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Target Corporation

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

MARIAH D. THOMAS, on behalf of herself,
all others similarly situated,

Plaintiff,

vs.

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

Defendants.

No.

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

San Mateo County Superior Court,
No. 19CIV00584

NOTICE OF REMOVAL OF CIVIL ACTION
U.S.D.C., N.D. Cal., No. _____

1 To the Clerk of the Court, plaintiff Mariah D. Thomas and plaintiff's attorneys of record:

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

7 1. On January 29, 2019, plaintiff Mariah Thomas commenced a putative class action in the
8 Superior Court entitled: "*Mariah D. Thomas, on behalf of herself, all others similarly situated, Plaintiff,*
9 *vs. Target Corporation, a Minnesota corporation; and DOES 1 through 50, inclusive, Defendants,*"
10 No. 19CIV00584 (the "Action"). A true copy of plaintiff's complaint in the Action (the "Complaint" or
11 "Cmplt.") is attached as Exhibit A. The allegations of the Complaint are incorporated by reference
12 without admitting the truth of any of them.

13 2. The Complaint asserts five claims for relief for: (1) failure to pay hourly wages;
14 (2) failure to indemnify; (3) failure to provide accurate written wage statements; (4) failure to timely pay
15 all final wages; and (5) unfair business practices under California unfair competition law, Cal. Bus. &
16 Prof. Code § 17200 *et seq.* (Cmplt.) All five of plaintiff's claims are premised on Target's alleged
17 failure to pay plaintiff for necessary business expenses, including the purchase and maintenance of
18 uniforms and cell phone expenses. (*Id.*, ¶¶ 19-29.) Plaintiff asserts her first claim for relief on behalf of
19 herself and the "Hourly Employee Class," which she pleads to include "[a]ll persons employed by
20 Defendants and/or any staffing agencies and/or any other third parties in hourly or non-exempt positions
21 in California during the Relevant Time Period." (*Id.*, ¶ 11.) Plaintiff seeks to recover for her second
22 claim for relief on behalf of the "Expense Reimbursement Class," which she pleads to include "[a]ll
23 persons employed by Defendants in California who incurred business expenses during the Relevant
24 Time Period." (*Id.*) Plaintiff asserts her third claim for relief on behalf of the "Wage Statement
25 Penalties Sub-Class," which she pleads to include "[a]ll Hourly Employee Class members employed by
26 Defendants in California during the period beginning one year before the filing of this action and ending
27 when final judgment is entered." (*Id.*) Plaintiff's brings her fourth claim for relief on behalf of the
28 "Waiting Time Penalties Sub-Class," which she pleads to include "[a]ll Hourly Employee Class

members who separated from their employment with Defendants during the period beginning three years before the filing of this action and ending when final judgment is entered.” (*Id.*) Lastly, plaintiff asserts her fifth claim for relief on behalf of the “UCL Class,” which she pleads to include “[a]ll Hourly Employee Class Members employed by Defendants in California during the Relevant Time Period.” (*Id.*)

3. On January 31, 2019, plaintiff effected service of process on Target of the summons and complaint in this Action. A true copy of the summons and all other papers that Target’s counsel received from plaintiff in this Action are attached to this notice as Exhibit B.

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

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

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

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

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

Removal Is Proper Under CAFA

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

The Citizenship of the Parties Is Diverse

10. Target is informed and believes that plaintiff is now, and was at the time the Action was

commenced, a citizen of the State of California within the meaning of 28 U.S.C. section 1332(a). (Cmplt., ¶ 5 [“Plaintiff MARIAH D. THOMAS is, and at all relevant times mentioned herein, an individual residing in the State of California.”]; *see also* Declaration of Michael Brewer in Support of Target Corporation’s Notice of Removal of Civil Action [“Brewer Decl.”], ¶ 10, Exh. A (plaintiff listed Sacramento, California, as her address on the Employment Eligibility form (Form I-9) that she completed before beginning her employment with Target.)

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

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

The Proposed Class Members Number at Least 100

13. The numerosity requirement for removal under CAFA is satisfied by looking solely at plaintiff’s claim for failure to pay hourly wages. Plaintiff alleges that “[d]efendants failed to compensate Hourly Employee Class members with minimum and/or overtime wages for all hours they worked as result of its failures to maintain employee uniforms and/or pay them a weekly maintenance allowance.” (Cmplt., ¶ 48.) As discussed above, the “Hourly Employee Class” is pleading as including “[a]ll persons employed by Defendants and/or any staffing agencies and/or any other third parties in hourly or non-exempt positions in California during the Relevant Time Period.” (*Id.*, ¶ 11.) Plaintiff was employed as a non-exempt retail store employee at Target in California between October 21, 2017 and January 13, 2018. (*See* Brewer Decl., ¶ 9.) Thus, Target evaluates the numerosity requirement by

1 looking at other non-exempt retail store employees in California. Since January 29, 2016,¹ Target has
 2 employed at least 152,728 non-exempt employees in the State of California. (See Declaration of Dr.
 3 Paul F. White in Support of Notice of Removal of Civil Action, filed concurrently herewith [“White
 4 Decl.”], ¶ 5.a.) Accordingly, the requirement that the proposed class members number at least 100 is
 5 satisfied.

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

7 14. With respect to the amount in controversy, analyzing only plaintiff’s fourth claim for
 8 relief demonstrates that the amount in controversy exceeds \$5,000,000. Relevant to this analysis,
 9 plaintiff alleges that “[d]efendants have maintained a policy or practice of paying Waiting Time
 10 Penalties Sub-Class members their final wages without regard to the requirements of Labor Code
 11 sections 201 or 202.” (Cmplt., ¶ 76.) Plaintiff purports to bring this claim on behalf of herself and the
 12 “Hourly Employee Class members who separated from their employment with Defendants during the
 13 period beginning three years before the filing of this action and ending when final judgment is
 14 entered[.]” (*Id.*, ¶¶ 11, 70.)

15 15. In a case of willful failure to pay final wages upon termination, California Labor Code
 16 section 203 imposes a waiting-time penalty equal to the employee’s daily wage rate for a maximum of
 17 30 days. Analyzing just a subset of the putative class on whose behalf plaintiff pleads her fourth claim
 18 for relief demonstrates that Plaintiff’s waiting-time penalty claim exceeds \$201,764,823 (exclusive of
 19 interest and costs), based on the following facts:

20 a. There have been at least 96,364 non-exempt employees in California who have
 21 separated from Target between January 29, 2016 (*i.e.*, the start of the three-year limitations period for a
 22 waiting-time penalty claim)² and July 21, 2018 (the end date for this analysis). (White Decl., ¶ 5.b.)

23 b. The average hourly rate for those employees at the time of termination was

24 ¹ The Complaint includes a claim for unfair competition under California Business and
 25 Professions Code section 17200. The statute of limitations for a claim of unfair competition law is four
 26 years. Cal. Bus. & Prof. Code § 17208. However, even limiting the analysis to the three years prior to
 the filing of the Complaint, the requirement that the proposed class members number at least 100 is
 clearly satisfied.

27 ² The statute of limitations for waiting-time penalty claims is three years. See *Pineda v. Bank of*
 28 *America, N.A.*, 50 Cal. 4th 1389, 1398 (2010) (waiting-time penalty claims governed by the three-year
 statute of limitations for statutory violations under Cal. Code Civ. Proc. § 338(a).)

1 \$11.91. (White Decl., ¶ 5.c.)

2 c. The average hours worked per day by those employees was 5.86 hours. (White
3 Decl., ¶ 5.d.)

4 d. Based on plaintiff's allegation that Target subjected all of these employees to
5 illegal payroll practices and policies, the amount in controversy for waiting-time penalties alone would
6 be \$201,764,823 (96,364 former employees x \$11.91 per hour x 5.86 hours per day x 30 days. (White
7 Decl., ¶ 5.e.)

8 16. Accordingly, as the above analysis is focused on just a subset of the putative class on
9 whose behalf plaintiff asserts one of her claims for relief and does not include her request for attorneys'
10 fees, there is no question that the amount in controversy exceeds the jurisdictional threshold.

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

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

18 Dated: February 28, 2019.

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

21 By: /s/ Jeffrey D. Wohl

Jeffrey D. Wohl
Attorneys for Defendant
Target Corporation

EXHIBIT A

FILED
SAN MATEO COUNTY

JAN 29 2019

Clerk of the Superior Court

By

DEPUTY CLERK

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19 - CIV - 00584
CMP
Complaint
1620992



9 SUPERIOR COURT OF THE STATE OF CALIFORNIA

10 FOR THE COUNTY OF SAN MATEO

11 UNLIMITED JURISDICTION

12 **19CIV00584**

13 MARIAH D. THOMAS, on behalf of herself,
all others similarly situated,

14 *Plaintiff,*

15 vs.

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

18 *Defendants.*
19
20
21
22

Case No.

CLASS ACTION

COMPLAINT

1. Failure to Pay Hourly Wages (Lab. Code §§ 223, 510, 1194, 1194.2, 1197, 1997.1 and 1198);
2. Failure to Indemnify (Lab. Code § 2802);
3. Failure to Provide Accurate Written Wage Statements (Lab. Code §§ 226(a));
4. Failure to Timely Pay All Final Wages (Lab. Code §§ 201, 202 and 203);
5. Unfair Competition (Bus. & Prof. Code §§ 17200 *et seq.*);

JURY TRIAL DEMANDED

23 **BY FAX**
24
25
26
27
28

COMES NOW, Plaintiff MARIAH D. THOMAS ("Plaintiff"), on behalf of herself, all others similarly situated, complains and alleges as follows:

INTRODUCTION

1. Plaintiff brings this class action against Defendant TARGET CORPORATION, a Minnesota corporation, and DOES 1 through 50, inclusive (collectively referred to as "Defendants") for alleged violations of the Labor Code and Business and Professions Code. As set forth below, Plaintiff alleges that Defendants have

- (1) failed to pay them at the designated wage scale;
- (2) failed to reimburse them for all necessary business expenses;
- (3) failed to provide them with accurate written wage statements; and
- (4) failed to pay them all of their final wages following separation of employment.

Based on these alleged Labor Code violations, Plaintiff now brings this class action to recover unpaid wages, restitution and related relief on behalf of herself, all others similarly situated.

JURISDICTION AND VENUE

2. This Court has subject matter jurisdiction to hear this case because the monetary damages and restitution sought by Plaintiff from Defendants conduct exceeds the minimal jurisdiction of the Superior Court of the State of California.

3. Venue is proper in the County of San Mateo pursuant to Code of Civil Procedure sections 395(a) and 395.5 in that liability arose this county because at least some of the transactions that are the subject matter of this Complaint occurred therein and/or each defendant is found, maintains offices, transacts business and/or has an agent therein.

4. Venue is proper in San Mateo County because Defendants' principal place of business is in Minnesota, is incorporated under the laws of Minnesota, does business in San Mateo County, and has not registered a California place of business with the California Secretary of State. As such, venue is proper in any county in California.

PARTIES

5. Plaintiff MARIAH D. THOMAS is, and at all relevant times mentioned herein, an

1 individual residing in the State of California.

2 6. Plaintiff is informed and believes, and thereupon alleges that Defendant TARGET
3 CORPORATION is, and at all relevant times mentioned herein, a Minnesota corporation doing
4 business in the State of California.

5 7. Plaintiff is ignorant of the true names and capacities of the defendants sued herein as
6 DOES 1 through 50, inclusive, and therefore sues these defendants by such fictitious names.
7 Plaintiff will amend this Complaint to allege the true names and capacities of the DOE defendants
8 when ascertained. Plaintiff is informed and believes, and thereupon alleges that each of the
9 fictitiously named defendants are responsible in some manner for the occurrences, acts and
10 omissions alleged herein and that Plaintiff's alleged damages were proximately caused by these
11 defendants, and each of them. Plaintiff will amend this complaint to allege both the true names and
12 capacities of the DOE defendants when ascertained.

13 8. Plaintiff is informed and believes, and thereupon alleges that, at all relevant times
14 mentioned herein, some or all of the defendants were the representatives, agents, employees,
15 partners, directors, associates, joint venturers, principals or co-participants of some or all of the
16 other defendants, and in doing the things alleged herein, were acting within the course and scope of
17 such relationship and with the full knowledge, consent and ratification by such other defendants.

18 9. Plaintiff is informed and believes, and thereupon alleges that, at all relevant times
19 mentioned herein, some of the defendants pursued a common course of conduct, acted in concert
20 and conspired with one another, and aided and abetted one another to accomplish the occurrences,
21 acts and omissions alleged herein.

22 CLASS ALLEGATIONS

23 10. This action has been brought and may be maintained as a class action pursuant to
24 Code of Civil Procedure section 382 because there is a well-defined community of interest among
25 the persons who comprise the readily ascertainable classes defined below and because Plaintiff is
26 unaware of any difficulties likely to be encountered in managing this case as a class action.

