code section 248.6 requires employers to pay supplemental sick leave using
15 either method I or II identified above.

16 76. On information and belief, Defendants failed to pay Covid-19 Supplemental Sick
17 Leave in the manner described above because Defendants failed to include in their sick leave
18 calculation the additional remuneration received by the Sick Leave Underpayment Class.

19 77. As a result, Defendants violated the Labor Code and are liable to Plaintiff and the
20 Sick Leave Underpayment Class for underpaid sick leave earnings, in addition to interest,
21 attorneys' fees, and costs.

22 **EIGHTH CAUSE OF ACTION**

23 **WAITING TIME PENALTIES**

24 **Violation of Labor Code §§ 201 through 203**

25 78. Plaintiff incorporates all outside paragraphs of this Complaint as if set forth herein.

26 79. Plaintiff brings this cause of action on behalf of the Waiting Time Class.

27 80. Defendants willfully failed in their affirmative obligation to pay all wages and
28 premiums earned and unpaid to Plaintiff and members of the Waiting Time Class immediately
upon termination of employment or within 72 hours thereafter for employees who did not provide
at least 72 hours prior notice of his or her intention to quit, and further failed to pay those sums

1 for 30 days thereafter in violation of Labor Code sections 201 through 203 and the IWC Wage
2 Orders.

3 81. Defendants' unlawful acts and omissions deprived Plaintiff and the Waiting Time
4 Class of timely wages upon separation of employment in amounts to be determined at trial.
5 Plaintiff and the Waiting Time Class are entitled to recover to their wages as a waiting time
6 penalty for a period of up to 30 days, in addition to interest, attorneys' fees, and costs to the extent
7 permitted by law.

8 **NINTH CAUSE OF ACTION**

9 **FAILURE TO REIMBURSE BUSINESS EXPENSES**

10 **Violation of Labor Code § 2802**

11 82. Plaintiff incorporates all outside paragraphs of this Complaint as if set forth herein.

12 83. Plaintiff brings this cause of action on behalf of the Reimbursement Class.

13 84. Defendants willfully failed in their affirmative obligation to reimburse Plaintiff
14 and the Reimbursement Class for all necessary expenditures, losses, expenses, and costs incurred
15 by them in direct discharge of the duties of their employment, in violation of Labor Code section
16 2802.

17 85. Defendants' unlawful acts and omissions deprived Plaintiff and the
18 Reimbursement Class of lawful reimbursements for business expenses in amounts to be
19 determined at trial. Plaintiff and the Reimbursement Class are entitled to recover to amount of
20 the unreimbursed expenses of Plaintiff and the Reimbursement Class in addition to interest,
21 attorneys' fees, and costs to the extent permitted by law, including under Labor Code section
22 2802.

23 **TENTH CAUSE OF ACTION**

24 **VIOLATIONS OF THE UNFAIR COMPETITION LAW**

25 **Business and Professions Code §§ 17200, et seq.**

26 86. Plaintiff incorporates all outside paragraphs of this Complaint as if set forth herein.

27 87. Plaintiff brings this cause of action on behalf of the UCL Class.

28

1 88. Defendants willfully failed in their affirmative obligation to timely pay each
2 payday or at other required intervals all minimum, regular, and overtime wages, sick leave, and
3 meal and rest period premium wages to Plaintiff and the UCL Class. These failures constitute
4 unlawful, deceptive, and unfair business acts and practices in violation of Business and
5 Professions Code section 17200, et seq.

6 89. Because Plaintiff is a victim of Defendants' unfair and unlawful conduct, as
7 alleged throughout this Complaint, Plaintiff, as an individual and on behalf of the UCL Class
8 seeks restitution of all monies and property withheld, acquired, or converted by Defendants in
9 violation of the Labor Code and IWC Wage Orders under Business and Professions Code section
10 17202, 17203, 17204 and 17208.

11 90. Defendants' unlawful acts and omissions deprived Plaintiff and the UCL Class of
12 monies and property in amounts to be determined at trial. Plaintiff and the UCL Class are entitled
13 to injunctive relief against Defendants, restitution, and other equitable relief to return all funds
14 over which Plaintiff and the UCL Class have an ownership interest and to prevent future damage
15 under Business and Professions Code section 17200, et seq. in addition to interest, attorneys' fees,
16 and costs to the extent permitted by law, including under Code of Civil Procedure section 1021.5.

17 **PRAYER FOR RELIEF**

18 Plaintiff pray for judgment as follows:

- 19 a. For certification of this action as a class action;
- 20 b. For appointment of Plaintiff as the representatives of the Class;
- 21 c. For appointment of counsel for Plaintiff as Class Counsel;
- 22 d. For injunctive relief;
- 23 e. For compensatory damages in amount according to proof;
- 24 f. For all recoverable pre- and post-judgment interest;
- 25 g. For recovery of all statutory penalties and liquidated damages;
- 26 h. For disgorgement of all amounts wrongfully obtained;
- 27 i. For reasonable attorneys' fees and costs of suit, including expert fees, to the extent
28 permitted by law on each cause of action, including (without limitation) under

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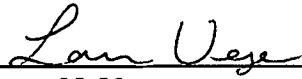
California Labor Code sections 218.5, 226, 1194, 2802, and Code of Civil Procedure section 1021.5;

j. For such other relief the Court deems just and proper.

Respectfully submitted,

Dated: March 4, 2022

Ferraro Vega Employment Lawyers, Inc.



Lauren N. Vega
Attorneys for Plaintiff

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO	
STREET ADDRESS: 330 W Broadway	
MAILING ADDRESS: 330 W Broadway	
CITY AND ZIP CODE: San Diego, CA 92101-3827	
DIVISION: Central	
TELEPHONE NUMBER: (619) 450-7067	
PLAINTIFF(S) / PETITIONER(S): Amy McCormack	
DEFENDANT(S) / RESPONDENT(S): Sterling Jewelers Inc et.al.	
MCCORMACK VS STERLING JEWELERS INC [E-FILE]	
NOTICE OF CASE ASSIGNMENT AND CASE MANAGEMENT CONFERENCE (CIVIL)	CASE NUMBER: 37-2022-00008433-CU-OE-CTL

CASE ASSIGNED FOR ALL PURPOSES TO:

Judge: Eddie C Sturgeon

Department: C-67

COMPLAINT/PETITION FILED: 03/04/2022

TYPE OF HEARING SCHEDULED	DATE	TIME	DEPT	JUDGE
Civil Case Management Conference	02/10/2023	10:30 am	C-67	Eddie C Sturgeon

Due to the COVID-19 pandemic, all Case Management Conferences (CMCs) are being conducted virtually unless there is a court order stating otherwise. Prior to the hearing date, visit the "virtual hearings" page for the most current instructions on how to appear for the applicable case-type/department on the court's website at www.sdcourt.ca.gov.

A Case Management Statement (JC Form #CM-110) must be completed by counsel for all parties and by all self-represented litigants and timely filed with the court at least 15 days prior to the initial CMC. (San Diego Superior Court (SDSC) Local Rules, rule 2.1.9; Cal. Rules of Court, rule 3.725).

All counsel of record and self-represented litigants must appear at the CMC, be familiar with the case, and be fully prepared to participate effectively in the hearing, including discussions of Alternative Dispute Resolution (ADR) options.

It is the duty of each plaintiff (and cross-complainant) to serve a copy of this Notice of Case Assignment and Case Management Conference (SDSC Form #CIV-721) with the complaint (and cross-complaint), the Alternative Dispute Resolution (ADR) Information Form (SDSC Form # CIV-730), a Stipulation to Use Alternative Dispute Resolution (ADR) (SDSC Form # CIV-359), and other documents on all parties to the action as set out in SDSC Local Rules, rule 2.1.5.

TIME FOR SERVICE AND RESPONSE: The following rules apply to civil cases except for collections cases under California Rules of Court, rule 3.740(a), unlawful detainer actions, proceedings under the Family Code, and other proceedings for which different service requirements are prescribed by law (Cal. Rules of Court, rule 3.110; SDSC Local Rules, rule 2.1.5):

- **Service:** The complaint must be served on all named defendants, and proof of service filed with the court within 60 days after filing the complaint. An amended complaint adding a defendant must be served on the added defendant and proof of service filed within 30 days after filing of the amended complaint. A cross-complaint against a party who has appeared in the action must be accompanied by proof of service on that party at the time it is filed. If it adds a new party, the cross-complaint must be served on all parties and proof of service on the new party must be filed within 30 days of the filing of the cross-complaint.
- **Defendant's appearance:** Unless a special appearance is made, each defendant served must generally appear (as defined in Code of Civ. Proc. § 1014) within 30 days of service of the complaint/cross-complaint.
- **Extensions:** The parties may stipulate without leave of court to one 15-day extension beyond the 30-day time period prescribed for the response after service of the initial complaint (SDSC Local Rules, rule 2.1.6). If a party fails to serve and file pleadings as required under this rule, and has not obtained an order extending time to serve its pleadings, the court may issue an order to show cause why sanctions shall not be imposed.

JURY FEES: In order to preserve the right to a jury trial, one party for each side demanding a jury trial shall pay an advance jury fee in the amount of one hundred fifty dollars (\$150) on or before the date scheduled for the initial case management conference in the action.

COURT REPORTERS: Official Court Reporters are not normally available in civil matters, but may be requested in certain situations no later than 10 days before the hearing date. See SDSC Local Rules, rule 1.2.3 and Policy Regarding Normal Availability and Unavailability of Official Court Reporters (SDSC Form #ADM-317) for further information.

ALTERNATIVE DISPUTE RESOLUTION (ADR): The court discourages any unnecessary delay in civil actions; therefore, continuances are discouraged and timely resolution of all actions, including submitting to any form of ADR is encouraged. The court encourages and expects the parties to consider using ADR options prior to the CMC. The use of ADR will be discussed at the CMC. Prior to the CMC, parties stipulating to the ADR process may file the Stipulation to Use Alternative Dispute Resolution (SDSC Form #CIV-359).

NOTICE OF E-FILING REQUIREMENTS AND IMAGED DOCUMENTS

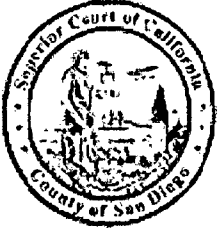
Effective April 15, 2021, e-filing is required for attorneys in represented cases in all limited and unlimited civil cases, pursuant to the San Diego Superior Court General Order: In Re Procedures Regarding Electronically Imaged Court Records, Electronic Filing and Access to Electronic Court Records in Civil and Probate Cases. Additionally, you are encouraged to review CIV-409 for a listing of documents that are not eligible for e-filing. E-filing is also encouraged, but not mandated, for self-represented litigants, unless otherwise ordered by the court. All e-filers are required to comply with the e-filing requirements set forth in Electronic Filing Requirements (Civil) (SDSC Form #CIV-409) and Cal. Rules of Court, rules 2.250-2.261.