27 11. **Relevant Time Period:** The relevant time period is defined as the time period
28 beginning four years prior to the filing of this action until judgment is entered.

Hourly Employee Class: All persons employed by Defendants and/or any staffing agencies and/or any other third parties in hourly or non-exempt positions in California during the **Relevant Time Period**.

Wage Statement Penalties Sub-Class: All **Hourly Employee Class** members employed by Defendants in California during the period beginning one year before the filing of this action and ending when final judgment is entered.

Waiting Time Penalties Sub-Class: All **Hourly Employee Class** members who separated from their employment with Defendants during the period beginning three years before the filing of this action and ending when final judgment is entered.

UCL Class: All **Hourly Employee Class** members employed by Defendants in California during the **Relevant Time Period**.

Expense Reimbursement Class: All persons employed by Defendants in California who incurred business expenses during the **Relevant Time Period**.

12. **Reservation of Rights:** Pursuant to Rule of Court 3.765(b), Plaintiff reserves the right to amend or modify the class definitions with greater specificity, by further division into sub-classes and/or by limitation to particular issues.

13. **Numerosity:** The class members are so numerous that the individual joinder of each individual class member is impractical. While Plaintiff does not currently know the exact number of class members, Plaintiff is informed and believes, and thereupon alleges that the actual number exceeds the minimum required for numerosity under California law.

14. **Commonality and Predominance:** Common questions of law and fact exist as to all class members and predominate over any questions which affect only individual class members. These common questions include, but are not limited to:

- A. Whether Defendants failed to pay class members at the designated wage scale when Defendants failed to reimburse class members for all necessary business expenses incurred during the discharge of their duties;
- B. Whether Defendants failed to reimburse class members for all necessary business expenses incurred during the discharge of their duties;
- C. Whether Defendants failed to provide class members with accurate written wage statements as a result of providing them with written wage statements with inaccurate entries for, among other things, amounts of gross and net wages, and total hours worked;

1 D. Whether Defendants applied policies or practices that result in late and/or
2 incomplete final wage payments;

3 E. Whether Defendants are liable to class members for waiting time penalties
4 under Labor Code section 203;

5 F. Whether class members are entitled to restitution of money or property that
6 Defendants may have acquired from them through unfair competition;

7 15. **Typicality**: Plaintiff's claims are typical of the other class members' claims.

8 Plaintiff is informed and believes and thereupon alleges that Defendants have a policy or practice of
9 failing to comply with the Labor Code and Business and Professions Code as alleged in this
10 Complaint.

11 16. **Adequacy of Class Representative**: Plaintiff is an adequate class representative in
12 that he has no interests that are adverse to, or otherwise conflict with, the interests of absent class
13 members and is dedicated to vigorously prosecuting this action on their behalf. Plaintiff will fairly
14 and adequately represent and protect the interests of the other class members.

15 17. **Adequacy of Class Counsel**: Plaintiff's counsel are adequate class counsel in that
16 they have no known conflicts of interest with Plaintiff or absent class members, are experienced in
17 wage and hour class action litigation, and are dedicated to vigorously prosecuting this action on
18 behalf of Plaintiff and absent class members.

19 18. **Superiority**: A class action is vastly superior to other available means for fair and
20 efficient adjudication of the class members' claims and would be beneficial to the parties and the
21 Court. Class action treatment will allow a number of similarly situated persons to simultaneously
22 and efficiently prosecute their common claims in a single forum without the unnecessary
23 duplication of effort and expense that numerous individual actions would entail. In addition, the
24 monetary amounts due to many individual class members are likely to be relatively small and would
25 thus make it difficult, if not impossible, for individual class members to both seek and obtain relief.
26 Moreover, a class action will serve an important public interest by permitting class members to
27 effectively pursue the recovery of monies owed to them. Further, a class action will prevent the
28 potential for inconsistent or contradictory judgments inherent in individual litigation.

GENERAL ALLEGATIONS

19. Plaintiff worked for Defendants as a non-exempt, hourly employee from approximately October 21, 2017 through January 13, 2018.

Payment of Wages Lower Than Designated Wage Scale

20. Plaintiff and the putative class were supposed to be paid hourly at designated wage scale as agreed between the parties.

21. However, when Defendants failed to reimburse Plaintiff and the putative class for business expenses incurred by them in the discharge of their duties, this resulted in the payment of wages lower than the designated wage scale.

22. Specifically, the “wages” paid to Plaintiff and the putative class were post-tax earnings that were used to pay for expenses such as cell phones and uniforms.

23. Accordingly, since such expenses were paid for by post-tax “wages”, this effectively resulted in Plaintiff and the putative class being paid less than the designated wage scale in violation of Labor Code section 223.

Expense Reimbursement

Cell Phones

24. Plaintiff and the putative class members were required to utilize their own personal tools to perform their job duties. For example, when customers wanted a Price Match, Plaintiff and the putative class would utilize their own personal cellphones in order to compare prices for products.

25. Plaintiff and the putative class members were not reimbursed for business expenses incurred in utilizing their personal cellphones for work purposes.

Uniforms

26. Plaintiff and the putative class members were required to purchase uniforms to wear during work. For example, Plaintiff and the putative class were instructed to wear a red shirt and beige pants.

27. Plaintiff and the putative class members were not reimbursed for business expenses incurred in purchasing new uniforms for work purposes.

28. Moreover, Plaintiff and the putative class were not reimbursed for the cost of maintaining these same uniforms.

29. Defendants failed to reimburse Plaintiff and the putative class for such necessary business expenses incurred by them.

FIRST CAUSE OF ACTION

FAILURE TO PAY HOURLY AND OVERTIME WAGES

(Lab. Code §§ 223, 510, 1194, 1197 and 1198)

(Plaintiff and Hourly Employee Class)

30. Plaintiff incorporates the preceding paragraphs of the Complaint as if fully alleged herein.

31. At all relevant times, Plaintiff and **Hourly Employee Class** members are or have been non-exempt employees of Defendants entitled to the full protections of the Labor Code and the applicable Wage Order.

32. Section 2 of the applicable Wage Order defines "hours worked" as "the time during which an employee is subject to the control of the employer, and includes all the time the employee is suffered or permitted to work, whether or not required to do so."

33. Section 4 of the applicable Wage Order requires an employer to pay non-exempt employees at least the minimum wage set forth therein for all hours worked, which consist of all hours that an employer has actual or constructive knowledge that employees are working.

34. Labor Code section 1194 invalidates any agreement between an employer and an employee to work for less than the minimum or overtime wage required under the applicable Wage Order.

35. Labor Code section 1194.2 entitles non-exempt employees to recover liquidated damages in amounts equal to the amounts of unpaid minimum wages and interest thereon in addition to the underlying unpaid minimum wages and interest thereon.

36. Labor Code section 1197 makes it unlawful for an employer to pay an employee less than the minimum wage required under the applicable Wage Order for all hours worked during a payroll period.

1 37. Labor Code section 1197.1 provides that it is unlawful for any employer or any other
2 person acting either individually or as an officer, agent or employee of another person, to pay an
3 employee, or cause an employee to be paid, less than the applicable minimum wage.

4 38. Labor Code section 1198 makes it unlawful for employers to employ employees
5 under conditions that violate the applicable Wage Order.

6 39. Labor Code section 204 requires employers to pay non-exempt employees their
7 earned wages for the normal work period at least twice during each calendar month on days the
8 employer designates in advance and to pay non-exempt employees their earned wages for labor
9 performed in excess of the normal work period by no later than the next regular payday.

10 40. Labor Code section 223 makes it unlawful for employers to pay their employees
11 lower wages than required by contract or statute while purporting to pay them legal wages.

12 41. Labor Code section 510 and Section 3 of the applicable Wage Order require
13 employees to pay non-exempt employees overtime wages of no less than one and one-half times
14 their respective regular rates of pay for all hours worked in excess of eight hours in one workday, all
15 hours worked in excess of forty hours in one workweek, and/or for the first eight hours worked on
16 the seventh consecutive day of one workweek.

17 42. Labor Code section 510 and Section 3 of the applicable Wage Order also require
18 employers to pay non-exempt employees overtime wages of no less than two times their respective
19 regular rates of pay for all hours worked in excess of twelve hours in one workday and for all hours
20 worked in excess of eight hours on a seventh consecutive workday during the workweek.

21 43. Plaintiff is informed and believes that, at all relevant times, Defendants have applied
22 centrally devised policies and practices to her and **Hourly Employee Class** members with respect
23 to working conditions and compensation arrangements.

24 44. At all relevant times, Defendants failed to pay hourly wages to Plaintiff and **Hourly**
25 **Employee Class** members for all time worked, including but not limited to, overtime hours at
26 statutory and/or agreed rates.

27 45. Section 9 of the applicable Wage Order states:

28 “When uniforms are required by the employer to be worn by the employee as a

condition of employment, such uniforms shall be provided and maintained by the employer. The term 'uniform' includes wearing apparel and accessories of distinctive design or color."

46. If the employer does not choose to maintain employees' uniforms itself where it is required to do so, the Division of Labor Standards Enforcement ("DLSE") takes the position that the employer may pay each affected employee a weekly maintenance allowance of an hour's pay at the state minimum wage rate in lieu of maintaining the uniforms, assuming that an hour is a realistic estimate of the time involved in maintaining the uniform.

47. At all relevant times during the applicable limitations period, and in violation of the above-referenced sections of the Labor Code and the applicable Wage Order, Defendants failed to compensate Plaintiff with minimum and/or overtime wages for all hours she worked as a result of its failure to maintain employee uniforms and/or pay her a weekly maintenance allowance.

48. Plaintiff is informed and believes that, at all relevant times, and in violation of the above-referenced sections of the Labor Code and the applicable Wage Order, Defendants failed to compensate **Hourly Employee Class** members with minimum and/or overtime wages for all hours they worked as a result of its failures to maintain employee uniforms and/or pay them a weekly maintenance allowance.

49. Pursuant to Labor Code section 1194, Code of Civil Procedure section 1021.5, the substantial benefit doctrine, and/or the common fund doctrine, Plaintiff, on behalf of herself and **Hourly Employee Class** members, seek to recover reasonable attorneys' fees.

SECOND CAUSE OF ACTION

FAILURE TO INDEMNIFY

(Lab. Code § 2802)

(Plaintiff and Expense Reimbursement Class)

50. Plaintiff incorporates the preceding paragraphs of the Complaint as if fully alleged herein.

51. Labor Code section 2802(a) states:

"An employer shall indemnify his or her employee for all necessary expenditures or losses incurred by the employee in direct consequence of the discharge of his or her duties, or of his or her obedience to the directions of the employer, even though

1 unlawful, unless the employee, at the time of obeying the directions, believed them
2 to be unlawful.”

3 52. At all relevant times during the applicable limitations period, Plaintiff and the
4 **Expense Reimbursement Class** members incurred necessary business related expenses and costs,
5 including but not limited to, cellphone expenses and the purchase and maintenance of uniforms to
6 be worn at all times during work hours.

7 53. Plaintiff is informed and believes, and thereupon alleges that the reimbursement paid
8 by Defendants was insufficient to indemnify Plaintiff and **Expense Reimbursement Class**
9 members for all necessary expenses incurred in the discharge of their duties.

10 54. Plaintiff is informed and believes and thereupon alleges that the reimbursement paid
11 by Defendants was insufficient to indemnify **Expense Reimbursement Class** members for all
12 necessary business expenses incurred in the discharge of their duties.

13 55. Pursuant to Labor Code section 452, an employer is authorized to prescribe the
14 weight, color, quality, texture, style, form and make of uniforms required to be worn by their
15 employees.

16 56. Section 9 of the applicable Wage Order states:

17 “When uniforms are required by the employer to be worn by the employee as a
18 condition of employment, such uniforms shall be provided and maintained by the
19 employer. The term ‘uniform’ includes wearing apparel and accessories of
distinctive design or color.”

20 57. At all relevant times during the applicable limitations period, Defendants required
21 Plaintiff and the **Expense Reimbursement Class** members to pay for expenses and/or losses caused
22 by Defendants’ want of ordinary care. Defendants failed to indemnify Plaintiff and **Expense**
23 **Reimbursement Class** members for all such expenditures.

24 58. At all relevant times during the applicable limitations period, Defendants required
25 Plaintiff and **Expense Reimbursement Class** members to purchase and maintain uniforms and
26 apparel unique to Defendants at their expense. Defendants failed to indemnify Plaintiff and
27 **Expense Reimbursement Class** members for all such expenditures.

28 59. Plaintiff is informed and believes that, during the applicable limitations period,

Defendants maintained a policy or practice of not reimbursing Plaintiff and **Expense Reimbursement Class** members for all necessary business expenses.