All Civil cases are assigned to departments that are part of the court's "Imaging Program." This means that original documents filed with the court will be imaged, held for 30 days, and then destroyed, with the exception of those original documents the court is statutorily required to maintain. The electronic copy of the filed document(s) will be the official court record, pursuant to Government Code § 68150. Thus, original documents should not be attached to pleadings filed with the San Diego Superior Court, unless it is a document for which the law requires an original be filed. Any original documents necessary for a motion hearing or trial shall be lodged in advance of the hearing pursuant to California Rules of Court, rule 3.1302(b).

It is the duty of each plaintiff, cross-complainant, or petitioner to serve a copy of this Notice of Case Assignment and Case Management Conference (Civil) (SDSC Form #CIV-721) with the complaint, cross-complaint, or petition on all parties to the action.

On all pleadings filed after the initial case originating filing, all parties must, to the extent it is feasible to do so, place the words "IMAGED FILE" in all caps immediately under the title of the pleading on all subsequent pleadings filed in the action.

The official court file will be electronic and accessible at one of the kiosks located in the Civil Business Office and may be found on the court's website at www.sdcourt.ca.gov.



SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO

ALTERNATIVE DISPUTE RESOLUTION (ADR) INFORMATION

CASE NUMBER: 37-2022-00008433-CU-OE-CTL

CASE TITLE: McCormack vs Sterling Jewelers Inc [E-FILE]

NOTICE: All plaintiffs/cross-complainants in a general civil case are required to serve a copy of the following three forms on each defendant/cross-defendant, together with the complaint/cross-complaint:

- (1) this Alternative Dispute Resolution (ADR) Information form (SDSC form #CIV-730),
- (2) the Stipulation to Use Alternative Dispute Resolution (ADR) form (SDSC form #CIV-359), and
- (3) the Notice of Case Assignment form (SDSC form #CIV-721).

Most civil disputes are resolved without filing a lawsuit, and most civil lawsuits are resolved without a trial. The courts, community organizations, and private providers offer a variety of Alternative Dispute Resolution (ADR) processes to help people resolve disputes without a trial. The San Diego Superior Court expects that litigants will utilize some form of ADR as a mechanism for case settlement before trial, and it may be beneficial to do this early in the case.

Below is some information about the potential advantages and disadvantages of ADR, the most common types of ADR, and how to find a local ADR program or neutral. A form for agreeing to use ADR is attached (SDSC form #CIV-359).

Potential Advantages and Disadvantages of ADR

ADR may have a variety of advantages or disadvantages over a trial, depending on the type of ADR process used and the particular case:

Potential Advantages

- Saves time
- Saves money
- Gives parties more control over the dispute resolution process and outcome
- Preserves or Improves relationships

Potential Disadvantages

- May take more time and money if ADR does not resolve the dispute
- Procedures to learn about the other side's case (discovery), jury trial, appeal, and other court protections may be limited or unavailable

Most Common Types of ADR

You can read more information about these ADR processes and watch videos that demonstrate them on the court's ADR webpage at <http://www.sdcourt.ca.gov/adr>.

Mediation: A neutral person called a "mediator" helps the parties communicate in an effective and constructive manner so they can try to settle their dispute. The mediator does not decide the outcome, but helps the parties to do so. Mediation is usually confidential, and may be particularly useful when parties want or need to have an ongoing relationship, such as in disputes between family members, neighbors, co-workers, or business partners, or when parties want to discuss non-legal concerns or creative resolutions that could not be ordered at a trial.

Settlement Conference: A judge or another neutral person called a "settlement officer" helps the parties to understand the strengths and weaknesses of their case and to discuss settlement. The judge or settlement officer does not make a decision in the case but helps the parties to negotiate a settlement. Settlement conferences may be particularly helpful when the parties have very different ideas about the likely outcome of a trial and would like an experienced neutral to help guide them toward a resolution.

Arbitration: A neutral person called an "arbitrator" considers arguments and evidence presented by each side and then decides the outcome of the dispute. Arbitration is less formal than a trial, and the rules of evidence are usually relaxed. If the parties agree to binding arbitration, they waive their right to a trial and agree to accept the arbitrator's decision as final. With nonbinding arbitration, any party may reject the arbitrator's decision and request a trial. Arbitration may be appropriate when the parties want another person to decide the outcome of their dispute but would like to avoid the formality, time, and expense of a trial.

Other ADR Processes: There are several other types of ADR which are not offered through the court but which may be obtained privately, including neutral evaluation, conciliation, fact finding, mini-trials, and summary jury trials. Sometimes parties will try a combination of ADR processes. The important thing is to try to find the type or types of ADR that are most likely to resolve your dispute. Be sure to learn about the rules of any ADR program and the qualifications of any neutral you are considering, and about their fees.

Local ADR Programs for Civil Cases

Mediation: The San Diego Superior Court maintains a Civil Mediation Panel of approved mediators who have met certain minimum qualifications and have agreed to charge \$ 150 per hour for each of the first two (2) hours of mediation and their regular hourly rate thereafter in court-referred mediations.

On-line mediator search and selection: Go to the court's ADR webpage at www.sdcourt.ca.gov/adr and click on the "Mediator Search" to review individual mediator profiles containing detailed information about each mediator including their dispute resolution training, relevant experience, ADR specialty, education and employment history, mediation style, and fees and to submit an on-line Mediator Selection Form (SDSC form #CIV-005). The Civil Mediation Panel List, the Available Mediator List, individual Mediator Profiles, and Mediator Selection Form (CIV-005) can also be printed from the court's ADR webpage and are available at the Mediation Program Office or Civil Business Office at each court location.

Settlement Conference: The judge may order your case to a mandatory settlement conference, or voluntary settlement conferences may be requested from the court if the parties certify that: (1) settlement negotiations between the parties have been pursued, demands and offers have been tendered in good faith, and resolution has failed; (2) a judicially supervised settlement conference presents a substantial opportunity for settlement; and (3) the case has developed to a point where all parties are legally and factually prepared to present the issues for settlement consideration and further discovery for settlement purposes is not required. Refer to SDSC Local Rule 2.2.1 for more information. To schedule a settlement conference, contact the department to which your case is assigned.

Arbitration: The San Diego Superior Court maintains a panel of approved judicial arbitrators who have practiced law for a minimum of five years and who have a certain amount of trial and/or arbitration experience. Refer to SDSC Local Rules Division II, Chapter III and Code Civ. Proc. § 1141.10 et seq or contact the Arbitration Program Office at (619) 450-7300 for more information.

More information about court-connected ADR: Visit the court's ADR webpage at www.sdcourt.ca.gov/adr or contact the court's Mediation/Arbitration Office at (619) 450-7300.

Dispute Resolution Programs Act (DRPA) funded ADR Programs: The following community dispute resolution programs are funded under DRPA (Bus. and Prof. Code §§ 465 et seq.):

- In Central, East, and South San Diego County, contact the National Conflict Resolution Center (NCRC) at www.ncrconline.com or (619) 238-2400.
- In North San Diego County, contact North County Lifeline, Inc. at www.nclifeline.org or (760) 726-4900.

Private ADR: To find a private ADR program or neutral, search the Internet, your local telephone or business directory, or legal newspaper for dispute resolution, mediation, settlement, or arbitration services.

Legal Representation and Advice

To participate effectively in ADR, it is generally important to understand your legal rights and responsibilities and the likely outcomes if you went to trial. ADR neutrals are not allowed to represent or to give legal advice to the participants in the ADR process. If you do not already have an attorney, the California State Bar or your local County Bar Association can assist you in finding an attorney. Information about obtaining free and low cost legal assistance is also available on the California courts website at www.courtinfo.ca.gov/selfhelp/lowcost.

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO STREET ADDRESS: 330 West Broadway MAILING ADDRESS: 330 West Broadway CITY, STATE, & ZIP CODE: San Diego, CA 92101-3827 BRANCH NAME: Central	FOR COURT USE ONLY
PLAINTIFF(S): Amy McCormack	
DEFENDANT(S): Sterling Jewelers Inc et.al.	
SHORT TITLE: MCCORMACK VS STERLING JEWELERS INC [E-FILE]	
STIPULATION TO USE ALTERNATIVE DISPUTE RESOLUTION (ADR)	CASE NUMBER: 37-2022-00008433-CU-OE-CTL

Judge: Eddie C Sturgeon

Department: C-67

The parties and their attorneys stipulate that the matter is at issue and the claims in this action shall be submitted to the following alternative dispute resolution (ADR) process. Selection of any of these options will not delay any case management timelines.

- | | |
|--|--|
| <input type="checkbox"/> Mediation (court-connected)
<input type="checkbox"/> Mediation (private)
<input type="checkbox"/> Voluntary settlement conference (private)
<input type="checkbox"/> Neutral evaluation (private)
<input type="checkbox"/> Other (specify e.g., private mini-trial, private judge, etc.): _____ | <input type="checkbox"/> Non-binding private arbitration
<input type="checkbox"/> Binding private arbitration
<input type="checkbox"/> Non-binding judicial arbitration (discovery until 15 days before trial)
<input type="checkbox"/> Non-binding judicial arbitration (discovery until 30 days before trial) |
|--|--|

It is also stipulated that the following shall serve as arbitrator, mediator or other neutral: (Name) _____

Alternate neutral (for court Civil Mediation Program and arbitration only): _____

Date: _____

Date: _____

Name of Plaintiff

Name of Defendant

Signature

Signature

Name of Plaintiff's Attorney

Name of Defendant's Attorney

Signature

Signature

If there are more parties and/or attorneys, please attach additional completed and fully executed sheets.

It is the duty of the parties to notify the court of any settlement pursuant to Cal. Rules of Court, rule 3.1385. Upon notification of the settlement, the court will place this matter on a 45-day dismissal calendar.

No new parties may be added without leave of court.

IT IS SO ORDERED.

Dated: 03/07/2022

JUDGE OF THE SUPERIOR COURT

1 VORYS SATER SEYMOUR AND PEASE LLP
Thomas N. McCormick (Bar No. 325537)
2 tnmccormick@vorys.com
4675 MacArthur Court, Suite 700
3 Newport Beach, CA 92660
Telephone: (949) 526-7900
4 Facsimile: (949) 526-7901

5 Attorneys for Defendants
STERLING JEWELERS INC. and
6 SIGNET JEWELERS LTD.

7
8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
9 **COUNTY OF SAN DIEGO**

10 AMY MCCORMACK, as an individual and
11 on behalf of all others similarly situated,

12
13 Plaintiff,

14 v.