60. Accordingly, Plaintiff and **Expense Reimbursement Class** members are entitled to restitution for all unpaid amounts due and owing to within four years of the date of the filing of the Complaint and until the date of entry of judgment.

61. Plaintiff, on behalf of herself, and **Expense Reimbursement Class** members, seek interest thereon and costs pursuant to Labor Code section 218.6, and reasonable attorneys' fees pursuant to Code of Civil Procedure section 1021.5.

THIRD CAUSE OF ACTION

FAILURE TO PROVIDE ACCURATE WRITTEN WAGE STATEMENTS

(Lab. Code § 226)

(Plaintiff and Wage Statement Penalties Sub-Class)

62. Plaintiff incorporates the preceding paragraphs of the Complaint as if fully alleged herein.

63. Labor Code section 226(a) states:

“An employer, semimonthly or at the time of each payment of wages, shall furnish to his or her employee, either as a detachable part of the check, draft, or voucher paying the employee's wages, or separately if wages are paid by personal check or cash, an accurate itemized statement in writing showing (1) gross wages earned, (2) total hours worked by the employee, except as provided in subdivision (j), (3) the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis, (4) all deductions, provided that all deductions made on written orders of the employee may be aggregated and shown as one item, (5) net wages earned, (6) the inclusive dates of the period for which the employee is paid, (7) the name of the employee and only the last four digits of his or her social security number or an employee identification number other than a social security number, (8) the name and address of the legal entity that is the employer and, if the employer is a farm labor contractor, as defined in subdivision (b) of Section 1682, the name and address of the legal entity that secured the services of the employer, and (9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee and, beginning July 1, 2013, if the employer is a temporary services employer as defined in Section 201.3, the rate of pay and the total hours worked for each temporary services assignment. The deductions made from payment of wages shall be recorded in ink or other indelible form, properly dated, showing the month, day, and year, and a copy of the statement and the record of the deductions shall be kept on file by the employer for at least three years at the place of employment or at a central location within the State of California. For purposes of this subdivision, ‘copy’ includes a duplicate of the itemized statement provided to an employee or a computer-generated record that accurately shows all of the information required by this subdivision.”

1 64. The Division of Labor Standards Enforcement ("DLSE") has sought to harmonize
2 the "detachable part of the check" provision and the "accurate itemized statement in writing"
3 provision of Labor Code section 226(a) by allowing for electronic wage statements so long as each
4 employee retains the right to elect to receive a written paper stub or record and that those who are
5 provided with electronic wage statements retain the ability to easily access the information and
6 convert the electronic statements into hard copies at no expense to the employee. (DLSE Opinion
7 Letter July 6, 2006).

8 65. Plaintiff is informed and believes that, at all relevant times during the applicable
9 limitations period, Defendants have failed to provide **Wage Statement Penalties Sub-Class**
10 members with written wage statements as described above.

11 66. Plaintiff is informed and believes that Defendants' failure to provide her and **Wage**
12 **Statement Penalties Sub-Class** members with accurate written wage statements were intentional in
13 that Defendants have the ability to provide them with accurate wage statements but have
14 intentionally provided them with written wage statements that Defendants have known do not
15 comply with Labor Code section 226(a).

16 67. Plaintiff and **Wage Statement Penalties Sub-Class** members have suffered injuries,
17 in that Defendants have violated their legal rights to receive accurate wage statements and have
18 misled them about their actual rates of pay and wages earned. In addition, inaccurate information
19 on their wage statements have prevented immediate challenges to Defendants' unlawful pay
20 practices, has required discovery and mathematical computations to determine the amount of wages
21 owed, has caused difficulty and expense in attempting to reconstruct time and pay records, and/or
22 has led to the submission of inaccurate information about wages and deductions to federal and state
23 government agencies.

24 68. Pursuant to Labor Code section 226(e), Plaintiff, on behalf of herself and **Wage**
25 **Statement Penalties Sub-Class** members, seek the greater of actual damages or \$50.00 for the
26 initial pay period in which a violation of Labor Code section 226(a) occurred, and \$100.00 for each
27 subsequent pay period in which a violation of Labor Code section 226(a) occurred, not to exceed an
28 aggregate penalty of \$4000.00 per class member, as well as awards of reasonable attorneys' fees

1 and costs.

2 **FOURTH CAUSE OF ACTION**

3 **FAILURE TO TIMELY PAY ALL FINAL WAGES**

4 **(Lab. Code §§ 201-203)**

5 **(Plaintiff and Waiting Time Penalties Sub-Class)**

6 69. Plaintiff incorporates the preceding paragraphs of the Complaint as if fully alleged
7 herein.

8 70. At all relevant times, Plaintiff and **Waiting Time Penalties Sub-Class** members
9 have been entitled, upon the end of their employment with Defendants, to timely payment of all
10 wages earned and unpaid before termination or resignation.

11 71. At all relevant times, pursuant to Labor Code section 201, employees who have been
12 discharged have been entitled to payment of all final wages immediately upon termination.

13 72. At all relevant times, pursuant to Labor Code section 202, employees who have
14 resigned after giving at least seventy-two (72) hours notice of resignation have been entitled to
15 payment of all final wages at the time of resignation.

16 73. At all relevant times, pursuant to Labor Code section 202, employees who have
17 resigned after giving less than seventy-two (72) hours notice of resignation have been entitled to
18 payment of all final wages within seventy-two (72) hours of giving notice of resignation.

19 74. During the applicable limitations period, Defendants failed to pay Plaintiff all of her
20 final wages in accordance with the Labor Code by failing to timely pay her all of her final wages.

21 75. Plaintiff is informed and believes that, at all relevant time during the applicable
22 limitations period, Defendants have failed to timely pay **Waiting Time Penalties Sub-Class**
23 members all of their final wages in accordance with the Labor Code.

24 76. Plaintiff is informed and believes that, at all relevant times during the applicable
25 limitations period, Defendants have maintained a policy or practice of paying **Waiting Time**
26 **Penalties Sub-Class** members their final wages without regard to the requirements of Labor Code
27 sections 201 or 202 by failing to timely pay them all final wages.

28 77. Plaintiff is informed and believes and thereupon alleges that Defendants' failure to

1 timely pay all final wages to her and **Waiting Time Penalties Sub-Class** members have been
 2 willful in that Defendants have the ability to pay final wages in accordance with Labor Code
 3 sections 201 and/or 202 but have intentionally adopted policies or practices that are incompatible
 4 with those requirements.

5 78. Pursuant to Labor Code sections 203 and 218.6, Plaintiff, on behalf of herself and
 6 **Waiting Time Penalties Sub-Class** members, seek waiting time penalties from the dates that their
 7 final wages have first become due until paid, up to a maximum of thirty days, and interest thereon.

8 79. Pursuant to Code of Civil Procedure section 1021.5, the substantial benefit doctrine
 9 and/or the common fund doctrine, Plaintiff, on behalf of herself and **Waiting Time Penalties Sub-**
 10 **Class** members, seek awards of reasonable attorneys' fees and costs.

11 **FIFTH CAUSE OF ACTION**

12 **UNFAIR COMPETITION**

13 **(Bus. & Prof. Code §§ 17200 *et seq.*)**

14 **(Plaintiff and UCL Class)**

15 80. Plaintiff incorporates the preceding paragraphs of the Complaint as if fully alleged
 16 herein.

17 81. Business and Professions Code section 17200 defines "unfair competition" to
 18 include any unlawful business practice.

19 82. Business and Professions Code section 17203-17204 allow a person who has lost
 20 money or property as a result of unfair competition to bring a class action in accordance with Code
 21 of Civil Procedure section 382 to recover money or property that may have been acquired from
 22 similarly situated persons by means of unfair competition.

23 83. California law requires employers to pay hourly, non-exempt employees for all hours
 24 they are permitted or suffered to work, including hours that the employer knows or reasonable
 25 should know that employees have worked.

26 84. Plaintiff and the **UCL Class** members re-alleges and incorporates the **FIRST** and
 27 **SECOND** causes of action herein.

28 85. Plaintiff lost money or property as a result of the aforementioned unfair competition.

1 86. Defendants have or may have acquired money by means of unfair competition.

2 87. Plaintiff is informed and believes and thereupon alleges that by committing the
3 Labor Code violations described in this Complaint, Defendants violated Labor Code sections 215,
4 216, 225, 226.6, 354, 408, 553, 1175, 1199 and 2802, which make it a misdemeanor to commit the
5 Labor Code violations alleged herein.

6 88. Defendants have committed criminal conduct through their policies and practices of,
7 *inter alia*, failing to comport with their affirmative obligations as an employer to reimburse them for
8 all expenses such as cellphone expenses and the purchase and maintenance of uniforms to be worn
9 at all times during work hours.

10 89. At all relevant times, Plaintiff and **UCL Class** members have been non-exempt
11 employees and entitled to the full protections of both the Labor Code and the applicable Wage
12 Order.

13 90. Defendants' unlawful conduct as alleged in this Complaint amounts to and
14 constitutes unfair competition within the meaning of Business and Professions Code section 17200
15 *et seq.* Business and Professions Code sections 17200 *et seq.* protects against unfair competition
16 and allows a person who has suffered an injury-in-fact and has lost money or property as a result of
17 an unfair, unlawful or fraudulent business practice to seek restitution on her own behalf and on
18 behalf of similarly situated persons in a class action proceeding.

19 91. As a result of Defendants' violations of the Labor Code during the applicable
20 limitations period, Plaintiff has suffered an injury-in-fact and has lost money or property in the form
21 of earned wages. Specifically, Plaintiff has lost money or property as a result of Defendants'
22 conduct.

23 92. Plaintiff is informed and believes that other similarly situated persons have been
24 subject to the same unlawful policies or practices of Defendants.

25 93. Due to the unfair and unlawful business practices in violation of the Labor Code,
26 Defendants have gained a competitive advantage over other comparable companies doing business
27 in the State of California that comply with their legal obligations.

28 94. California's Unfair Competition Law ("UCL") permits civil recovery and injunctive

1 for "any unlawful, unfair or fraudulent business act or practice," including if a practice or act
 2 violates or is considered unlawful under any other state or federal law.

3 95. Accordingly, pursuant to Bus. & Prof. Code sections 17200 and 17203, Plaintiffs
 4 request the issuance of temporary, preliminary and permanent injunctive relief enjoining
 5 Defendants, and each of them, and their agents and employees, from further violations of the Labor
 6 Code and applicable Industrial Welfare Commission Wage Orders; and upon a final hearing seek
 7 an order permanently enjoining Defendants, and each of them, and their respective agents and
 8 employees, from further violations of the Labor Code and applicable Industrial Welfare
 9 Commission Wage Orders.

10 96. Pursuant to Business and Professions Code section 17203, Plaintiff, on behalf of
 11 herself and **UCL Class** members, seek declaratory relief and restitution of all monies rightfully
 12 belonging to them that Defendants did not pay them or otherwise retained by means of its unlawful
 13 and unfair business practices.

14 97. Pursuant to Code of Civil Procedure section 1021.5, the substantial benefit doctrine
 15 and/or the common fund doctrine, Plaintiff and **UCL Class** members are entitled to recover
 16 reasonable attorneys' fees in connection with their unfair competition claims.

17 **PRAYER FOR RELIEF**

18 WHEREFORE, Plaintiff, on behalf of herself, all others similarly situated, and the general
 19 public, prays for relief and judgment against Defendants as follows:

- 20 (1) An order that the action be certified as a class action;
- 21 (2) An order that Plaintiff be appointed class representative;
- 22 (3) An order that counsel for Plaintiff be appointed class counsel;
- 23 (4) Unpaid wages;
- 24 (5) Actual damages;
- 25 (6) Liquidated damages;
- 26 (7) Restitution;
- 27 (8) Declaratory relief;
- 28 (9) Pre-judgment interest;

- (10) Statutory penalties;
- (11) Costs of suit;
- (12) Reasonable attorneys' fees; and
- (13) Such other relief as the Court deems just and proper.

DEMAND FOR JURY TRIAL

Plaintiff, on behalf of herself, all other similarly situated, and the general public, hereby demands a jury trial on all issues so triable.

DATED: January 28, 2019

SETAREH LAW GROUP



SHAUN SETAREH
Attorneys for Plaintiff
MARIAH D. THOMAS

EXHIBIT B

19-CIV-00584
SUM
Summons Issued / Filed
1620994



SUM-100

SUMMON
(CITACION JUDICIAL)

NOTICE TO DEFENDANT:
(AVISO AL DEMANDADO):

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

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

MARIAH D. THOMAS, on behalf of herself, all others similarly situated,

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

FILED
SAN MATEO COUNTY

JAN 29 2019

Clerk of the Superior Court

By DEPUTY CLERK

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): Southern Branch: Hall of Justice
400 County Center
Redwood City, California 94063

CASE NUMBER
(Número del Caso): 19CIV00584

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):
Shaun Setareh, Esq., 315 South Beverly Drive, Suite 315, Beverly Hills, California 90212, (310) 888-7771

DATE:
(Fecha) JAN 29 2019

NEAL TANIGUCHI

Clerk, by
(Secretario)

, Deputy
(Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)
(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).

NOTICE TO THE PERSON SERVED: You are served

1. ☐ as an individual defendant.
2. ☐ as the person sued under the fictitious name of (specify):
3. ☐ on behalf of (specify):
under: ☐ CCP 416.10 (corporation) ☐ CCP 416.60 (minor)
☐ CCP 416.20 (defunct corporation) ☐ CCP 416.70 (conservatee)
☐ CCP 416.40 (association or partnership) ☐ CCP 416.90 (authorized person)
☐ other (specify):
4. ☐ by personal delivery on (date):



CCCS
Civil Case Cover Sheet
1620988

CM-010

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State & Address)
Shaun Setareh (SBN 204514)
SETAREH LAW GROUP
315 South Beverly Drive, Suite 315
Beverly Hills, California 90212
TELEPHONE NO.: (310) 888-7771
ATTORNEY FOR (Name): Mariah D. Thomas



FAX NO.: (310) 888-0109

SUPERIOR COURT OF CALIFORNIA, COUNTY OF San Mateo
STREET ADDRESS: 400 County Center
MAILING ADDRESS:
CITY AND ZIP CODE: Redwood City, California 94063
BRANCH NAME: Southern Branch: Hall of Justice

CASE NAME:
Thomas v. Target Corporation

CIVIL CASE COVER SHEET

☒ **Unlimited** (Amount demanded exceeds \$25,000) ☐ **Limited** (Amount demanded is \$25,000 or less)

Complex Case Designation

☐ **Counter** ☐ **Joinder**
Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402)

CASE NUMBER: 19CV00584

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

☐ Auto (22)
☐ Uninsured motorist (46)

Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort

☐ Asbestos (04)
☐ Product liability (24)
☐ Medical malpractice (45)
☐ Other PI/PD/WD (23)

Non-PI/PD/WD (Other) Tort

☐ Business tort/unfair business practice (07)
☐ Civil rights (08)
☐ Defamation (13)
☐ Fraud (16)
☐ Intellectual property (19)
☐ Professional negligence (25)
☐ Other non-PI/PD/WD tort (35)

Employment

☐ Wrongful termination (36)
☒ Other employment (15)

Contract

☐ Breach of contract/warranty (06)
☐ Rule 3.740 collections (09)
☐ Other collections (09)
☐ Insurance coverage (18)
☐ Other contract (37)

Real Property

☐ Eminent domain/inverse condemnation (14)
☐ Wrongful eviction (33)
☐ Other real property (26)

Unlawful Detainer

☐ Commercial (31)
☐ Residential (32)
☐ Drugs (38)

Judicial Review

☐ Asset forfeiture (05)
☐ Petition re: arbitration award (11)
☐ Writ of mandate (02)
☐ Other judicial review (39)

Provisionally Complex Civil Litigation (Cal. Rules of Court, rules 3.400-3.403)

☐ Antitrust/Trade regulation (03)
☐ Construction defect (10)
☐ Mass tort (40)
☐ Securities litigation (28)
☐ Environmental/Toxic tort (30)
☐ Insurance coverage claims arising from the above listed provisionally complex case types (41)

Enforcement of Judgment

☐ Enforcement of judgment (20)

Miscellaneous Civil Complaint

☐ RICO (27)
☐ Other complaint (not specified above) (42)

Miscellaneous Civil Petition

☐ Partnership and corporate governance (21)
☐ 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. ☒ Large number of separately represented parties d. ☒ Large number of witnesses
b. ☒ Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve e. ☒ Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court
c. ☒ Substantial amount of documentary evidence f. ☒ 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): Five

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: January 28, 2019

Shaun Setareh, Esq.

(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.

Page 1 of 2

CM-010

INSTRUCTIONS ON HOW TO COMPLETE THE COVER SHEET

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

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

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

CASE TYPES AND EXAMPLES

Auto Tort

Auto (22)—Personal Injury/Property Damage/Wrongful Death
Uninsured Motorist (46) (*if the case involves an uninsured motorist claim subject to arbitration, check this item instead of Auto*)

Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort

Asbestos (04)
Asbestos Property Damage
Asbestos Personal Injury/Wrongful Death
Product Liability (*not asbestos or toxic/environmental*) (24)
Medical Malpractice (45)
Medical Malpractice—Physicians & Surgeons
Other Professional Health Care Malpractice
Other PI/PD/WD (23)
Premises Liability (e.g., slip and fall)
Intentional Bodily Injury/PD/WD (e.g., assault, vandalism)
Intentional Infliction of Emotional Distress
Negligent Infliction of Emotional Distress
Other PI/PD/WD

Non-PI/PD/WD (Other) Tort

Business Tort/Unfair Business Practice (07)
Civil Rights (e.g., discrimination, false arrest) (*not civil harassment*) (08)
Defamation (e.g., slander, libel) (13)
Fraud (16)
Intellectual Property (19)
Professional Negligence (25)
Legal Malpractice
Other Professional Malpractice (*not medical or legal*)
Other Non-PI/PD/WD Tort (35)

Employment

Wrongful Termination (36)
Other Employment (15)

Contract

Breach of Contract/Warranty (06)
Breach of Rental/Lease
Contract (*not unlawful detainer or wrongful eviction*)
Contract/Warranty Breach—Seller Plaintiff (*not fraud or negligence*)
Negligent Breach of Contract/Warranty
Other Breach of Contract/Warranty
Collections (e.g., money owed, open book accounts) (09)
Collection Case—Seller Plaintiff
Other Promissory Note/Collections Case
Insurance Coverage (*not provisionally complex*) (18)
Auto Subrogation
Other Coverage
Other Contract (37)
Contractual Fraud
Other Contract Dispute

Real Property

Eminent Domain/Inverse Condemnation (14)
Wrongful Eviction (33)
Other Real Property (e.g., quiet title) (26)
Writ of Possession of Real Property
Mortgage Foreclosure
Quiet Title
Other Real Property (*not eminent domain, landlord/tenant, or foreclosure*)

Unlawful Detainer

Commercial (31)
Residential (32)
Drugs (38) (*if the case involves illegal drugs, check this item; otherwise, report as Commercial or Residential*)

Judicial Review

Asset Forfeiture (05)
Petition Re: Arbitration Award (11)
Writ of Mandate (02)
Writ—Administrative Mandamus
Writ—Mandamus on Limited Court Case Matter
Writ—Other Limited Court Case Review
Other Judicial Review (39)
Review of Health Officer Order
Notice of Appeal—Labor
Commissioner Appeals

Provisionally Complex Civil Litigation (Cal. Rules of Court Rules 3.400–3.403)

Antitrust/Trade Regulation (03)
Construction Defect (10)
Claims Involving Mass Tort (40)
Securities Litigation (28)
Environmental/Toxic Tort (30)
Insurance Coverage Claims (*arising from provisionally complex case type listed above*) (41)

Enforcement of Judgment


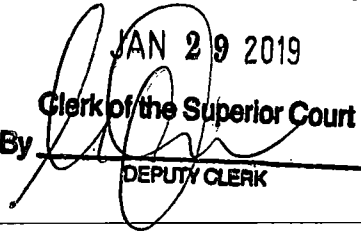
Enforcement of Judgment (20)
Abstract of Judgment (Out of County)
Confession of Judgment (*non-domestic relations*)
Sister State Judgment
Administrative Agency Award (*not unpaid taxes*)
Petition/Certification of Entry of Judgment on Unpaid Taxes
Other Enforcement of Judgment Case

Miscellaneous Civil Complaint

RICO (27)
Other Complaint (*not specified above*) (42)
Declaratory Relief Only
Injunctive Relief Only (*non-harassment*)
Mechanics Lien
Other Commercial Complaint Case (*non-tort/non-complex*)
Other Civil Complaint (*non-tort/non-complex*)

Miscellaneous Civil Petition

Partnership and Corporate Governance (21)
Other Petition (*not specified above*) (43)
Civil Harassment
Workplace Violence
Elder/Dependent Adult Abuse
Election Contest
Petition for Name Change
Petition for Relief From Late Claim
Other Civil Petition

 <p>SUPERIOR COURT OF SAN MATEO COUNTY 400 County Center, Redwood City, CA 94063 www.sanmateocourt.org</p>	FOR COURT-USE ONLY FILED SAN MATEO COUNTY JAN 29 2019 Clerk of the Superior Court By  DEPUTY CLERK
PLAINTIFF: MARIAH D. THOMAS DEFENDANT: TARGET CORPORATION, A MINNESOTA CORPORATION; DOES 1 THROUGH 50, INCLUSIVE	
NOTICE OF ASSIGNMENT FOR ALL PURPOSES, DESIGNATION AS COMPLEX CASE, SETTING OF CASE MANAGEMENT CONFERENCE AND COMPLEX FEES DUE	CASE NUMBER: 19-CIV-00584

This case has been filed by Plaintiff(s) as a putative class action. By Standing Order 18-148 of the Presiding Judge, pursuant to California Rules of Court 3.400 and 3.403, this action is automatically deemed a "complex case" and assigned for all purposes to the Court's Complex Civil Litigation Judge, **the Honorable Marie S. Weiner, Department 2**, located at 400 County Center, Courtroom 2E, Redwood City, California 94063, (650) 261-5102.

The parties or their attorneys of record must appear for a Case Management Conference in Department 2 on **4/29/2019 at 9:00 a.m.**

Pursuant to Government Code Section 70616(a), the complex case fee and the first appearance fee must be paid at the time of filing of the first paper in this complex case (Govt.C. 70616(b) and (d)).

Plaintiff(s) pay a single complex case fee of \$1,000 on behalf of all plaintiffs, whether filing separately or jointly.

Defendant(s) pay a complex case fee of \$1,000 each on behalf of each defendant, intervenor, respondent, or adverse party, whether filing separately or jointly, at the time that party files its first paper in this case, not to exceed \$18,000 total.

PLAINTIFF(S) IS/ARE REQUIRED TO SERVE A COPY OF THIS NOTICE ON ALL OTHER PARTIES TO THIS ACTION OR PROCEEDING, and promptly file proof of service.

Date: 1/29/2019

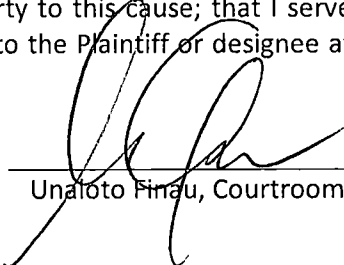
Neal I. Taniguchi, Court Executive Officer/Clerk

CLERK'S CERTIFICATE OF SERVICE

I hereby certify that I am the clerk of this Court, not a party to this cause; that I served a copy of this notice on the below date, by personally delivering a copy of this Notice to the Plaintiff or designee at 400 County Center, Redwood City, California.

Date: 1/29/2019

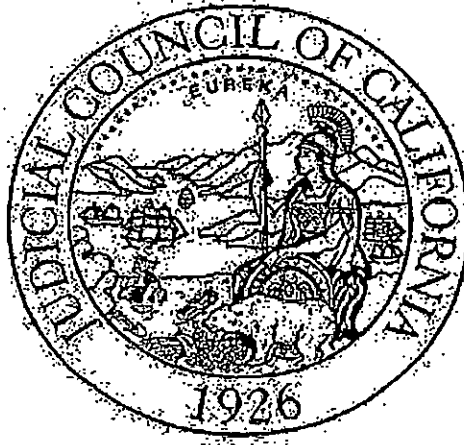
By:


Unaloto Finau, Courtroom Clerk

19 - CIV - 00584
CACN
Class Action Complex Notice
1621000



ALTERNATIVE DISPUTE RESOLUTION IN CIVIL CASES



Civil Appropriate Dispute Resolution (ADR) Information Sheet

Superior Court of California, San Mateo County

Appropriate Dispute Resolution (ADR) is a way of solving legal problems without going to trial. All types of disputes can be resolved through ADR. The Court encourages you to use some form of ADR before you proceed to trial. The most popular form of ADR is mediation. The Multi-Option ADR Project can help you choose the option that is best for your case and refer you to an experienced ADR provider.

What are the Advantages of Using ADR?

- ☞ **Faster** – Traditional litigation can take years to complete but ADR usually takes weeks or months.
- ☞ **Cheaper** – Parties can save on attorneys' fees and litigation costs.
- ☞ **More control & flexibility** – Parties choose the ADR process most appropriate for their case.
- ☞ **Cooperative & less stressful** – In mediation, parties cooperate to find a mutually agreeable solution to their dispute.