15 STERLING JEWELERS INC., a corporation;
16 SIGNET JEWELERS LTD., a corporation;
17 and DOES 1 through 50

18
19 Defendants.
20
21

Case No. 37-2022-00008433-CU-OE-CTL

Judge: Hon. Eddie C. Sturgeon
Department: C-67

**DEFENDANTS STERLING JEWELERS
INC.'S AND SIGNET JEWELERS LTD'S
ANSWER TO CLASS ACTION
COMPLAINT**

Action Filed: March 4, 2022

22
23 Defendants Sterling Jewelers Inc. and Signet Jewelers Ltd.¹ (“Defendants”) hereby
24 answers Plaintiff Amy McCormack’s (“Plaintiff”) Class Action Complaint:
25

26 ¹ Signet Jewelers Ltd. is not a proper party because it did not employ Plaintiff or any putative class
27 member and because it is not a joint employer with Defendant Sterling Jewelers Inc., nor is it a
28 single employer or part of an integrated enterprise with Defendant Sterling Jewelers Inc.

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GENERAL DENIAL

Pursuant to the provisions of California Code of Civil Procedure § 431.30(d), Defendants deny, generally and specifically, each and every allegation of the Class Action Complaint and further deny, generally and specifically, that Plaintiff is entitled to any remedies, judgments, civil penalties, or any other relief whatsoever by reason of any act or omission on the part of Defendants.

AFFIRMATIVE AND OTHER DEFENSES

In addition, Defendants allege and assert the affirmative and other defenses set forth herein. By pleading these defenses, Defendants do not assume the burden of proving or disproving any fact, issue, or element of a cause of action where such burden properly belongs to Plaintiff. Moreover, nothing stated herein is intended or shall be construed as a concession that any particular issue or subject matter is relevant to Plaintiff’s allegations.

FIRST AFFIRMATIVE DEFENSE

(Failure to State Cause of Action)

1. The Class Action Complaint, and each purported cause of action alleged therein, fails to state facts sufficient to constitute a cause of action upon which relief may be granted.

SECOND AFFIRMATIVE DEFENSE

(Statute of Limitations)

2. The Class Action Complaint, and each purported cause of action alleged therein, is barred in whole or in part by the applicable statutes of limitations, including but not limited to, California Labor Code § 203, California Code of Civil Procedure §§ 337, 338(a), 339(1), 340(a), and 340(b), and California Business & Professions Code § 17208.

THIRD AFFIRMATIVE DEFENSE

(Laches)

3. The Class Action Complaint, and each purported cause of action alleged therein, is barred in whole or in part by the doctrine of laches.

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FOURTH AFFIRMATIVE DEFENSE

(Exhaustion)

4. Some or all of the claims contained in Plaintiff’s Class Action Complaint are barred because Plaintiff failed to exhaust her administrative remedies or prerequisites before filing suit.

FIFTH AFFIRMATIVE DEFENSE

(Failure to Plead Specific Facts)

5. Plaintiff’s cause of action claiming unfair business practices in violation of California Business & Professions Code § 17200 is barred because it fails to plead specific facts capable of stating a claim for unfair business practices.

SIXTH AFFIRMATIVE DEFENSE

(Abatement)

6. The Class Action Complaint, in whole or in part, should be abated in the Court's discretion, and Plaintiff should be forced to pursue her administrative remedies with the California Division of Labor Standards Enforcement, which has primary jurisdiction over some or all of Plaintiff’s claims.

SEVENTH AFFIRMATIVE DEFENSE

(Estoppel)

7. Plaintiff is estopped by her own actions and conduct from asserting any cause of action against Defendants.

EIGHTH AFFIRMATIVE DEFENSE

(Waiver)

8. Plaintiff has engaged in conduct and activity sufficient to constitute a waiver of any right to assert the claims upon which she now seeks relief.

NINTH AFFIRMATIVE DEFENSE

(No Damages)

9. Pursuant to the Business & Professions Code § 17200, Plaintiff is not entitled to an award of damages.

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TENTH AFFIRMATIVE DEFENSE

(Safe Harbor)

10. Plaintiff's claims are barred in whole or in part because of Defendants' compliance with all applicable laws, statutes, and regulations, which constitutes a safe harbor to any claim under California Business & Professions Code Sections 17200, *et seq.*

ELEVENTH AFFIRMATIVE DEFENSE

(Consent)

11. Plaintiff is unable to state a cause of action against Defendants because Plaintiff consented to any and all actions allegedly taken by Defendants.

TWLEFTH AFFIRMATIVE DEFENSE

(No Attorneys' Fees)

12. Plaintiff's purported causes of action in the Class Action Complaint fail to state facts sufficient to entitle Plaintiff to an award of attorneys' fees in any amount.

THIRTEENTH AFFIRMATIVE DEFENSE

(Unclean Hands)

13. Plaintiff's Class Action Complaint, and each cause of action therein, is barred by the doctrine of unclean hands.

FOURTEENTH AFFIRMATIVE DEFENSE

(Offset)

14. Some or all of the purported causes of action in the Class Action Complaint are subject to setoff, offset, or recoupment.

FIFTEENTH AFFIRMATIVE DEFENSE

(Good Faith)

15. The Class Action Complaint fails to state a claim for penalties under the California Labor Code in that (a) there was a bona fide, good faith dispute as to Defendants' obligations under any applicable Labor Code provisions; and (b) Defendants did not willfully fail to pay any wages. Any violation of the Labor Code or Order of the Industrial Welfare Commission was an act or omission made in good faith, and Defendants had reasonable grounds for believing that its wage

1 payment practices complied with existing laws and that any act or omission was not a violation of
2 the Labor Code or any Order of the Industrial Welfare Commission so that Plaintiff, any other
3 allegedly aggrieved employees, or the putative class are not entitled to any damages in excess of
4 any wages for hours worked which might be found to be due.

5 **SIXTEENTH AFFIRMATIVE DEFENSE**

6 **(Penalties Barred by Principles of Fairness and Equity)**

7 16. The Class Action Complaint and each purported claim alleged therein cannot be
8 maintained against Defendants because principles of fairness and equity operate to bar the
9 imposition of penalties under California Labor Code §§ 510, 558, and applicable Orders of the
10 Industrial Welfare Commission.

11 **SEVENTEENTH AFFIRMATIVE DEFENSE**

12 **(Lack of Standing)**

13 17. The Class Action Complaint and each purported claim alleged therein are barred
14 because Plaintiff lacks standing.

15 **EIGHTEENTH AFFIRMATIVE DEFENSE**

16 **(No Control)**

17 18. The Class Action Complaint and each purported claim alleged therein cannot be
18 maintained against Defendants because the alleged losses or harms sustained by Plaintiff, aggrieved
19 employees, if any, or the putative class resulted from causes other than any act or omission of
20 Defendants.

21 **NINETEENTH AFFIRMATIVE DEFENSE**

22 **(Acts or Omissions by Plaintiff or Aggrieved Employee)**

23 19. The Class Action Complaint and each purported claim alleged therein cannot be
24 maintained against Defendants because the alleged losses or harms sustained by Plaintiff, allegedly
25 aggrieved employees, or the putative class resulted from the acts or omissions of Plaintiff or others.

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TWENTIETH AFFIRMATIVE DEFENSE

(Outside Scope of IWC Orders)

20. Some or all of certain hours claimed by Plaintiffs, each aggrieved employee, if any, and/or the putative class are not “hours worked” within the meaning of any Order(s) of the California Industrial Welfare Commission and/or under applicable California law, such that compensation need not be paid for those hours.

TWENTY-FIRST AFFIRMATIVE DEFENSE

(De Minimis Effect)

21. Some or all of the hours worked by Plaintiff, each aggrieved employee, if any, and/or the putative class and claimed unpaid were *de minimis* and do not qualify as compensable hours worked under the California Labor Code and/or any other applicable law.

TWENTY-SECOND AFFIRMATIVE DEFENSE

(Wrongful Acts Not Authorized, Ratified, or Condoned by Defendant)

22. Any unlawful or wrongful acts of any person(s) employed by Defendants was outside the scope of his or her authority and such acts, if any, were not authorized, ratified, or condoned by Defendants, nor did Defendants know or have reason to be aware of such alleged conduct.

TWENTY-THIRD AFFIRMATIVE DEFENSE

(Avoidable Consequences)

23. The Class Action Complaint and each purported claim alleged therein are barred, or any recovery should be reduced, pursuant to the avoidable consequences doctrine, because Defendants took reasonable steps to prevent and correct any alleged improper wage payments, and Plaintiff, any allegedly aggrieved employee, and/or the putative class unreasonably failed to use the preventative and corrective opportunities provided to them by Defendants, and reasonable use of Defendants’ procedures would have prevented at least some, if not all, of the harm that Plaintiff, any allegedly aggrieved employee, and/or the putative class allegedly suffered.

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TWENTY-FOURTH AFFIRMATIVE DEFENSE

(Failure to Comply)

24. Any damages suffered were the result of failure by Plaintiff, any allegedly aggrieved employee, and/or the putative class to comply with the reasonable expectations of Defendants and/or to follow Defendants' reasonable instructions and/or policies.

TWENTY-FIFTH AFFIRMATIVE DEFENSE

(Due Process)

25. Allowing this action to proceed with Plaintiff as a representative of any allegedly aggrieved employee, and/or the putative classes, as applied to the facts and circumstances of this case, would constitute a denial of Defendants' due process rights, both substantive and procedural, in violation of the Constitutions of the United States of America and the State of California.

TWENTY-SIXTH AFFIRMATIVE DEFENSE

(Release and/or Satisfaction of Claims)

26. Plaintiff's claims and any claim on behalf of any allegedly aggrieved employee and/or the putative class are barred to the extent Plaintiff, any allegedly aggrieved employee, and/or the putative class released the claims and damages sought and/or acknowledged an accord and satisfaction and/or release of any claim asserted in the Class Action Complaint.

TWENTY-SEVENTH AFFIRMATIVE DEFENSE

(Penalties Unjust, Arbitrary, Oppressive, and/or Confiscatory)

27. Plaintiff, any allegedly aggrieved employee, and/or the putative class are not entitled to recover any civil penalties because, under the circumstances of this case, any such recovery would be unjust, arbitrary, oppressive, and/or confiscatory.

TWENTY-EIGHTH AFFIRMATIVE DEFENSE

(Properly Calculated Regular Rate)

28. The Class Action Complaint and each purported claim alleged therein are barred in whole or in part because Defendants properly calculated the regular rate for all purposes, including paying overtime, for its California employees during relevant period.

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TWENTY-NINTH AFFIRMATIVE DEFENSE

(Multiple Recovery)

29. The Class Action Complaint and each purported claim alleged therein are barred in whole or in part to the extent that Plaintiff, any allegedly aggrieved employee, and/or the putative class seek a multiple recovery for the same alleged wrong or wrongs.

THIRTIETH AFFIRMATIVE DEFENSE

(Claims Not Manageable)

30. The Class Action Complaint is barred to the extent that the presence of numerous individualized issues that render the case unmanageable.

THIRTY-FIRST AFFIRMATIVE DEFENSE

(Wage Statement)

31. Plaintiff’s claim for failure to provide accurate itemized wage statements fails because Plaintiff, any allegedly aggrieved employee, and/or the putative class did not suffer any injury as a result of any such failures, to the extent they occurred.