What are the Disadvantages of Using ADR?

- ☞ **You may go to Court anyway** – If you can't resolve your case using ADR, you may still have to spend time and money on your lawsuit.
- ☞ **Not free** – The neutrals charge fees (except in judicial arbitration), but you may qualify for financial aid.

Are There Different Kinds of ADR?

- ☞ **Mediation** - A neutral person (mediator) helps the parties communicate, clarify facts, identify legal issues, explore settlement options and agree on a solution that is acceptable to all sides.
- ☞ **Judicial Arbitration** – Is an informal hearing where a neutral person (arbitrator) reviews the evidence, hears arguments and makes a decision on your case. In non-binding judicial arbitration, parties have the right to reject the arbitrator's decision and proceed to trial. For more information regarding judicial arbitration, please see the attached sheet.
- ☞ **Binding Arbitration** - The parties agree ahead of time to accept the arbitrator's decision as final. Parties who choose binding arbitration give up their right to go to Court and their right to appeal the arbitrator's decision.
- ☞ **Neutral Evaluation** - A neutral person (evaluator) listens to the parties, asks them questions about their case, reviews evidence and may hear witness testimony. The evaluator helps the parties identify the most important legal issues in their case and gives them an analysis of the strengths and weaknesses of each side's case. Special neutral evaluation guidelines are available on the Court's website at www.sanmateocourt.org/adr.
- ☞ **Settlement Conference** – Although similar to mediation, the neutral (a judge) may take more control in encouraging parties to settle. Settlement conferences take place at the courthouse. All cases have a mandatory settlement conference approximately 2-3 weeks before the trial date.

How Does Voluntary Mediation/Neutral Evaluation Work in San Mateo County?

- ☞ The person who files the lawsuit (the plaintiff) must include this ADR Information Sheet with the complaint when serving the defendants in the case.
- ☞ All the parties in your case will meet with a judge at your first Case Management Conference (CMC), which is scheduled within 120 days of the filing of the complaint. The judge will speak to you about your voluntary ADR options, encourage you to participate in ADR and ask you to meet with Court ADR staff.
- ☞ If you and the parties decide to use ADR, Local Rule 2.3(i)(3) states that you must file a *Stipulation and Order to ADR* with the Court Clerk's Office. This form lets the Court know both whom you have selected as your ADR neutral and the date of the ADR session.
- ☞ You and the other parties can find your own ADR neutral for the case or use a neutral who is on the Court's ADR Panel.
 - For a list of Court ADR neutrals and their resumes, visit the Court's website at www.sanmateocourt.org/adr. (Go to "Civil ADR Program," "Civil ADR Program Panelist List" and click on any provider's name.)
- ☞ If you decide to do ADR and file a *Stipulation and Order to ADR* at least 10 days before your first CMC, the Court will postpone (continue) your first CMC for 90 days to allow the parties time to resolve the case using ADR. The Clerk's Office will send you a notice with your new CMC date.
- ☞ Within 10 days of completing ADR, you and your lawyer (if you have one) must fill out either an Evaluation By Attorneys or Client Evaluation and mail or fax it to the ADR offices at: 400 County Center, Redwood City, CA 94063; (650) 599-1754 (fax).

Do I Have to Pay to Use ADR?

- ☞ Yes. You and the other parties will pay the ADR neutral directly. However, you do not have to pay the Court for either judicial arbitration or for the mandatory settlement conference that is scheduled before your trial.
- ☞ If you expect to have difficulty paying the ADR provider's fee, ask the ADR Coordinator for a financial aid application. You will need to fill out this application to determine whether or not you qualify for financial assistance.

In San Mateo County, parties also can take their case to the community mediation organization, the Peninsula Conflict Resolution Center ("PCRC"), and have their case mediated by PCRC's panel of trained and experienced volunteer mediators. To learn more about programs and fees, contact PCRC's Manager of Mediation Programs at (650) 513-0330.

For more information, visit the court website at www.sanmateocourt.org/adr or contact the ADR Program: 400 County Center, Redwood City, CA 94063.
Phone: (650) 599-1070, (650) 599-1073 and fax: (650) 599-1754

Page 2 of 3

Appropriate Dispute Resolution Information Sheet

Form adopted for Mandatory Use [CA Rule of Court §3.221] Local Court Form ADR-CV-8 [Sept. 2010, Revised Jan. 2013] www.sanmateocourt.org

Judicial Arbitration, one of the available Appropriate Dispute Resolution (ADR) options, differs from other options in that it is usually court-ordered, unless the parties agree to it.

What are the Advantages of Using Judicial Arbitration?

- ☞ **Free** -Parties do not have to pay for the arbitrator's fee.
- ☞ **Fast** -Parties are usually given 120 days from the date of the Case Management Conference (CMC) to have their case heard by the appointed arbitrator.
- ☞ **Informal** -The hearing is conducted by an arbitrator who issues an award. (Arbitrators are usually attorneys who practice or have practiced in San Mateo County.)

What are the Disadvantages of Using Judicial Arbitration?

- ☞ The award issued by the arbitrator is not always binding (unless the parties stipulated otherwise). If any party requests a trial within 30 days of the award, the award becomes void and the case continues on to trial.

How Does Judicial Arbitration Work in San Mateo County?

- ☞ During your first CMC hearing, the judge may decide to order you to judicial arbitration. You will then receive instructions and a proposed list of arbitrators in the mail.
- ☞ Parties also may agree to judicial arbitration by filing a *Stipulation and Order to ADR* form at least 10 days before the first CMC. The CMC clerk will then vacate your CMC hearing and send the case to arbitration. The parties will receive instructions and a proposed list of arbitrators in the mail.
- ☞ Parties can stipulate (agree) to an arbitrator on the Court's Judicial Arbitration Panel list. Otherwise, proposed names of arbitrators will be sent to the parties.
 - o For a list of arbitrators, their resumes, and other information, visit the Court's website at www.sanmateocourt.org/adr. (Go to "Judicial Arbitration Program," "Judicial Arbitration Panelist List" and click on the arbitrator's name. To view the arbitrators by subject matter, click on "Judicial Arbitration Panelists by Subject Matter.")
- ☞ After the arbitration hearing is held and the arbitrator issues an award, the parties have 30 days to turn down/reject the award by filing a Trial de Novo (unless they have stipulated that the award would be binding).
- ☞ If the parties reject the award and request a Trial de Novo, the Court will send out notices to the parties of the Mandatory Settlement Conference date and the trial date.
- ☞ Following your arbitration hearing, you will also receive an evaluation form to be filled out and returned to the Arbitration Administrator.

For more information, visit the court website at www.sanmateocourt.org/adr or contact Judicial Arbitration: 400 County Center, Redwood City, CA 94063.
Phone: (650) 599-1070 or (650) 599-1073 and Fax: (650) 599-1754

Attorney or Party without Attorney (Name, Address, Telephone, Fax, State Bar membership number):	Court Use Only
SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN MATEO Hall of Justice and Records 400 County Center Redwood City, CA 94063-1655 (650) 363-4711	
Plaintiff(s):	Case number:
Defendant(s):	Current CMC Date:

STIPULATION AND ORDER TO APPROPRIATE DISPUTE RESOLUTION

Plaintiff will file this stipulation with the Clerk's Office 10 days prior to or 3 weeks following the first Case Management Conference unless directed otherwise by the Court and ADR Director [Local Rule 2.3(i)(3)]. Please attach a Service List.

The parties hereby stipulate that all claims in this action shall be submitted to (select one):

- ☐ Voluntary Mediation
 ☐ Binding Arbitration (private)
 ☐ Neutral Evaluation
 ☐ Settlement Conference (private)
 ☐ Non-Binding Judicial Arbitration CCP 1141.12
 ☐ Summary Jury Trial
 ☐ Other: _____

Case Type: _____

Neutral's name and telephone number: _____ Date of session: _____

(Required for continuance of CMC except for non-binding judicial arbitration)

Identify by name the parties to attend ADR session: _____

Original Signatures

Type or print name of ☒ Party without attorney ☐ Attorney for
☐ Plaintiff/Petitioner ☐ Defendant/Respondent/Contestant

 (Signature)
 Attorney or Party without attorney

Type or print name of ☐ Party without attorney ☐ Attorney for
☐ Plaintiff/Petitioner ☐ Defendant/Respondent/Contestant

 (Signature)
 Attorney or Party without attorney

Type or print name of ☐ Party without attorney ☐ Attorney for
☐ Plaintiff/Petitioner ☐ Defendant/Respondent/Contestant

 (Signature)
 Attorney or Party without attorney

Type or print name of ☐ Party without attorney ☐ Attorney for
☐ Plaintiff/Petitioner ☐ Defendant/Respondent/Contestant

 (Signature)
 Attorney or Party without attorney

IT IS SO ORDERED:

Date: _____

 Judge of the Superior Court of San Mateo County

ADR Stipulation and Evaluation Instructions

In accordance with *Local Rule 2.3(i)(3)*, all parties going to ADR must complete a Stipulation and Order to ADR and file it with the Clerk of the Superior Court. The Office of the Clerk is located at:

Clerk of the Superior Court, Civil Division
Attention: Case Management Conference Clerk
Superior Court of California, County of San Mateo
400 County Center
Redwood City, CA 94063-1655

There is no filing fee for filing the stipulation. An incomplete stipulation will be returned to the parties by the Clerk's Office. All stipulations must include the following:

- ☐ Original signatures for all attorneys (and/or parties in pro per);
- ☐ The name of the neutral;
- ☐ Date of the ADR session; and
- ☐ Service List (Counsel need not serve the stipulation on parties).

Parties mutually agree on a neutral and schedule ADR sessions directly with the neutral. If parties would like a copy of the court's Civil ADR Program Panelist List and information sheets on individual panelists, they may visit the court's website at www.sanmateocourt.org/adr.

If Filing the Stipulation Prior to an Initial Case Management Conference

To stipulate to ADR prior to the initial case management conference, parties must file a completed stipulation at least 10 days before the scheduled case management conference. The clerk will send notice of a new case management conference date approximately 90 days from the current date to allow time for the ADR process to be completed.

If Filing Stipulation Following a Case Management Conference

When parties come to an agreement at a case management conference to utilize ADR, they have 21 days from the date of the case management conference to file a Stipulation and Order to ADR with the court [*Local Rule 2.3(i)(3)*].

Post-ADR Session Evaluations

Local Rule 2.3(i)(5) requires submission of post-ADR session evaluations within 10 days of completion of the ADR process. Evaluations are to be filled out by both attorneys and clients. A copy of the Evaluation By Attorneys and Client Evaluation are attached to the Civil ADR Program Panelist List or can be downloaded from the court's web site.

Non-Binding Judicial Arbitration

Names and dates are not needed for stipulations to judicial arbitration. The Judicial Arbitration Administrator will send a list of names to parties once a stipulation has been submitted.

For further information regarding San Mateo Superior Court's Civil ADR and Judicial Arbitration Programs, visit the Court's website at www.sanmateocourt.org/adr or contact the ADR offices at (650) 599-1070 or (650) 599-1073.

Superior Court of California, County of San Mateo

CHAPTER 2. CIVIL TRIAL COURT MANAGEMENT RULES
PART 1. MANAGEMENT DUTIES

Rule 2.2 Trial Court Management

Reference CRC, rules 3.700, 3.710-3.713, 10.900, 10.901

(Adopted, effective January 1, 2000) (Amended, effective January 1, 2007)

PART 2. CASEFLOW MANAGEMENT

Rule 2.3 New Case Management

This rule applies to all civil cases with the exception of the following: (1) juvenile court matters; (2) probate matters; (3) family law matters; and (4) civil cases which, based on subject matter, have been assigned to a judge, or to more than one judge, for all purposes. For rules applicable to these exceptions, see CRC 2.20, 2.30, 2.570-2.573, 2.585, 2.810-2.819, 2.830-2.834, 3.650, 3.700-3.735, 3.920-3.927, 3.1370, 3.1380-3.1385, 3.1590-3.1591, 3.1806, 5.590, 10.900-10.901, 10.910, 10.950-10.953.

(a) Purposes and Goals

The purposes and goals of the San Mateo Superior Court Civil Case Management System effective January 1, 1992 are:

- (1) To manage fairly and efficiently, from commencement to disposition, the processing of civil litigation.
- (2) To prepare the bench and bar for full implementation of the Trial Court Delay Reduction Act (A.B. 3820) on July 1, 1992; and
- (3) To encourage parties to agree to informal discovery early in the life of the case, to use standard form interrogatories and to promote alternative dispute resolution. Nothing in these rules is intended to prevent the parties from stipulating to an earlier intervention by the court by way of a case management conference, settlement conference or any other intervention that seems appropriate.
- (4) In accordance with Sections 3.710-3.715, 10.900, 10.901 of the California Rules of Court, Local Rule 2.3 is adopted to advance the goals of Section 68603 of the Government Code and Section 2.1 of the Standards of Judicial Administration recommended by the Judicial Council.