THIRTY-SECOND AFFIRMATIVE DEFENSE

(Wage Statements Reflected Wages Paid)

32. Plaintiff’s claim for failure to provide accurate itemized wage statements fails because any wage statements received by Plaintiff, any allegedly aggrieved employee, and/or the putative class accurately reflected the wages they were actually paid.

THIRTY-THIRD AFFIRMATIVE DEFENSE

(Properly Paid For All Hours Worked)

33. The Class Action Complaint and each purported claim alleged therein are barred in whole or in part because Defendants properly compensated Plaintiff, any allegedly aggrieved employee, and the putative class for all hours worked, including any hours over forty in a workweek or eight hours in a workday.

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THIRTY-FOURTH AFFIRMATIVE DEFENSE

(Payment of Wages)

34. Defendants allege that any and all wages or other compensation were paid to Plaintiff, all allegedly aggrieved employees, and the putative class in a complete, full, fair and timely manner consistent with any and all applicable regulations and statutes.

THIRTY-FIFTH AFFIRMATIVE DEFENSE

(Payment of Wages)

35. Defendants provided, authorized and permitted Plaintiff, all allegedly aggrieved employees, and the putative class to take all paid rest breaks and meal breaks required by law and breached no duty owed to Plaintiff, all allegedly aggrieved employees, and the putative class with respect thereto.

THIRTY-SIXTH AFFIRMATIVE DEFENSE

(Premium Pay Barred)

36. Plaintiff, all allegedly aggrieved employees, and the putative class are not entitled to any premium wages under California Labor Code Sections 226.7, 512, or any other provision of the California Labor Code because the Plaintiff, all allegedly aggrieved employees, and the putative class were always authorized and permitted to take rest and meal breaks as provided by law.

THIRTY-SEVENTH AFFIRMATIVE DEFENSE

(Equitable Relief Unavailable)

37. The Class Action Complaint and each purported claim alleged therein fails to state a claim for injunctive or other equitable relief.

THIRTY-EIGHTH AFFIRMATIVE DEFENSE

(Adequate Remedy at Law)

38. The relief requested by Plaintiff, and on behalf of any allegedly aggrieved employee and/or the putative class, pursuant to California Business and Professions Code §§ 17200, *et seq.*, and at common law, should be denied because Plaintiff, any allegedly aggrieved employee, and the putative class have adequate remedies at law.

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THIRTY-NINTH AFFIRMATIVE DEFENSE

(After-Acquired Evidence)

39. In the event that Defendants discovers any after-acquired evidence, Plaintiff's claims against Defendants and/or the relief sought by Plaintiff against Defendant would be barred by the doctrine of after-acquired evidence.

FORTIETH AFFIRMATIVE DEFENSE

(Failure to Satisfy Requirements of a Class Action)

40. Plaintiff fails, in whole or in part, to state specific facts sufficient to certify a class action. There is no question of a common or general interest or well-defined community of interest among the purported class membership.

FORTY-FIRST AFFIRMATIVE DEFENSE

(Improper Class Representative)

41. The Class Action Complaint, and each purported cause of action in the Complaint is barred in whole or in part because Plaintiff does not meet the requirements for a class representative.

FORTY-SECOND AFFIRMATIVE DEFENSE

(Failure of Predominant Questions of Law or Fact)

42. Plaintiff has failed to adequately plead the elements necessary for class action treatment, and therefore should be barred from seeking to certify this case as a class action, including without limitation because there are no predominant common questions of law or fact among the purported class representative and the purported class members.

FORTY-THIRD AFFIRMATIVE DEFENSE

(Failure of Class Representative Having Claims Typical of the Class)

43. Plaintiff has failed to adequately plead the elements necessary for class treatment, and should therefore be barred from seeking to certify this case as a class action, including without limitation because the proposed class representative does not have claims typical of the purported class members.

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FORTY-FOURTH AFFIRMATIVE DEFENSE

(Class Action Not A Superior Method of Adjudication)

44. The Class Action Complaint and each purported cause of action therein is barred in whole or in part because a class action is not the superior method for adjudicating this dispute.

FORTY-FIFTH AFFIRMATIVE DEFENSE

(Proposed Class Definition Defective/No Ascertainability)

45. The proposed class definitions are defective, in that they fail to provide a reasonable means by which to ascertain the persons who fall within the proposed class definition.

FORTY-SIXTH AFFIRMATIVE DEFENSE

(No Violation of Underlying Law)

46. Defendants are not liable for violation of unlawful business practices pursuant to California Business and Professions Code sections 17200, *et seq.*, because they are not liable to Plaintiff, any alleged aggrieved employee, and/or the putative class for any alleged violation of any underlying state or federal laws.

FORTY-SEVENTH AFFIRMATIVE DEFENSE

(Benefits of Business Practice)

47. Defendants are not liable for violation of unfair business practices pursuant to California Business and Professions Code sections 17200, *et seq.*, because the benefits of Defendants' practices with respect to Plaintiff, any alleged aggrieved employee, and/or the putative class outweigh whatever particular harm or impact the practices allegedly cause them.

FORTY-EIGHTH AFFIRMATIVE DEFENSE

(Legitimate Business Reason)

48. The Class Action Complaint, and each purported claim alleged therein, are barred because the alleged conduct of Defendants was at all times justified, fair, privileged, and undertaken in the good faith exercise of a valid business purpose.

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FORTY-NINTH AFFIRMATIVE DEFENSE

(Failure to Specify Monetary Damages)

49. Plaintiff, any allegedly aggrieved employee, and the putative class are precluded from recovering restitution, in whole or in part, from Defendants under the applicable provisions of the law because Plaintiff, any allegedly aggrieved employee, and/or the putative class can specify quantifiable monetary amounts converted from them by Defendant for which restitution is owed.

FIFTIETH AFFIRMATIVE DEFENSE

(Properly Reimbursed for All Necessary Business Expenditures)

50. The Class Action Complaint and each purported claim alleged therein are barred in whole or in part because Defendants properly reimbursed Plaintiff, any allegedly aggrieved employee, and the putative class for all necessary business expenditures.

FIFTY-FIRST AFFIRMATIVE DEFENSE

(Failure to State Cause of Action/No Private Right of Action)

51. Plaintiff’s Seventh and Eight Causes of Action fail as a matter of law because there is no private right of action for alleged violations of Labor Code Sections 246, 247.5, 248.2, and/or 248.6.

FIFTY-SECOND AFFIRMATIVE DEFENSE

(Failure to State Cause of Action/No Private Right of Action)

52. Plaintiff’s Fifth Cause of Action fails as a matter of law as there is no private right of action in this Court for an alleged violation of Labor Code Section 204 or 204b under Labor Code 210 or otherwise and/or because Plaintiff failed to bring a claim for administrative relief with the Labor Commissioner for this claim.

FIFTY-THIRD AFFIRMATIVE DEFENSE

(Improper Party)

53. Defendant Signet Jewelers Ltd. is not a proper party because it did not employ Plaintiff or any putative class member and because it is not a joint employer with Defendant Sterling Jewelers Inc., nor is it a single employer or part of an integrated enterprise with Defendant Sterling Jewelers Inc.

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FIFTY-FOURTH AFFIRMATIVE DEFENSE

(Claims Barred by Previous Settlements)

54. The claims of Plaintiff and all or some of the putative class members that Plaintiff purports to represent are barred in whole or in part as a result of the Settlement Agreements releasing claims in the following class actions: *Shawntasha Rhoden, et al. v. Zale Delaware, Inc.*, Case No. 20STCV11561 (Superior Court of the State of California, County of Los Angeles) and/or *Carolina Leos v. Zale Delaware, Inc.*, Case No. 21STCV00447 (Superior Court of the State of California, County of Los Angeles).

RESERVATION OF RIGHTS

Defendants hereby give notice that they intend to rely upon such other and further affirmative and other defenses they identify and/or as may become available during discovery in this action, and Defendants reserve the right to amend this Answer to assert any such defenses.

PRAYER FOR RELIEF

WHEREFORE, Defendants pray for judgment as follows:

- 1. That Plaintiff take nothing by her Class Action Complaint;
- 2. That the Class Action Complaint be dismissed;
- 3. That judgment be entered in favor of Defendants;
- 4. For costs of suit and attorneys’ fees incurred herein; and
- 5. For such other and further relief as the Court deems just and proper.

Dated: April 13, 2022

/s/ Thomas N. McCormick
Thomas N. McCormick (Bar No. 325537)

VORYS, SATER, SEYMOUR & PEASE LLP

Attorneys for Defendants

STERLING JEWELERS INC. AND
SIGNET JEWELERS LTD

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PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF ORANGE.

I, Cynthia A. Tompkins, the undersigned, declare that I am employed in Orange County, State of California. I am over the age of 18 and not a party to the within action. My business address 4675 MacArthur Court, Suite 700, Newport Beach, California 92660. On April 13, 2022, I served upon the interested party(ies) in this action the following document described as: **DEFENDANTS STERLING JEWELERS INC.'S AND SIGNET JEWELERS LTD'S ANSWER TO CLASS ACTION COMPLAINT**

By placing a true copy thereof enclosed in sealed envelope(s) addressed as stated below.

Nicholas J. Ferraro, Esq.
Lauren N. Vega, Esq.
Ferraro Vega Employment Lawyers, Inc.
3160 Camino Del Rio South, Suite 308
San Diego, CA 92108

Attorneys for Plaintiff

For processing by the following method:

 (BY MAIL) I am readily familiar with the business practice for collection and processing of correspondence for mailing with the United States Postal Service. This correspondence shall be deposited with the United States Postal Service this same day in the ordinary course of business at our Firm's office address in Newport Beach, California. Service made pursuant to this paragraph, upon motion of a party served, shall be presumed invalid if the postal cancellation date of postage meter date on the envelope is more than one day after the date of deposit for mailing contained in this affidavit.

 (BY OVERNIGHT DELIVERY SERVICE) I served the foregoing document by Federal Express, an express service carrier which provides overnight delivery, as follows. I placed true copies of the foregoing document in sealed envelopes or packages designated by the express service carrier, addressed to each interested party as set forth above, with fees for overnight delivery paid or provided for.

XX (BY ELECTRONIC MAIL) I caused such document to be delivered via email to the offices of the addressees at the following email addresses: nick@ferrarovega.com; lauren@ferrarovega.com

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

Executed on April 13, 2022, at Newport Beach, California

Cynthia A. Tompkins

(Type or print name)



(Signature)

CAUTION: External Email

eFiling Under Court Clerk Review

Order # [18034799](#)
Submitted 4/13/2022 5:33 PM PT by Cynthia Tompkins
Case McCormack vs Sterling Jewelers Inc [E-FILE]
#37-2022-00008433-CU-OE-CTL
Court Superior Court of California, San Diego County
(Central - Civil)
Client billing 072533-000116/03734
Court transaction # 21301771

Documents

- Defendants Sterling Jewelers Inc.'s and Signet Jew...

What happens next?

The court has received your filing. You will receive an email immediately upon completion of the court clerk's review. Although court processing times vary, the court filing date for accepted filings will reflect the date this order was submitted.

You can check the [status of your order](#) at any time in your One Legal account.

Thank you,
The One Legal Team

How are we doing? [Share your feedback](#).

You are receiving this email in response to an order that was placed on www.onelegal.com
Please do not reply to this email. Get help on our [Support Center](#) or by contacting [Customer Support](#).
InfoTrack US, Inc. 1400 North McDowell Blvd., Suite 300, Petaluma, CA 94954



□

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): Nicholas J. Ferraro(SBN 306528) / Lauren N. Vega (SBN 306525) Ferraro Vega Employment Lawyers, Inc. 3160 Camino Del Rio South, Suite 308 San Diego, CA 92108 TELEPHONE NO.: 619-693-7727 FAX NO.: 619-350-6855 ATTORNEY FOR (Name): Plaintiff Amy McCormack	FOR COURT USE ONLY ELECTRONICALLY FILED Superior Court of California, County of San Diego 03/04/2022 at 03:21:27 PM Clerk of the Superior Court By Melissa Valdez, Deputy Clerk
SUPERIOR COURT OF CALIFORNIA, COUNTY OF San Diego STREET ADDRESS: 330 West Broadway MAILING ADDRESS: 330 West Broadway CITY AND ZIP CODE: San Diego, CA BRANCH NAME: Hall of Justice	CASE NUMBER: 37-2022-00008433-CU-OE-CTL
CASE NAME: Amy McCormack v. Sterling Jewelers, Inc. et al.	JUDGE: Judge Eddie C Sturgeon 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 PI/PD/WD (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 PI/PD/WD (23) Non-PI/PD/WD (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/PD/WD 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)
---	--	--

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 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): 11 - Labor Code violations
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: March 4, 2022
 Nicholas J. Ferraro

(TYPE OR PRINT NAME)

(SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

NOTICE

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

**SUMMONS
(CITACION JUDICIAL)**

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

ELECTRONICALLY FILED
Superior Court of California,
County of San Diego
03/04/2022 at 03:21:27 PM
Clerk of the Superior Court
By Melissa Valdez, Deputy Clerk

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

STERLING JEWELERS, INC., a corporation; SIGNET JEWELERS, LTD., a corporation; and DOES 1 through 50,

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

AMY MCCORMACK, as an individual and on behalf of all others similarly situated,

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):

CASE NUMBER:
37-2022-00008433-CU-OE-CTL

Superior Court of California, County of San Diego
Hall of Justice, 330 West Broadway, San Diego, CA 92101

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):
Nicholas J. Ferraro, 3160 Camino del Rio South, Suite 308, San Diego, CA 92108 / Tel: 619-693-7727

DATE: 03/07/2022
(Fecha)

Clerk, by  , Deputy
(Secretario) M. Valdez (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

1. as an individual defendant.
2. as the person sued under the fictitious name of (specify):
3. on behalf of (specify):

under: <input type="checkbox"/> CCP 416.10 (corporation)	<input type="checkbox"/> CCP 416.60 (minor)
<input type="checkbox"/> CCP 416.20 (defunct corporation)	<input type="checkbox"/> CCP 416.70 (conservatee)
<input type="checkbox"/> CCP 416.40 (association or partnership)	<input type="checkbox"/> CCP 416.90 (authorized person)
<input type="checkbox"/> other (specify):	
4. by personal delivery on (date):

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State, Bar number, and address): Ferraro Vega Employment Lawyers, Inc. 3160 Camino del Rio South Suite 308 San Diego, CA 92108 TELEPHONE NO.: 619-693-7727 FAX NO. (Optional): E-MAIL ADDRESS (Optional): ATTORNEY FOR (Name): Amy McCormack	FOR COURT USE ONLY ELECTRONICALLY FILED Superior Court of California, County of San Diego 03/18/2022 at 10:55:00 AM Clerk of the Superior Court By E- Filing, Deputy Clerk
SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO STREET ADDRESS: 330 W Broadway MAILING ADDRESS: 330 West Broadway Room 225 (Civil) CITY AND ZIP CODE: San Diego 92101 BRANCH NAME: Hall of Justice Courthouse	
PLAINTIFF/PETITIONER: Amy McCormack	CASE NUMBER: 37-2022-00008433-CU-OE-CTL
DEFENDANT/RESPONDENT: Sterling Jewelers, Inc. et al.	Ref. No. or File No.: REF-9731558
PROOF OF SERVICE OF SUMMONS	

IMAGED FILE

BY FAX

1. At the time of service I was at least 18 years of age and not a party to this action.
2. I served copies of (specify documents):
Civil Cover sheet; Complaint; Notice of Case Assignment and Case management Conference; Alternative Dispute Resolution; Stipulation to use ADR
3. a. Party served (specify name of party as shown on documents served):
STERLING JEWELERS INC.
 - b. Person (other than the party in item 3a) served on behalf of an entity or as an authorized agent (and not a person under item 5b whom substituted service was made) (specify name and relationship to the party named in item 3a):
4. Address where the party was served:
330 North Brand Boulevard, Glendale, CA 91203
5. I served the party (check proper box)
 - a. **by personal service.** I personally delivered the documents listed in item 2 to the party or person authorized to receive service of process for the party (1) on (date): **03/17/2022** at (time): **9:54 AM**
 - b. **by substituted service.** On (date): _____ at (time): _____ I left the documents listed in item 2 with or in the presence of (name and title or relationship to person indicated in item 3):
 - (1) **(business)** a person at least 18 years of age apparently in charge at the office or usual place of business of the person to be served. I informed him or her of the general nature of the papers.
 - (2) **(home)** a competent member of the household (at least 18 years of age) at the dwelling house or usual place of abode of the party. I informed him or her of the general nature of the papers.
 - (3) **(physical address unknown)** a person at least 18 years of age apparently in charge at the usual mailing address of the person to be served, other than a United States Postal Service post office box. I informed him or her of the general nature of the papers.
 - (4) I thereafter caused to be mailed (by first class, postage prepaid) copies of the documents to the person to be served at the place where the copies were left (Code Civ. Proc § 415.20). Documents were mailed on (date): _____ from (city): _____ or a declaration of mailing is attached.
 - (5) I attach a **declaration of diligence** stating actions taken first to attempt personal service.



PLAINTIFF/PETITIONER: Amy McCormack	CASE NUMBER:
DEFENDANT/RESPONDENT: Sterling Jewelers, Inc. et al.	37-2022-00008433-CU-OE-CTL

- c. **by mail and acknowledgement of receipt of service.** I mailed the documents listed in item 2 to the party, to the address shown in item 4, by first-class mail, postage prepaid,
- (1) on (date): _____ (2) from (city): _____
- (3) with two copies of the *Notice and Acknowledgement of Receipt* and a postage-paid return envelope addressed to me. (*Attach completed Notice and Acknowledgement of Receipt.*) (Code Civ. Proc., § 415.30)
- (4) to an address outside California with return receipt requested. (Code Civ. Proc., § 415.40)

d. **by other means** (specify means of service and authorizing code section):

Additional page describing service is attached.

6. The "Notice to the Person Served" (on the summons) was completed as follows:

- a. as an individual defendant.
- b. as the person sued under the fictitious name of (specify):
- c. as occupant.
- d. On behalf of (specify) **STERLING JEWELERS INC.**

under the following Code of Civil Procedure section:

- | | |
|---|---|
| <input checked="" type="checkbox"/> 416.10 (corporation) | <input type="checkbox"/> 415.95 (business organization, form unknown) |
| <input type="checkbox"/> 416.20 (defunct corporation) | <input type="checkbox"/> 416.60 (minor) |
| <input type="checkbox"/> 416.30 (joint stock company/association) | <input type="checkbox"/> 416.70 (ward or conservatee) |
| <input type="checkbox"/> 416.40 (association or partnership) | <input type="checkbox"/> 416.90 (authorized person) |
| <input type="checkbox"/> 416.50 (public entity) | <input type="checkbox"/> 415.46 (occupant) |
| | <input type="checkbox"/> other: |

7. **Person who served papers**

- a. Name: **Joecelyn Ramos**
- b. Address: **316 W 2nd St. 3rd Floor Los Angeles, CA 90012**
- c. Telephone number: **213-621-9999**
- d. The fee for service was: **\$ 75.00**
- e. I am:

- (1) not a registered California process server.
- (2) exempt from registration under Business and Professions Code section 22350(b).

(3) registered California process server:

- | | | | |
|--|--|--|-------------------------------------|
| (i) <input type="checkbox"/> owner | <input checked="" type="checkbox"/> employee | <input type="checkbox"/> independent contractor. | For: ABC Legal Services, LLC |
| (ii) <input checked="" type="checkbox"/> Registration No.: | 2019112771 | | Registration #: 6779 |
| (iii) <input checked="" type="checkbox"/> County: | County of Los Angeles | | County: Los Angeles |

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

or

9.

BY FAX



I am a California sheriff or marshal and I certify that the foregoing is true and correct.

Date: 03/17/2022



Joecelyn Ramos

(NAME OF PERSON WHO SERVED PAPERS/SHERIFF OR MARSHAL)

(SIGNATURE)



ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State, Bar number, and address): Ferraro Vega Employment Lawyers, Inc. 3160 Camino del Rio South Suite 308 San Diego, CA 92108 TELEPHONE NO.: 619-693-7727 FAX NO. (Optional): E-MAIL ADDRESS (Optional): ATTORNEY FOR (Name): Amy McCormack	FOR COURT USE ONLY ELECTRONICALLY FILED Superior Court of California, County of San Diego 03/18/2022 at 10:57:00 AM Clerk of the Superior Court By E-Filing, Deputy Clerk
SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO STREET ADDRESS: 330 W Broadway MAILING ADDRESS: 330 West Broadway Room 225 (Civil) CITY AND ZIP CODE: San Diego 92101 BRANCH NAME: Hall of Justice Courthouse	
PLAINTIFF/PETITIONER: Amy McCormack	CASE NUMBER: 37-2022-00008433-CU-OE-CTL
DEFENDANT/RESPONDENT: Sterling Jewelers, Inc. et al.	Ref. No. or File No.: REF-9731558
PROOF OF SERVICE OF SUMMONS	

IMAGED FILE

1. At the time of service I was at least 18 years of age and not a party to this action.
2. I served copies of (specify documents):
Civil Cover sheet; Complaint; Notice of Case Assignment and Case management Conference; Alternative Dispute Resolution; Stipulation to use ADR
3. a. Party served (specify name of party as shown on documents served):
SIGNET JEWELERS, LTD. c/o STERLING JEWELERS INC.
- b. Person (other than the party in item 3a) served on behalf of an entity or as an authorized agent (and not a person under item 5b whom substituted service was made) (specify name and relationship to the party named in item 3a):
4. Address where the party was served:
330 North Brand Boulevard, Glendale, CA 91203
5. I served the party (check proper box)
 - a. **by personal service.** I personally delivered the documents listed in item 2 to the party or person authorized to receive service of process for the party (1) on (date): _____ at (time): _____
 - b. **by substituted service.** On (date): **03/17/2022** at (time): **9:54 AM** I left the documents listed in item 2 with or in the presence of (name and title or relationship to person indicated in item 3):
Daisy Montenegro , I delivered the documents to an individual who indicated they were the person authorized to accept with identity confirmed by subject saying yes when named. The individual accepted service with direct delivery. The individual appeared to be a brown-haired Hispanic female contact 25-35 years of age, 5'-5'4" tall and weighing 140-160 lbs.
 - (1) **(business)** a person at least 18 years of age apparently in charge at the office or usual place of business of the person to be served. I informed him or her of the general nature of the papers.
 - (2) **(home)** a competent member of the household (at least 18 years of age) at the dwelling house or usual place of abode of the party. I informed him or her of the general nature of the papers.
 - (3) **(physical address unknown)** a person at least 18 years of age apparently in charge at the usual mailing address of the person to be served, other than a United States Postal Service post office box. I informed him or her of the general nature of the papers.
 - (4) I thereafter caused to be mailed (by first class, postage prepaid) copies of the documents to the person to be served at the place where the copies were left (Code Civ. Proc § 415.20). Documents were mailed on (date): _____ from (city): _____ or a declaration of mailing is attached.
 - (5) I attach a **declaration of diligence** stating actions taken first to attempt personal service.