(b) Team concept

Beginning January 1, 1994 civil litigation will be managed primarily by a team of two program judges.

The clerk will assign the case to a program judge at the time the complaint is filed. The case shall be managed by the assigned program judge until disposition or until the case is assigned to a trial department.

Superior Court of California, County of San Mateo

(c) Cases filed after July 1, 1992

Upon the filing of a complaint after July 1, 1992, the case shall be subject to all of the civil case management system rules set forth below. Cases filed before July 1, 1992 shall also be subject to these rules except for subsection (d) (Filing and service of pleadings; exceptions):

(d) Filing and service of pleadings; exceptions.

(1) Complaint: Except as provided in paragraph 5 below, plaintiff shall within 60 days after filing of the complaint serve the complaint on each defendant along with:

- (A) A blank copy of the Judicial Council Case Management Statement;
- (B) A copy of Local Rule 2.3;
- (C) The Notice of Case Management Conference.

If a matter has been submitted to arbitration pursuant to uninsured motorist insurance, the plaintiff shall file a notice to that effect with the court at the time of filing the complaint, or at the time the matter is submitted. The notice shall include the name, address and telephone number of the insurance company, along with the claim number or other designation under which the matter is being processed.

(2) Cross-complaint: Except as provided in paragraph (5) below, each defendant shall within 30 days after answering the complaint file any cross-complaint (within 50 days if compliance with a governmental claims statute is a prerequisite to the cross-complaint) not already served with the answer under Code of Civil Procedure section 428.50 and serve with that cross-complaint:

- (A) A blank copy of the Judicial Council Case Management Statement;
- (B) A copy of Local Rule 2.3;
- (C) The Notice of Case Management Conference.

(3) Responsive pleadings: Except as provided in paragraph 5 below, each party served with a complaint or cross-complaint shall file and serve a response within 30 days after service. The parties may by written agreement stipulate to one 15-day extension to respond to a complaint or cross-complaint.

If the responsive pleading is a demurrer, motion to strike, motion to quash service of process, motion for a change of venue or a motion to stay or dismiss the case on forum non conveniens grounds, and the demurrer is overruled or the motion denied, a further responsive pleading shall be filed within 10 days following notice of the ruling unless otherwise ordered. If a demurrer is sustained or a motion to strike is granted with leave to amend, an amended complaint shall be filed within 10 days following notice of the ruling unless otherwise ordered. The court may fix a time for filing pleadings responsive to such amended complaint.

(4) Proofs of service: Proofs of service must be filed at least 10 calendar days before the case management conference.

(5) Exceptions for longer periods of time to serve or respond:

- (A) Time to serve may be extended for good cause: Upon ex parte application to the court, *in compliance with California Rules of Court 3.1200 – 3.1206*, within 60 days of the date the complaint was filed, plaintiff may obtain an extension of time to serve to a

Superior Court of California, County of San Mateo

date on or before the case management conference, if good cause is shown by declaration of counsel (or plaintiff filing in propria persona). An additional extension of the time to serve (an initial extension if the application is by a cross-complainant) may be obtained upon written application to the court upon good cause shown before the prior extension has expired. The filing of a timely application for an extension will automatically extend the time to serve by five days, whether or not the application is granted.

Good cause will be found if the declaration shows that the action is filed against a defendant who is an uninsured motorist, and the plaintiff's claim is subject to an arbitration provision in plaintiff's contract of insurance. In determining good cause in other cases, the court will give due consideration to any standards, procedures and policies which have been developed in consultation with the bar of the county through the bench-bar trial court delay committee.

(B) Additional extension of time if uninsured motorist arbitration is pending. In addition to any extension of time obtained pursuant to subsection (5)(A) above, if an uninsured motorist arbitration is still pending between plaintiff and plaintiff's insurance carrier 30 days prior to the expiration of the extension, plaintiff may obtain an additional extension of time by an ex parte application supported by a declaration showing the scheduled or anticipated date of the arbitration hearing and the diligence of plaintiff in pursuing arbitration.

(C) Time to respond may be extended for good cause: Before the time to respond has expired, any party served with a complaint or cross-complaint may, with notice to all other parties in the action, make ex parte application to the court upon good cause shown for an extension of time to respond. The filing of a timely application for an extension will automatically extend the time to respond by five days, whether or not the application is granted.

(e) Case management conference

(1) Date of conference: Unless the parties stipulate in writing and the court orders that the case be earlier referred to arbitration, a case management conference will be set by the clerk at the time the complaint is filed. (Government Code 68616)

(2) Attendance at the case management conference is mandatory for all parties or their attorneys of record.

(3) Plaintiff must serve the Notice of Case Management on all parties no later than 30 calendar days before the conference, unless otherwise ordered by the Court.

(4) The Court will deem the case to be at-issue at the time of the conference (Reference: CRC 3.714(a)) absent a showing of extraordinary circumstances.

(5) The conference may be set at an earlier date by order of the Court or by written stipulation of the parties.

(6) Designation of trial counsel: Trial counsel and, except for good cause shown, back-up trial counsel, must be specified at the case management conference. If such counsel is not specified, relief from the scheduled trial date may not be obtained based upon the ground that counsel is engaged elsewhere.

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(7) Conference orders: At the initial conference, the program judge will make appropriate pre-trial orders that may include the following:

- (A) An order referring the case to arbitration, mediation or other dispute resolution process;
- (B) An order transferring the case to the limited jurisdiction of the superior court;
- (C) An order assigning a trial date;
- (D) An order identifying the case as one which may be protracted and determining what special administrative and judicial attention may be appropriate, including special assignment;
- (E) An order identifying the case as one which may be amenable to early settlement or other alternative disposition technique;
- (F) An order of discovery; including but not limited to establishing a discovery schedule, assignment to a discovery referee, and/or establishing a discovery cut-off date;
- (G) An order scheduling the exchange of expert witness information;
- (H) An order assigning a mandatory settlement conference date pursuant to Local Rule 2.3(k) and 2.4; and
- (I) Other orders to achieve the interests of justice and the timely disposition of the case.

(8) CourtCall Telephonic Appearances

(A) Reference CRC, Rule 3.670

(B) Procedure. Telephonic appearances through the use of CourtCall, an independent vendor, are permitted at case management conference hearings. A party wishing to make a telephone appearance must serve and file a Request for Telephone Appearance Form with CourtCall not less than five court days prior to the case management conference hearing. Copies of the Request for CourtCall Appearance form and accompanying information sheet are available in the Clerk's office. There is a fee to parties for each CourtCall appearance and fees are paid directly to CourtCall. CourtCall will fax confirmation of the request to parties.

(C) On the day of the case management conference hearing, counsel and parties appearing by CourtCall must check-in five minutes prior to the hearing. Check-in is accomplished by dialing the courtroom's dedicated toll-free teleconference number and access code that will be provided by CourtCall in the confirmation. Any attorney or party calling after the check-in period shall be considered late for the hearing and shall be treated in the same manner as if the person had personally appeared late for the hearing.

(D) At a case management conference, parties may be referred to an appropriate dispute resolution ("ADR") process (e.g., mediation, binding arbitration or neutral evaluation). If parties are referred ADR, they must redial the dedicated toll-free teleconference number immediately following their case management conference appearance and use a second CourtCall access code to telephonically appear at the ADR referral meeting with ADR staff. If a case has been referred to ADR, a party's case management conference appearance is not complete until they have also telephonically

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appeared at the mandatory ADR referral. If parties are referred to judicial arbitration, they do not have to appear at the ADR referral.

(f) Case Management Statement

At least 15 calendar days before the scheduled case management conference, each party shall file with the court and serve on all other parties a completed Judicial Council Case Management Statement. If the case is set for further case management conference hearing(s), all parties must file updated Case Management Statements 15 (fifteen) calendar days prior to the scheduled hearings(s).

(g) Appropriate Dispute Resolution, ADR, Policy Statement

The Court finds it is in the best interests of parties to litigation to participate in appropriate dispute resolution procedures, including but not limited to mediation, neutral evaluation, private or judicial arbitration, voluntary settlement conferences, and the use of special masters and referees. Therefore, all parties shall stipulate to, or be referred to, an appropriate form of dispute resolution before being set for trial, unless there is good cause to dispense with this requirement. Parties are encouraged to stipulate to judicial arbitration or ADR prior to the case management conference.

(h) Stipulations to Arbitration

(1) If the case is at issue, and all counsel and each party appearing in propria persona stipulate in writing to judicial arbitration prior to the case management conference, discovery will remain open following judicial arbitration. A written stipulation to judicial arbitration must be filed with the clerk and a copy immediately sent to the Master Calendar Coordinator at least 10 calendar days before the case management conference in order to avoid the need to appear at that conference. A written stipulation to arbitrate will be deemed to be without a limit as to the amount of the award unless it expressly states otherwise.

(2) It is the policy of this court to make every effort to process cases in a timely manner. Parties who elect or are ordered by the court to judicial arbitration must complete the arbitration hearing within the time frame specified by the court.

Parties who wish to continue the arbitration hearing after the jurisdictional time frame must submit a court provided form entitled "*Ex Parte Motion and Stipulation for continuance of Judicial arbitration Hearing.*" Parties can obtain a copy of the form by contacting the court's judicial arbitration administrator [See Local Rule 10.1(d)(1)]. Continuances without adequate grounds will not be considered. A case management judge will either grant or deny the request for continuance. If the request is denied, the case may be assigned a trial date. If the request is granted, the judge will impose a new deadline by which the arbitration must be completed.

(3) Parties who wish to change their election from judicial arbitration to another form of ADR must file a "Stipulation and [Proposed] Order to [Mediation, Neutral Evaluation, etc.] in Lieu of [Court-Ordered] Judicial Arbitration" with the Clerk of the Court. The Stipulation must state that parties have: (i) notified both the judicial arbitration and ADR coordinators; (ii) cancelled the judicial arbitration hearing; (iii) scheduled the ADR session within five months of the previously scheduled judicial arbitration hearing; and (iv) stipulated to a trial date, which is not more than six months from the previously scheduled judicial arbitration hearing.

(i) Stipulations to Private ADR

Superior Court of California, County of San Mateo

- (1) If a case is at issue and all counsel and each party appearing in propria persona stipulate in writing to ADR and file a completed Stipulation and Order to ADR with the clerk of the court at least ten (10) calendar days before the first scheduled case management conference, that conference shall be continued 90 days. The court shall notify all parties of the continued case management conference.
- (2) If counsel and each party appearing in propria persona are unable to agree upon an appropriate ADR process, they shall appear at the case management conference.
- (3) Following an appearance at a case management conference hearing, parties shall, within 21 calendar days, file a completed Stipulation to ADR and Proposed Order identifying the name of the ADR provider, date of ADR session and the names of those who will be in attendance at the ADR session. The completed Stipulation to ADR and Proposed Order shall be filed with the court by plaintiff's counsel. The parties, through counsel, if represented, shall confer with the court's Multi-Option ADR Project (M.A.P.) staff if they cannot agree on a provider. Plaintiff's counsel, shall additionally, send a copy of the completed Stipulation to the court's M.A.P. offices within the same 21-day period.
- (4) All parties and counsel shall participate in the ADR process in good faith.
- (5) To maintain the quality of ADR services the court requires cooperation from all parties, counsel and ADR providers in completing ADR evaluation forms, and returning these forms to the M.A.P. offices within 10 calendar days of the completion of the ADR process.
- (6) ADR Program Complaint Policy If mediation session participants have a concern about the mediation process or the conduct of a mediator affiliated with the court's program, the court encourages them to speak directly with the mediator first. In accordance with California Rules of Court §3.865 et seq., parties may also address written complaints, referencing the specific Rule of Court allegedly violated, to the Court's Civil ADR Program Coordinator. (For complete complaint procedure guidelines, see court web site: www.sanmateocourt.org/adr/civil)
- (7) In accordance with the Code of Civil Procedure, section 1033.5(c)(4), the court, in its discretion, may allow the prevailing party at trial the fees and expenses of the ADR provider, unless there is a contrary agreement by the parties.

(j) Setting Short Cause Matters

If the parties agree that the time estimated for trial is 5 hours or less prior to the conference, a written stipulation shall be filed at least 10 calendar days before the case management conference in order to avoid the need to appear at that conference and a copy immediately sent to the Master Calendar Coordinator. In the absence of a stipulation, either party may file a motion to have the matter designated a "short cause" and set the case accordingly. All such matters shall be presumed short cause unless the contrary is established at the hearing on the motion.

(k) Law and Motion

All law and motion matters shall be heard by the regularly assigned Law and Motion judge.