BY FAX



PLAINTIFF/PETITIONER: Amy McCormack	CASE NUMBER:
DEFENDANT/RESPONDENT: Sterling Jewelers, Inc. et al.	37-2022-00008433-CU-OE-CTL

- c. **by mail and acknowledgement of receipt of service.** I mailed the documents listed in item 2 to the party, to the address shown in item 4, by first-class mail, postage prepaid,
- (1) on (date): _____ (2) from (city): _____
- (3) with two copies of the *Notice and Acknowledgement of Receipt* and a postage-paid return envelope addressed to me. (*Attach completed Notice and Acknowledgement of Receipt.*) (Code Civ. Proc., § 415.30)
- (4) to an address outside California with return receipt requested. (Code Civ. Proc., § 415.40)
- d. **by other means** (*specify means of service and authorizing code section*):

Additional page describing service is attached.

6. The "Notice to the Person Served" (on the summons) was completed as follows:

- a. as an individual defendant.
- b. as the person sued under the fictitious name of (*specify*):
- c. as occupant.
- d. On behalf of (*specify*) **SIGNET JEWELERS, LTD. c/o STERLING JEWELERS INC.**
under the following Code of Civil Procedure section:

- | | |
|---|---|
| <input checked="" type="checkbox"/> 416.10 (corporation) | <input type="checkbox"/> 415.95 (business organization, form unknown) |
| <input type="checkbox"/> 416.20 (defunct corporation) | <input type="checkbox"/> 416.60 (minor) |
| <input type="checkbox"/> 416.30 (joint stock company/association) | <input type="checkbox"/> 416.70 (ward or conservatee) |
| <input type="checkbox"/> 416.40 (association or partnership) | <input type="checkbox"/> 416.90 (authorized person) |
| <input type="checkbox"/> 416.50 (public entity) | <input type="checkbox"/> 415.46 (occupant) |
| | <input type="checkbox"/> other: |

7. **Person who served papers**

- a. Name: **Joecelyn Ramos**
- b. Address: **316 W 2nd St. 3rd Floor Los Angeles, CA 90012**
- c. Telephone number: **213-621-9999**
- d. The fee for service was: **\$ 75.00**
- e. I am:

- (1) not a registered California process server.
- (2) exempt from registration under Business and Professions Code section 22350(b).

- (3) registered California process server:
- (i) owner employee independent contractor. For: **ABC Legal Services, LLC**
- (ii) Registration No.: **2019112771** Registration #: **6779**
- (iii) County: **County of Los Angeles** County: **Los Angeles**

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

or

9.

BY FAX



I am a California sheriff or marshal and I certify that the foregoing is true and correct.

Date: 03/17/2022



Joecelyn Ramos

(NAME OF PERSON WHO SERVED PAPERS/SHERIFF OR MARSHAL)

(SIGNATURE)

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State, Bar number, and address): Ferraro Vega Employment Lawyers, Inc. 3160 Camino del Rio South Suite 308 San Diego, CA 92108 TELEPHONE NO.: 619-693-7727 FAX NO. (Optional): E-MAIL ADDRESS (Optional): ATTORNEY FOR (Name): Amy McCormack	FOR COURT USE ONLY
SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO STREET ADDRESS: 330 W Broadway MAILING ADDRESS: 330 West Broadway Room 225 (Civil) CITY AND ZIP CODE: San Diego 92101 BRANCH NAME: Hall of Justice Courthouse	
PLAINTIFF/PETITIONER: Amy McCormack	CASE NUMBER:
DEFENDANT/RESPONDENT: Sterling Jewelers, Inc. et al.	37-2022-00008433-CU-OE-CTL
DECLARATION OF REASONABLE DILIGENCE	Ref. No. or File No.: REF-9731558

IMAGED FILE

Party to Serve:
SIGNET JEWELERS, LTD. c/o STERLING JEWELERS INC.

Documents:
Civil Cover sheet; Complaint; Notice of Case Assignment and Case management Conference; Alternative Dispute Resolution; Stipulation to use ADR

Service Address:
330 North Brand Boulevard, Glendale, CA 91203

I declare the following attempts were made to effect service by personal delivery:

3/17/2022 9:54 AM Served to Daisy Montenegro , I delivered the documents to an individual who indicated they were the person authorized to accept with identity confirmed by subject saying yes when named. The individual accepted service with direct delivery. The individual appeared to be a brown-haired Hispanic female contact 25-35 years of age, 5'-5'4" tall and weighing 140-160 lbs.



PLAINTIFF/PETITIONER: Amy McCormack	CASE NUMBER:
DEFENDANT/RESPONDENT: Sterling Jewelers, Inc. et al.	37-2022-00008433-CU-OE-CTL

Person who performed diligence:

Joecelyn Ramos
316 W 2nd St. 3rd Floor Los Angeles, CA 90012
213-621-9999

I am a registered California process server
Registration No.: 2019112771
County: County of Los Angeles

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

Date: 03/17/2022



Joecelyn Ramos

(NAME OF PERSON WHO PERFORMED DILIGENCE)

(SIGNATURE)



ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State, Bar number, and address): Ferraro Vega Employment Lawyers, Inc. 3160 Camino del Rio South Suite 308 San Diego, CA 92108 TELEPHONE NO.: 619-693-7727 FAX NO. (Optional): E-MAIL ADDRESS (Optional): ATTORNEY FOR (Name): Amy McCormack	FOR COURT USE ONLY
SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO STREET ADDRESS: 330 W Broadway MAILING ADDRESS: 330 West Broadway Room 225 (Civil) CITY AND ZIP CODE: San Diego 92101 BRANCH NAME: Hall of Justice Courthouse	
PLAINTIFF/PETITIONER: Amy McCormack	CASE NUMBER:
DEFENDANT/RESPONDENT: Sterling Jewelers, Inc. et al.	37-2022-00008433-CU-OE-CTL
DECLARATION OF MAILING	Ref. No. or File No.: REF-9731558

IMAGED FILE

The undersigned hereby declares: that I am over 18 years of age and not a party to this action. I am a resident of or employed in the county where the mailing took place.

My business address is 316 W 2nd St. 3rd Floor, Los Angeles, CA 90012.

That on **March 18, 2022**, after substituted service was made, I mailed the following documents: **Civil Cover sheet; Complaint; Notice of Case Assignment and Case management Conference; Alternative Dispute Resolution; Stipulation to use ADR** to the servee in this action by placing a true copy thereof enclosed in a sealed envelope with postage prepaid for first class mail and placing the envelope for collection and mailing following our ordinary business practices. I am readily familiar with this business's practice for collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service in **Los Angeles, CA**.

That I addressed the envelope as follows:

SIGNET JEWELERS, LTD. c/o STERLING JEWELERS INC.
330 North Brand Boulevard
Glendale, CA 91203

BY FAX

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

That I executed this declaration on 3/18/2022 at Los Angeles, CA.

/s/ Jesus Alvarez

Declarant: **Jesus Alvarez**, Reg. # 6585

Tracking #: **0084384936**



REF: **REF-9731558**



VORYS SATER SEYMOUR AND PEASE LLP
Cory D. Catignani (Bar No. 332551)
cdcatignani@vorys.com
4675 MacArthur Court, Suite 700
Newport Beach, CA 92660
Telephone: (949) 526-7900
Facsimile: (949) 526-7901

Attorneys for Defendants
STERLING JEWELERS INC. and
SIGNET JEWELERS LTD

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF CALIFORNIA**

AMY MCCORMACK, as an individual
and on behalf of all others similarly
situated,

Plaintiff,

v.

STERLING JEWELERS INC., a
corporation; SIGNET JEWELERS LTD.,
a corporation; and DOES 1 through 50,

Defendants.

Case No. **'22CV525 AJB BGS**

**DECLARATION OF ADAM J.
ROCCO IN SUPPORT OF
DEFENDANTS' NOTICE OF
REMOVAL**

Action Filed: March 4, 2022
Trial Date: None Set
Removal Date: April 15, 2022

I, Adam J. Rocco, being first duly cautioned and sworn and competent to testify about the matters contained herein, hereby declare and state as follows upon personal knowledge and information:

1. I am over eighteen years of age; I am making this declaration based upon my personal knowledge and I am competent to testify to the matters stated below.

2. I am an attorney with the law firm Vorys, Sater, Seymour and Pease LLP ("Vorys") in Columbus, Ohio.

3. Vorys has been retained to represented Sterling Jewelers Inc. ("Sterling") and Signet Jewelers LTD ("Signet") in the above-captioned matter.

1 VORYS SATER SEYMOUR AND PEASE LLP
Cory D. Catignani (Bar No. 332551)
2 cdcatignani@vorys.com
4675 MacArthur Court, Suite 700
3 Newport Beach, CA 92660
Telephone: (949) 526-7900
4 Facsimile: (949) 526-7901

5 Attorneys for Defendants
STERLING JEWELERS INC. and
6 SIGNET JEWELERS LTD

7
8 **UNITED STATES DISTRICT COURT**
9 **FOR THE SOUTHERN DISTRICT OF CALIFORNIA**

10 AMY MCCORMACK, as an individual
11 and on behalf of all others similarly
12 situated,

13 Plaintiff,

14 v.

15 STERLING JEWELERS INC., a
corporation; SIGNET JEWELERS LTD.,
16 a corporation; and DOES 1 through 50,

17 Defendants.

Case No. **'22CV525 AJB BGS**

**DECLARATION OF REBEKAH
SMITH IN SUPPORT OF
DEFENDANTS' NOTICE OF
REMOVAL**

Action Filed: March 4, 2022
Trial Date: None Set
Removal Date: April 15, 2022

18
19 I, Rebekah A. Smith, being first duly cautioned and sworn and competent to
20 testify about the matters contained herein, hereby declare and state as follows
21 upon personal knowledge and information:

22 1. I am over eighteen years of age; I am making this declaration based
23 upon my personal knowledge, and my expertise and training; and I am competent
24 to testify to the matters stated below.