(l) Settlement Conferences

All cases not assigned to arbitration or some other dispute resolution mechanism will be assigned two settlement conference dates, the first of which will be at the earliest practicable date under the circumstances presented by the case, and the second within approximately two weeks prior to the assigned trial date.

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Cases assigned to arbitration or other form of ADR may be subjected to a settlement conference prior to the arbitration or ADR process, but will be assigned to a pre-trial settlement conference only if the arbitration/ADR procedure fails to resolve the case.

All cases which fail to resolve by the trial date will be subject to an additional settlement conference on the trial date.

All settlement conferences shall be subject to the requirements specified in Local Rule 2.4.

(m) Sanctions

Sanctions pursuant to CRC 2.30 shall be imposed for any violation of the civil case management system rules. The minimum sanction imposed shall be \$150.00 payable to the court; sanctions payable to the court may be larger where appropriate and will be in addition to appropriate attorney fees and calendar changes, including any appropriate change in calendar status of the action.

Sanctions mandated hereby may be waived by the judge conducting the conference only upon an application showing good cause why sanctions should not be imposed.

(Adopted, effective July 1, 1996)(Amended, effective January 1, 2000) (Amended, effective January 1, 2003) (Amended effective July 1, 2003) (Amended, effective January 1, 2005)(Amended, effective January 1, 2006) (Amended, effective January 1, 2007) (Amended, effective January 1, 2010)

Rule 2.3.1 Orders to Show Cause re: Dismissals

- (a) A hearing on an order to show cause why the case should not be dismissed for failure to prosecute the matter shall be set at the two year anniversary of the filing of the complaint and/or cross-complaint.
- (b) An order to show cause hearing shall be set 45 days after court's receipt of notice of settlement.
- (c) An order to show cause hearing regarding dismissals may be set by the court to achieve the interests of justice and the timely disposition of the case.
- (d) An order to show cause hearing re: failure to complete judicial arbitration within the court-ordered time frame may be heard during the case management calendar. Sanctions may be imposed and a trial date may be assigned.

(Adopted, effective January 1, 2000) (Amended, effective January 1, 2003)(Amended, effective January 1, 2006)

Rule 2.4 Settlement Conference

Reference: California Rule of Court, rule 3.138.

- (a) At all settlement conferences, notwithstanding any other Rule:
 - (1) The attorney who will try the case or an informed associate with full authority to negotiate a settlement of the case shall personally attend.
 - (2) Any persons whose consent is required to authorize settlement shall personally attend; those parties that are corporations shall have in attendance an officer or other employee with authority to bind the corporation. Powers of attorney, oral or written, granting counsel settlement authority are unacceptable as a substitute for personal attendance at this conference. Defendant and cross-defendant shall personally attend if there is no insurance coverage, if there is an

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): TELEPHONE NO.: _____ FAX NO. (Optional): _____ E-MAIL ADDRESS (Optional): _____ ATTORNEY FOR (Name): _____		FOR COURT USE ONLY	
SUPERIOR COURT OF CALIFORNIA, COUNTY OF _____ STREET ADDRESS: _____ MAILING ADDRESS: _____ CITY AND ZIP CODE: _____ BRANCH NAME: _____			
PLAINTIFF/PETITIONER: _____ DEFENDANT/RESPONDENT: _____			
CASE MANAGEMENT STATEMENT (Check one): <input type="checkbox"/> UNLIMITED CASE (Amount demanded exceeds \$25,000) <input type="checkbox"/> LIMITED CASE (Amount demanded is \$25,000 or less)		CASE NUMBER: _____	
A CASE MANAGEMENT CONFERENCE is scheduled as follows: Date: _____ Time: _____ Dept.: _____ Div.: _____ Room: _____ Address of court (if different from the address above): _____ <input type="checkbox"/> Notice of Intent to Appear by Telephone, by (name): _____			

INSTRUCTIONS: All applicable boxes must be checked, and the specified information must be provided.

1. **Party or parties (answer one):**
 - a. ☐ This statement is submitted by party (name):
 - b. ☐ This statement is submitted jointly by parties (names):
2. **Complaint and cross-complaint (to be answered by plaintiffs and cross-complainants only)**
 - a. The complaint was filed on (date):
 - b. ☐ The cross-complaint, if any, was filed on (date):
3. **Service (to be answered by plaintiffs and cross-complainants only)**
 - a. ☐ All parties named in the complaint and cross-complaint have been served, have appeared, or have been dismissed.
 - b. ☐ The following parties named in the complaint or cross-complaint
 - (1) ☐ have not been served (specify names and explain why not):
 - (2) ☐ have been served but have not appeared and have not been dismissed (specify names):
 - (3) ☐ have had a default entered against them (specify names):
 - c. ☐ The following additional parties may be added (specify names, nature of involvement in case, and date by which they may be served):
4. **Description of case**
 - a. Type of case in ☐ complaint ☐ cross-complaint (Describe, including causes of action):

CM-110

PLAINTIFF/PETITIONER:	CASE NUMBER:
DEFENDANT/RESPONDENT:	

4. b. Provide a brief statement of the case, including any damages. (If personal injury damages are sought, specify the injury and damages claimed, including medical expenses to date [indicate source and amount], estimated future medical expenses, lost earnings to date, and estimated future lost earnings. If equitable relief is sought, describe the nature of the relief.)

☐ (If more space is needed, check this box and attach a page designated as Attachment 4b.)

5. Jury or nonjury trial

The party or parties request ☐ a jury trial ☐ a nonjury trial. (If more than one party, provide the name of each party requesting a jury trial):

6. Trial date

- a. ☐ The trial has been set for (date):
 b. ☐ No trial date has been set. This case will be ready for trial within 12 months of the date of the filing of the complaint (if not, explain):

c. Dates on which parties or attorneys will not be available for trial (specify dates and explain reasons for unavailability):

7. Estimated length of trial

The party or parties estimate that the trial will take (check one):

- a. ☐ days (specify number):
 b. ☐ hours (short causes) (specify):

8. Trial representation (to be answered for each party)

The party or parties will be represented at trial ☐ by the attorney or party listed in the caption ☐ by the following:

a. Attorney:

b. Firm:

c. Address:

d. Telephone number:

e. E-mail address:

f. Fax number:

g. Party represented:

☐ Additional representation is described in Attachment 8.

9. Preference

☐ This case is entitled to preference (specify code section):

10. Alternative dispute resolution (ADR)

- a. ADR information package. Please note that different ADR processes are available in different courts and communities; read the ADR information package provided by the court under rule 3.221 for information about the processes available through the court and community programs in this case.

(1) For parties represented by counsel: Counsel ☐ has ☐ has not provided the ADR information package identified in rule 3.221 to the client and reviewed ADR options with the client.

(2) For self-represented parties: Party ☐ has ☐ has not reviewed the ADR information package identified in rule 3.221.

- b. Referral to judicial arbitration or civil action mediation (if available).

(1) ☐ This matter is subject to mandatory judicial arbitration under Code of Civil Procedure section 1141.11 or to civil action mediation under Code of Civil Procedure section 1775.3 because the amount in controversy does not exceed the statutory limit.

(2) ☐ Plaintiff elects to refer this case to judicial arbitration and agrees to limit recovery to the amount specified in Code of Civil Procedure section 1141.11.

(3) ☐ This case is exempt from judicial arbitration under rule 3.811 of the California Rules of Court or from civil action mediation under Code of Civil Procedure section 1775 et seq. (specify exemption):

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PLAINTIFF/PETITIONER:	CASE NUMBER:
DEFENDANT/RESPONDENT:	

10. c. Indicate the ADR process or processes that the party or parties are willing to participate in, have agreed to participate in, or have already participated in (check all that apply and provide the specified information):

	The party or parties completing this form are willing to participate in the following ADR processes (check all that apply):	If the party or parties completing this form in the case have agreed to participate in or have already completed an ADR process or processes, indicate the status of the processes (attach a copy of the parties' ADR stipulation):
(1) Mediation	<input type="checkbox"/>	<input type="checkbox"/> Mediation session not yet scheduled <input type="checkbox"/> Mediation session scheduled for (date): <input type="checkbox"/> Agreed to complete mediation by (date): <input type="checkbox"/> Mediation completed on (date):
(2) Settlement conference	<input type="checkbox"/>	<input type="checkbox"/> Settlement conference not yet scheduled <input type="checkbox"/> Settlement conference scheduled for (date): <input type="checkbox"/> Agreed to complete settlement conference by (date): <input type="checkbox"/> Settlement conference completed on (date):
(3) Neutral evaluation	<input type="checkbox"/>	<input type="checkbox"/> Neutral evaluation not yet scheduled <input type="checkbox"/> Neutral evaluation scheduled for (date): <input type="checkbox"/> Agreed to complete neutral evaluation by (date): <input type="checkbox"/> Neutral evaluation completed on (date):
(4) Nonbinding judicial arbitration	<input type="checkbox"/>	<input type="checkbox"/> Judicial arbitration not yet scheduled <input type="checkbox"/> Judicial arbitration scheduled for (date): <input type="checkbox"/> Agreed to complete judicial arbitration by (date): <input type="checkbox"/> Judicial arbitration completed on (date):
(5) Binding private arbitration	<input type="checkbox"/>	<input type="checkbox"/> Private arbitration not yet scheduled <input type="checkbox"/> Private arbitration scheduled for (date): <input type="checkbox"/> Agreed to complete private arbitration by (date): <input type="checkbox"/> Private arbitration completed on (date):
(6) Other (specify):	<input type="checkbox"/>	<input type="checkbox"/> ADR session not yet scheduled <input type="checkbox"/> ADR session scheduled for (date): <input type="checkbox"/> Agreed to complete ADR session by (date): <input type="checkbox"/> ADR completed on (date):

PLAINTIFF/PETITIONER:	CASE NUMBER: CM-110
DEFENDANT/RESPONDENT:	

11. Insurance

- a. ☐ Insurance carrier, if any, for party filing this statement (name):
- b. Reservation of rights: ☐ Yes ☐ No
- c. ☐ Coverage Issues will significantly affect resolution of this case (explain):

12. Jurisdiction

Indicate any matters that may affect the court's jurisdiction or processing of this case and describe the status.

☐ Bankruptcy ☐ Other (specify):

Status:

13. Related cases, consolidation, and coordination

- a. ☐ There are companion, underlying, or related cases.
- (1) Name of case:
- (2) Name of court:
- (3) Case number:
- (4) Status:
- ☐ Additional cases are described in Attachment 13a.
- b. ☐ A motion to ☐ consolidate ☐ coordinate will be filed by (name party):

14. Bifurcation

- ☐ The party or parties intend to file a motion for an order bifurcating, severing, or coordinating the following issues or causes of action (specify moving party, type of motion, and reasons):

15. Other motions

- ☐ The party or parties expect to file the following motions before trial (specify moving party, type of motion, and issues):

16. Discovery

- a. ☐ The party or parties have completed all discovery.
- b. ☐ The following discovery will be completed by the date specified (describe all anticipated discovery):
- | <u>Party</u> | <u>Description</u> | <u>Date</u> |
|--------------|--------------------|-------------|
|--------------|--------------------|-------------|

- c. ☐ The following discovery issues, including issues regarding the discovery of electronically stored information, are anticipated (specify):

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PLAINTIFF/PETITIONER:	CASE NUMBER:
DEFENDANT/RESPONDENT:	

17. Economic litigation

- a. ☐ This is a limited civil case (i.e., the amount demanded is \$25,000 or less) and the economic litigation procedures in Code of Civil Procedure sections 90-98 will apply to this case.
- b. ☐ This is a limited civil case and a motion to withdraw the case from the economic litigation procedures or for additional discovery will be filed (if checked, explain specifically why economic litigation procedures relating to discovery or trial should not apply to this case):

18. Other Issues

- ☐ The party or parties request that the following additional matters be considered or determined at the case management conference (specify):

19. Meet and confer

- a. ☐ The party or parties have met and conferred with all parties on all subjects required by rule 3.724 of the California Rules of Court (if not, explain):
- b. After meeting and conferring as required by rule 3.724 of the California Rules of Court, the parties agree on the following (specify):

20. Total number of pages attached (if any): _____

I am completely familiar with this case and will be fully prepared to discuss the status of discovery and alternative dispute resolution, as well as other issues raised by this statement, and will possess the authority to enter into stipulations on these issues at the time of the case management conference, including the written authority of the party where required.

Date:

(TYPE OR PRINT NAME)_____
(SIGNATURE OF PARTY OR ATTORNEY)_____
(TYPE OR PRINT NAME)_____
(SIGNATURE OF PARTY OR ATTORNEY)☐ Additional signatures are attached.