25 2. I, Rebekah Smith, am the Director of Forensic and Dispute Advisory
26 Services and a member of GBQ, a firm specializing in financial consulting
27 services.

1 3. GBQ was retained by Vorys, Sater, Seymour and Pease LLP
2 (“Vorys”). Vorys is the law firm representing Defendants Signet Jewelers Ltd.
3 (“Signet”) and Sterling Jewelers Inc. (“Sterling”) in this case.

4 4. I have over 25 years of relevant business and analytical experience. I
5 am a Certified Public Accountant (“CPA”), Certified in Financial Forensics
6 (“CFF”), a Certified Valuation Analyst (“CVA”), a Master Analyst in Financial
7 Forensics (“MAFF”) and a member of the American Institute of Certified Public
8 Accountants, the Ohio Society of Certified Public Accountants and the National
9 Association of Certified Valuators and Analysts (“NACVA”). I earned my
10 Bachelor of Science degree in Accountancy from Bowling Green State University.

11 5. I lead GBQ’s forensic accounting team, which includes our data
12 analytics services. I have training and education related to various financial
13 analysis techniques including data analytics including the analysis of large data
14 sets for purposes of litigation. I teach courses about the same on both on a local
15 and national level. I am a two-time past member and two-time chair of NACVA’s
16 Executive Advisory Board (“EAB”).¹ I am a past member and chair of NACVA’s
17 Litigation and Forensic Board (“LFB”).² I am a past member and chair of
18 NACVA’s Ambassadors’ Editorial Board (“AEB”).³ I have also served on
19 NACVA’s Course Review Committee, Standards Committee and National
20 Conference Planning Committee. I have included a copy of my curriculum vitae,
21 including testimony experience and publications, as **Exhibit A** to this report.

22 6. I was asked to review and analyze records in connection with
23 Defendants’ Notice of Removal in this case. I received those records directly
24 through an attorney at Vorys.

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26 _____
27 ¹ The EAB is NACVA’s controlling board which oversees NACVA’s four operational boards.

28 ² The LFB has the responsibility of evaluating the content of NACVA’s litigation and forensics-related curriculum to provide assurance that course content remains objective, technically and fundamentally sound and oversees the credentialing process.

³ The AEB was formed to act as a think tank on behalf of NACVA.

SUMMARY AND DESCRIPTION OF DATA

- 7. I received two data types to analyze:
 - a. timekeeping data reflecting hours worked by non-exempt employees working at stores in California (the "Punch Data") for five different banner names: DSC (Design and Service Center), Zale, Jared, Kay and Banter (collectively "All Banner"); and
 - b. payroll data containing the number of hours worked by and compensation paid to the same employees (the "Payroll Data"),

8. The Punch Data originated from two timekeeping systems: JDA and Reflexis. The time covered by the data was March 4, 2018 through March 19, 2022. For the purposes of my analysis, I removed any salaried employees.

9. I also received and reviewed Payroll Data for those same employees for the pay period beginning December 3, 2017 and containing all pay periods through March 19, 2022.

METHODOLOGY

10. The Punch Data was in five (5) files, with one for each Banner, for the period March 4, 2018 through March 19, 2022. The columns were in the same format and therefore, using a Microsoft Excel function called Power Query Editor⁴ ("Power Query"), I connected all five (5) files using the common data fields.

11. The Payroll Data was also in five (5) files, with one for each year from 2018 through 2021 and a 2022 file that contained data through March 19, 2022. The payroll data started with the payroll beginning on December 3, 2017 and ended with the payroll ending on March 19, 2022. In 2020, 2021 and 2022 the Payroll Data, the column that indicated the banner was missing from the data set. Therefore, I added this column and determined the banner based on the

⁴ Power Query Editor is a no-code function that allows a user to connect large data from multiple sources and perform analysis or data transformation.

1 “Location” column in the Payroll Data. Additionally, I excluded data related
2 to Weisfield because it closed down prior to the March 4, 2018 (the beginning
3 of the analysis period). I also excluded the following locations from my
4 analysis because it is my understanding they are outside the scope of this
5 litigation: Support Center - Akron, OH, Rocksbox San Francisco, CA and
6 Support Center - Irving, TX. After the Payroll Data files were all formatted
7 the same, I used Power Query, and connected all five files using the common
8 data fields.

9 12. The only other transformation I needed to do to the Payroll Data was
10 to extract the Pay Period Start date and Pay Period End date for the time period
11 March 4, 2018 through March 19, 2022 (“Relevant Period”) from a single
12 column containing the Pay Period range to create a master list of pay periods.

13 13. I was asked to analyze it to make the following determinations:

- 14 a. Total number of pay periods for All Banner California non-exempt
15 team members for the periods March 4, 2018 to March 19, 2022 and
16 March 4, 2021 to March 19, 2022.
- 17 b. Total number of pay periods for all California non-exempt Jared team
18 members for the periods March 4, 2018 to March 19, 2022 and March
19 4, 2021 to March 19, 2022.
- 20 c. Average hourly rate for all California non-exempt Jared team
21 members for the period March 4, 2018 to March 19, 2022.
- 22 d. Average hourly rate for All Banner California non-exempt team
23 members for the period March 4, 2019 to March 19, 2022.
- 24 e. Total number of workweeks that were overtime eligible for all non-
25 exempt Jared team members for the period March 4, 2018 to March
26 19, 2022.

- 1 f. Total number of meal eligible shifts (defined below) for All Banner
2 California non-exempt team members for the period March 4, 2018 to
3 March 19, 2022.
- 4 g. Total number of rest period eligible (defined below) for All Banner
5 California non-exempt team members for the period March 4, 2018 to
6 March 19, 2022.
- 7 h. Total number of meal period premiums paid and total number of pay
8 periods (during workweeks with remuneration for work other than
9 just hourly pay) for All Banner California non-exempt team members
10 for the periods March 4, 2018 to March 19, 2022 and March 4, 2021
11 to March 19, 2022. As well, the average hourly rate of pay during the
12 same periods.
- 13 i. Total number of sick pay hours paid and total number of
14 corresponding pay periods (during workweeks with remuneration for
15 work other than just hourly pay) for All Banner California non-
16 exempt team members for the periods March 4, 2018 to March 19,
17 2022 and March 4, 2021 to March 19, 2022. As well, the average
18 hourly rate of pay during the same periods.
- 19 j. Total number of COVID-19 sick leave hours paid and total number of
20 corresponding pay periods (during workweeks with remuneration for
21 work other than just hourly pay) for All Banner California non-
22 exempt team members for the periods March 4, 2018 to March 19,
23 2022 and March 4, 2021 to March 19, 2022. As well, the average
24 hourly rate of pay during the same periods.
- 25 k. Total number of all California non-exempt Jared team members
26 looking back to March 4, 2018 and former team-members looking
27 back to March 4, 2019.
28

1 1. Total number of All Banner California non-exempt team members
2 and former team-members looking back to March 4, 2018 and former
3 team-members looking back to March 4, 2019.

4 m. Total the number of All Banner California non-exempt former team-
5 members besides Jared looking back to March 4, 2019 and to March
6 4, 2021 who had a workweek during that period(s) with Sick Pay,
7 COVID-19 Pay, or a Meal Break Premium and remuneration for work
8 other than regular pay.

9 14. I was able to use the Punch Data provided to make accurate
10 conclusions on the number and length of shifts. The time keeping data indicated
11 the length of the shift in the data file provided. I tested that to determine the
12 accuracy of the length of shift.

13 15. I also used the Payroll Data and the specific pay codes for each
14 pay period to identify the weeks where there were meal-period premium pay,
15 sick pay and/or COVID-19 sick pay. Using Power Query, I isolated the pay
16 codes for the specific issue (i.e. meal-period premiums, sick pay etc.) and then
17 using excel logic and analysis identified the weeks that also contained
18 remuneration for work other than regular hourly pay and totaled those weeks.

19 16. I also used the Payroll Data to determine the average hourly rate
20 and average regular rate of pay for the pay periods in which there were meal
21 period premiums, sick pay and COVID-19 sick pay. I calculated the average
22 hourly rate and average regular rate of pay by using the Power Query function
23 to create queries in the data that identified pay data that fit the criteria of (1)
24 remuneration for work other than hourly pay and (2)the specific pay code such
25 as meal or sick, etc. and then calculated based on the below.

26 17. To calculate average hourly rates, I identified any lines where the pay
27 code was "Regular Hourly" in the specified date range and totaled the wage amount
28 and the hours worked, then divided to determine the weighted average hourly rate.

1 18. For purposes of my analysis, an overtime-eligible week is defined
2 as any week where an employee worked more than 40 hours, worked a single shift
3 of more than 8 hours, or worked for seven consecutive days within the same
4 week.

5 19. To make the determination of the number of overtime-eligible weeks,
6 I used standard processes for analyzing large amounts of wage-and-hour data to
7 identify the number of weeks where an employee worked more than 40 hours, the
8 number of shifts where the employee worked over 8 hours, and the number of
9 times an employee worked 7 consecutive days within the same week.

10 20. For purposes of my analysis, a meal-period-eligible shift is defined
11 as an individual shift of over 5 hours. For purposes of my analysis, a rest period
12 eligible shift is defined as an individual shift of at least 3.5 hours.

13 21. To make the determination of the number of meal period and rest
14 period eligible shifts, I used standard processes for analyzing large amounts of
15 wage-and-hour data to identify the number of shifts where an employee worked
16 over five hours in a shift and/or 3.5 or more hours in a shift.

17 **DATA ANALYSIS**

18 **Total Pay Periods**

19 22. The pay periods in the Payroll Data are two-week periods beginning
20 on Sunday and ending on Saturday. Using the Payroll Data, I analyzed the Period
21 Start Dates and Period End Dates to determine that the first pay period that includes
22 the start of the Relevant Period, begins on Sunday, February 25, 2018. From there
23 I was able to determine the remainder of the pay periods.

24 23. Using the methodologies described above, the total number of pay
25 periods for All Banner California non-exempt team members for the periods below
26 are:

- 27 a. March 4, 2018 to March 19, 2022 – 146,305
- 28 b. March 4, 2021 to March 19, 2022 – 37,671

1 24. Using the methodologies described above, the total number of pay
2 periods for all California non-exempt team members for Jared for the periods
3 below are:

4 a. March 4, 2018 to March 19, 2022 – 19,508

5 b. March 4, 2021 to March 19, 2022 – 4,250

6 **Average Hourly Rate**

7 25. Using the methodology described above, I used the Payroll Data to
8 calculate the average hourly rate for all California non-exempt Jared team members
9 for the period March 4, 2018 to March 19, 2022 to be equal to \$17.56.

10 26. In addition, I used the Payroll Data to calculate the average hourly
11 rate for All Banner California non-exempt team members for the period March 4,
12 2019 to March 19, 2022 to be equal to \$18.77.

13 **Overtime**

14 27. Using the Punch Data, I totaled the amount of time worked by each
15 non-exempt California Jared employee during each shift during to determine if an
16 employee had worked 8 hours a day. I also determined, based on the previously
17 described work week determination, any work weeks that exceeded 40 hours.
18 Finally, I analyzed the Punch Data to identify any instances where an employee
19 worked seven (7) consecutive dates measured from Sunday to Saturday.

20 28. A work week was counted as overtime eligible if any of the three
21 above circumstances were present.

22 29. Using the methodologies described above, I determined that the
23 number of work weeks that were overtime eligible during the Relevant Period for
24 non-exempt California Jared employees was 25,913.

25 **Meal Periods**

26 30. Using the Punch Data, I totaled the amount of time worked by each
27 Jared team member during each shift during the Relevant Period and limited the
28 list of shifts to only those that were over five hours. The number of shifts over 5

1 hours for the period March 4, 2018 to March 19, 2022 for non-exempt California
2 Jared team members was 140,877.

3 31. Using the Payroll Data, I totaled the number of meal period premiums
4 paid and total number of corresponding pay periods during work weeks with
5 remuneration for work other than just regular hourly pay for All Banner California
6 non-exempt team members as follows:

7 a. Meal period premiums paid during work weeks with other
8 remuneration for work:

9 i. March 4, 2018 to March 19, 2022 – 38,839

10 ii. March 4, 2021 to March 19, 2022. – 14,931

11 b. Pay periods with meal period premiums paid during work weeks with
12 other remuneration for work:

13 i. March 4, 2018 to March 19, 2022 – 32,594

14 ii. March 4, 2021 to March 19, 2022 – 10,289

15 32. Employing the methodologies described above for determining the
16 average hourly rate, I used the Payroll Data to determine the average hourly
17 rate of pay for shifts of over 5 hours was as follows:

18 a. March 4, 2018 to March 19, 2022

19 i. Average hourly rate - \$19.57

20 b. March 4, 2021 to March 19, 2022

21 ii. Average hourly rate - \$21.93

22 **Rest Periods**

23 33. Employing the methodologies described above, I used the Punch Data
24 to determine that the number of shifts of at least 3.5 hours for non-exempt
25 California Jared team members during the Relevant Period was 152,081.

26 **Sick Pay**

27 34. Using the Payroll Data, I totaled the number of sick pay hours paid
28 and total number of corresponding pay periods during work weeks with

1 remuneration for work other than hourly pay for All Banner California non-exempt
2 team members as follows:

3 a. Sick hours paid during work weeks with other remuneration for work:

4 i. March 4, 2018 to March 19, 2022 – 124,223

5 ii. March 4, 2021 to March 19, 2022. – 36,312

6 b. Pay periods with sick hours during work weeks with other
7 remuneration for work:

8 i. March 4, 2018 to March 19, 2022 – 11,877

9 ii. March 4, 2021 to March 19, 2022. – 3,345

10 35. Employing the methodologies described above for determining the
11 average hourly rate, I used the Payroll Data to determine the average hourly
12 rate of pay during the same periods:

13 a. March 4, 2018 to March 19, 2022

14 i. Average hourly rate - \$18.74

15 b. March 4, 2021 to March 19, 2022

16 ii. Average hourly rate - \$20.93

17 **COVID-19 Pay**

18 36. Using the Payroll Data, I totaled the number of COVID-19 sick leave
19 hours paid and total number of pay periods during work weeks with remuneration
20 for work other than hourly pay for All Banner California non-exempt team
21 members as follows:

22 a. COVID-19 sick leave hours during work weeks with other
23 remuneration:

24 i. March 4, 2018 to March 19, 2022 – 13,424

25 ii. March 4, 2021 to March 19, 2022. – 8,110

26 b. Pay periods with COVID-19 sick leave during work weeks with other
27 remuneration:

28 i. March 4, 2018 to March 19, 2022 – 619

1 ii. March 4, 2021 to March 19, 2022. – 501

2 37. Employing the methodologies described above for determining the
3 average hourly rate, I used the Payroll Data to determine the average hourly
4 rate of pay during the same periods:

5 a. March 4, 2018 to March 19, 2022

6 i. Average hourly rate - \$20.59

7 b. March 4, 2021 to March 19, 2022

8 ii. Average hourly rate - \$20.82

9 **Employee Information**

10 38. Using the Payroll Data, I totaled the number of all non-exempt Jared
11 team members during the Relevant Period, which was equal to 758 employees.

12 39. Using the same Payroll Data and based on the field that indicated
13 if an employee was active or inactive, I totaled the number of former non-
14 exempt California Jared team-members (using the “inactive” code) looking
15 back to March 4, 2019 which was equal to 407 employees.

16 40. Using same the Payroll Data, I totaled the number of All Banner
17 California non-exempt team members looking back to March 4, 2018, which
18 was equal to 5,240 employees.

19 41. Using the same Payroll Data, I totaled the number of All Banner
20 California non-exempt team members looking back to March 4, 2021, which
21 was equal to 2,499 employees.

22 42. Using the same Payroll Data and based on the field that indicated
23 if an employee was active or inactive, I totaled the number of All Banner
24 California non-exempt former team-members (using the “inactive” code)
25 looking back to March 4, 2019 which was equal to 2,760 employees.

26 43. Using the same Payroll Data and based on the field that indicated
27 if an employee was active or inactive, I totaled the number of All Banner
28 California non-exempt former team-members besides Jared looking back to

1 two periods (as listed below) who had a work week during that time with Sick
2 Pay, COVID-19 Pay, or a Meal Break Premium and remuneration for work
3 other than regular pay, as follows:

4 a. Back to March 4, 2019 – 1,928

5 b. Back to March 4, 2021 - 443

6 I declare under penalty of perjury that the foregoing is true and correct.

7 Executed April 14, 2022 at GBO Consulting LLC, Columbus, Ohio.

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10 

11 REBEKAH SMITH

1 VORYS SATER SEYMOUR AND PEASE LLP
Cory D. Catignani (Bar No. 332551)
2 cdcatignani@vorys.com
4675 MacArthur Court, Suite 700
3 Newport Beach, CA 92660
Telephone: (949) 526-7900
4 Facsimile: (949) 526-7901

5 Attorneys for Defendants
STERLING JEWELERS INC. and
6 SIGNET JEWELERS LTD

7
8 **UNITED STATES DISTRICT COURT**
9 **FOR THE SOUTHERN DISTRICT OF CALIFORNIA**

10 AMY MCCORMACK, as an individual
11 and on behalf of all others similarly
12 situated,

13 Plaintiff,

14 v.

15 STERLING JEWELERS INC., a
corporation; SIGNET JEWELERS LTD.,
16 a corporation; and DOES 1 through 50,

17 Defendants.

Case No. **'22CV525 AJB BGS**

DECLARATION OF VICTORIA
ORTEGA IN SUPPORT OF
NOTICE OF REMOVAL

Action Filed: March 4, 2022
Trial Date: None set
Removal Date: April 15, 2022

18
19 I, Victoria Ortega, being first duly cautioned and sworn and competent to
20 testify about the matters contained herein, hereby declare and state as follows
21 upon personal knowledge and information:

- 22 1. I am over the age of 18 and competent to make this declaration.
23 2. I am a Litigation Paralegal for Defendant Sterling Jewelers Inc. (“Sterling”).
24 Sterling is a subsidiary of Signet Jewelers LTD (“Signet”). Zale Delaware,
25 Inc. (“Zale”) is also a subsidiary of Signet.
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- 1 3. Sterling and Zale each operate stores under different banner names.
2 Sterling's banners include Kay and Jared. Zale's banners include Zales and
3 Banter by Piercing Pagoda.
- 4 4. Sterling is a Delaware corporation with its principal place of business in
5 Akron, Ohio. Sterling is neither incorporated in California, nor does it have
6 a principal place of business in California.
- 7 5. Zale is a Delaware corporation with its principal place of business in Akron,
8 Ohio. Zale is neither incorporated in California, nor does it have a principal
9 place of business in California.
- 10 6. Defendant Signet Jewelers Limited is a public company incorporated and
11 with its principal offices located in Bermuda.
- 12 7. In my position, I regularly work with and have access to Sterling and Zale
13 Human Resources and software and electronic employee records. The
14 electronic employee records include employees' payroll data, compensation
15 history, and electronic timekeeping records. Sterling and Zale regularly
16 maintain records of its employees' employment, payroll, timekeeping, and
17 compensation history in the ordinary course of its business. I am also
18 familiar with Zale and Sterling's Human Resources and payroll
19 recordkeeping practices relating to these records.
- 20 8. In connection with this litigation, I accessed electronic records relating to
21 non-exempt employees in California employed by either Sterling or Zale
22 between the period of March 4, 2018 and March 19, 2022 (the "Relevant
23 Period"). Specifically, I was asked to obtain data reflecting: (a) Sterling's
24 payroll and timekeeping records for each non-exempt employee of Sterling
25 or Zale in each pay period during the Relevant Period; (b) the number of
26 hours worked by and compensation paid to each non-exempt employee of
27 Sterling or Zale in each pay period during the Relevant Period; (c) the dates
28

1 of employment for each non-exempt employee of Sterling or Zale during the
2 Relevant Period; and (d) the rates of pay of each non-exempt employee of
3 Sterling or Zale during the Relevant Period.

4 9. The number of hours worked by each non-exempt employee of Sterling or
5 Zale is stored on servers that are accessible. The time punch records that
6 make up this data are organized separately by banner.

7 10. The compensation paid to each non-exempt employee of Signet or Zale in
8 each pay period is stored on servers that are accessible.

9 11. The information maintained in these databases is kept in the regular course
10 and scope of Zale and Sterling's businesses.

11 12. Between March 15, 2022 and March 28, 2022, I accessed the databases
12 described above to obtain time records of non-exempt employees of Sterling
13 and Zale and requested that payroll records of non-exempt employees of
14 Sterling and Zale be accessed by the Payroll Department and sent to me. I
15 pulled the data and/or had the data pulled from the relevant databases and
16 saved it as electronic files. I did not manipulate or alter in any way the
17 substantive data that I obtained. I saved the data exactly as it was pulled
18 from our systems.

19 13. After saving the data as described herein, I securely sent true and accurate
20 copies of that data to Vorys, Sater, Seymour and Pease, LLP ("Vorys"), the
21 law firm representing Defendants in this lawsuit. The Vorys attorney to
22 whom I sent the data was Adam J. Rocco.

23 14. I did not make any edits or revisions to the data before I sent it to Vorys.

24
25 Executed April 14, 2022, at Akron, Ohio.

26 
27 VICTORIA ORTEGA

ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [California Jared the Galleria of Jewelry Employees Owed Unpaid Wages for Off-the-Clock Work, Class Action Alleges](#)