FREQUENTLY ASKED QUESTIONS FOR ATTORNEYS AND PARTIES

Nonrefundable Jury Fee (Assem. Bill 1481 (2011-2012 Reg. Sess.)) Effective September 17, 2012

1.1	Q. What is the nonrefundable jury fee?	A: At least one party demanding a jury on each side of a civil case must pay a non-refundable fee of one hundred fifty dollars (\$150), unless the fee has been paid by another party on the same side of the case. (Code Civ. Proc., § 631(b).) .) If there are multiple plaintiffs and/or defendants in the same case, only one jury fee per side is <i>required</i> to avoid waiver of a jury under Code of Civil Procedure section 631(f).
1.2	Q: What are the deadlines for paying the nonrefundable jury fee?	<p>A: The nonrefundable jury fee must be paid on or before the date scheduled for the initial case management conference in the action, except as follows:</p> <ol style="list-style-type: none"> 1. In unlawful detainer actions the fees shall be due at least five days before the date set for trial. 2. If no case management conference is scheduled in a civil action, or the initial case management conference occurred before June 28, 2012 and the initial complaint was filed <i>after</i> July 1, 2011, the fee shall be due no later than 365 calendar days after the filing of the initial complaint. 3. If the initial case management conference was held before June 28, 2012 and the initial complaint in the case was filed <i>before</i> July 1, 2011, the fee shall be due at least 25 calendar days before the date initially set for trial. 4. If the party requesting a jury has not appeared before the initial case management conference, or first appeared more than 365 calendar days after the filing of the initial complaint, the fee shall be due at least 25 calendar days before the date initially set for trial. (Code Civ. Proc., § 631(c).)

1.3	Q: What if a party misses the deadline to pay the nonrefundable jury fee?	<p>A: Except under the circumstances provided in Code of Civil Procedure section 631(d), (discussed in FAQ 1.4), a party has waived the right to a trial by jury in that action, unless another party on the same side of the case timely paid the nonrefundable jury fee. (Code Civ. Proc., § 631(f)(5).)</p> <p>Note: The court may, in its discretion upon just terms, allow a trial by jury despite the waiver. (Code Civ. Proc., § 631(g).)</p>
1.4	Q: What if a party missed a deadline to pay the nonrefundable jury fee between June 27, 2012 and November 30, 2012?	A: If a party failed to timely pay a nonrefundable jury fee that was due between June 27, 2012, and November 30, 2012, inclusive, the party will be relieved of a jury waiver on that basis only, if the party pays the fee on or before December 31, 2012 or 25 calendar days before the date initially set for trial, whichever is earlier. (Code Civ. Proc., § 631(d).)
1.5	Q: May a clerk accept payment of a nonrefundable jury fee after the deadline has passed?	<p>A: There is nothing in the recent amendments to Code of Civil Procedure section 631 that directs or authorizes courts to refuse a late payment of the nonrefundable jury fee. Absent this direction or authority, the clerk likely should accept advance jury fees tendered by a party, provide a receipt, and record in the court file the date the fees were received. (See <i>People v. Funches</i> (1998) 67 Cal.App.4th 240, 244 [court clerks "must act in strict conformity with statutes, rules, or orders of the court" defining their duties, and have "no power to decide questions of law nor any discretion in performing" their duties.])</p> <p>Note: Except as provided in Code of Civil Procedure section 631(d), only a judge has the authority to grant a jury trial following a waiver.</p>
1.6	Q: Is payment of the nonrefundable jury fee required if the party does not want to retain the right to a jury in the action?	A: No. Only parties that want to retain the right to a jury must pay the nonrefundable jury fees.
1.7	Q: May the nonrefundable jury fee be waived because of a party's financial condition?	A: Yes. A court may (but is not required to) waive jury fees and expenses, and other fees or expenses itemized in an application for a fee waiver under rule 3.56(1) and (6) of the California Rules of Court.

1.8	Q: May the court waive the nonrefundable jury fee for government entities under Government Code section 6103?	A: No. Government Code section 6103 explicitly states: "This section does not apply to civil jury fees or civil jury deposits." Although this exception to the fee waiver for government entities predates the creation of the nonrefundable jury fee, the plain language of the exception applies to the nonrefundable jury fee.
1.9	Q: If more than one party on a side pays the nonrefundable jury fee, is any refund of the additional fee due?	A: No. Code of Civil Procedure 631(b) requires " <i>at least one</i> party demanding a jury on each side" to pay the nonrefundable jury fee, "unless the fee has been paid by another party on the same side of the case." (Emphasis added.) In addition, Code of Civil Procedure section 631.3, which governs refunds of jury fees states in subdivision (c) that the "fee described in subdivision (b) of Section 631 shall be nonrefundable and is not subject to this section. Therefore, although they are not required to pay the jury fee, if additional parties on a side pay the nonrefundable jury fee, that fee is still nonrefundable. The additional fee may not be used to offset actual juror fees or mileage, either.
1.10	Q: Are any jury fees refundable?	A: Yes. Any \$150 advance jury fee deposited <i>before</i> June 28, 2012 may be refunded upon request of a party as provided under Code of Civil Procedure section 631.3. Similarly, any jury fees other than the \$150 advance jury fees that are deposited, but not used, may be refunded upon request of a party as provided under Code of Civil Procedure section 631.3.

EXHIBIT C

Electronically

FILED

by Superior Court of California, County of San Mateo

ON

2/27/2019

By /s/ Mia Marlowe
Deputy Clerk

JEFFREY D. WOHL (Cal. State Bar No. 096838)
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Attorneys for Defendant
 Target Corporation

SUPERIOR COURT OF CALIFORNIA

COUNTY OF SAN MATEO

MARIAH D. THOMAS, on behalf of
 herself, and all others similarly situated,

Plaintiff,

vs.

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

Defendants.

No. 19CIV00584

**DEFENDANT TARGET
 CORPORATION'S ANSWER TO
 PLAINTIFF MARIAH D. THOMAS'S
 UNVERIFIED COMPLAINT**

Complaint filed: January 29, 2019

DEMAND FOR JURY

ASSIGNED FOR ALL PURPOSES TO
 DEPARTMENT 2

1 Target Corporation ("Target"), for itself and no other defendant, hereby answers the
 2 unverified complaint (the "Complaint") of plaintiff Mariah D. Thomas as follows:

3 PRELIMINARY DEFENSES

4 1. This action should be dismissed or transferred to Sacramento County because
 5 venue is improper in San Mateo County. Plaintiff's alleged injuries occurred in Sacramento
 6 County (not San Mateo County), and plaintiff does not allege a contract claim, much less that she
 7 was a party to a contract that was made, to be performed, or breached in San Mateo County.

8 2. Even if venue is proper in San Mateo County, this action should be transferred to
 9 Sacramento County because that county is the more appropriate venue. Plaintiff's alleged
 10 injuries occurred in Sacramento County (not San Mateo County); the relevant documents and
 11 witnesses are located in Sacramento County (not San Mateo County); and the interest of
 12 substantial justice would be served if the action were tried in Sacramento County (not San Mateo
 13 County).

14 3. This action should be dismissed or stayed because of the pendency of the first-filed
 15 action entitled "*Aisha Bowen, an individual, on behalf of herself and all others similarly situated,*
 16 *Plaintiff, vs. Target Corporation, a Minnesota Corporation; and DOES 1 through 50, inclusive,*
 17 *Defendants,*" U.S.D.C., C.D. Cal., No. 2:16-cv-02587-JGB-MRW, which involves the same or
 18 substantially the same parties and claims.

19 Without waiving these objections, Target further responds to the Complaint as follows:

20 GENERAL DENIAL

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

23 5. Target further denies, generally and specifically, that plaintiff has been or will be
 24 damaged in any sum, or at all, by reason of any act or omission on the part of Target or any of
 25 Target's past or present agents, representatives, or employees; or that plaintiff is entitled to the
 26 relief requested.

27 DEFENSES

28 Without admitting any facts alleged by plaintiff, Target also pleads the following separate

1 defenses to the Complaint:

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

4 7. The Complaint, and each of its causes of action, is barred in whole or in part by all
5 applicable statutes of limitation, including but not limited to California Code of Civil Procedure
6 sections 337, 338, 339, 340, and 343; and California Business and Professions Code section
7 17208.

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

10 9. Plaintiff is estopped from pursuing the claims in the Complaint, and each of its
11 purported causes of action, by reason of plaintiff's own actions and course of conduct.

12 10. Plaintiff waived the right, if any, to pursue the Complaint by reason of plaintiff's
13 own actions and conduct, including, but not limited, to her failure to complain about the legal
14 violations alleged in the Complaint.

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

16 12. The Complaint, and each of its causes of action, is barred by the doctrine of
17 unclean hands.

18 13. The Complaint, and each of its causes of action, is barred by the doctrines of *res*
19 *judicata* and collateral estoppel.

20 14. The Complaint, and each of its causes of action, is barred by the doctrine of
21 avoidable consequences.

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

24 16. The Complaint, and each of its purported causes of action, is barred in whole or in
25 part because Target had an honest, good-faith belief that all decisions with respect to plaintiff's
26 employment were made by Target solely for legitimate, business-related reasons and were
27 reasonably based upon the facts as Target understood them, including but not limited to Target's
28 belief that upon the termination of plaintiff's employment, Target did not owe plaintiff any

1 additional amounts, whether by way of wages or otherwise.

2 17. The Complaint, and each of its causes of action, fails because plaintiff's
3 fundamental breaches of her duties to Target as an employee, including the duty of loyalty, were
4 so severe as to render her causes of action void under the Faithless Servant Doctrine and related
5 legal principles.

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

9 19. The Complaint, and each of its causes of action, is barred by the doctrine of after-
10 acquired evidence.

11 20. Plaintiff's claims for failure to pay hourly wages and to indemnify are barred to
12 the extent that plaintiff seeks to recover expenses that were not reasonable and necessary business
13 expenses.

14 21. Plaintiff's claims for failure to pay hourly wages and to indemnify are barred
15 because Target did not know or had no reason to know that plaintiff incurred business expenses.

16 22. Plaintiff's claims for failure to pay hourly wages and to indemnify are barred
17 because Target did not willfully fail to indemnify or reimburse plaintiff for expenditures or losses,
18 if any.

19 23. Plaintiff's claims for failure to pay hourly wages and to indemnify are barred
20 because Target had a good-faith belief, based in fact and law, that no reimbursements were due to
21 plaintiff.

22 24. Plaintiff's claims for failure to pay hourly wages and to indemnify are barred to
23 the extent that the expenses plaintiff seeks to recover are *de minimis*.

24 25. Plaintiff's claims for failure to provide uniforms or equipment under Wage Order
25 No. 7 are barred because the Wage Order does not support a private right of action, and plaintiff's
26 exclusive remedy is an action before the California Labor Commissioner.

27 26. Plaintiff's claims for failure to pay hourly wages and to indemnify are barred to
28 the extent that plaintiff seeks to recover expenses that were not incurred for the primary benefit of

1 Target.

2 27. To the extent that plaintiff's claims for failure to render accurate wage statements
3 are based on Target's alleged failure to reimburse or indemnify for necessary business
4 expenditures or losses, Target incorporates by reference and re-alleges its defenses to those
5 claims, as set forth in paragraphs 20-26, *supra*, to plaintiff's claims for failure to render accurate
6 wage statements.

7 28. Plaintiff's claim for failure to render accurate wage statements is barred because
8 Target did not knowingly or intentionally fail to provide accurate wage statements; and its failure,
9 if any, to provide such wage statements was inadvertent or due to clerical error.

10 29. Plaintiff's claim for failure to render accurate wage statements is barred because
11 plaintiff has suffered no harm based on Target's failure, if any, to render accurate wage
12 statements.

13 30. Plaintiff's claim for failure to provide accurate written wage statements is barred
14 to the extent that plaintiff seeks an award of penalties beyond the one-year limitations period
15 contained in California Code of Civil Procedure section 340.

16 31. To the extent that plaintiff's claims for failure to pay timely wages upon
17 termination are based on Target's alleged failure to reimburse or indemnify for necessary
18 business expenditures or losses or render accurate wage statements, Target incorporates by
19 reference and re-alleges its defenses to those claims, as set forth in paragraphs 20-26 and 28-30,
20 *supra*, to plaintiff's claims for failure to pay timely wages upon termination.

21 32. Plaintiff's claim for failure to pay timely all wages due at termination is barred
22 because plaintiff was paid all her final wages owed in accordance with the law.

23 33. Plaintiff's claim for failure to pay timely wages upon termination is barred because
24 Target did not willfully fail to pay timely wages upon termination.

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

27 35. Plaintiff's claim for failure to pay timely wages upon termination is barred to the
28 extent that plaintiff secreted or absented herself to avoid payment, or refused payment when fully

1 tendered.

2 36. Plaintiff's claim for failure to pay timely all wages due at termination is barred to
3 the extent that plaintiff seeks an award of penalties beyond the three-year limitations period
4 contained in California Code of Civil Procedure section 338.

5 37. To the extent that plaintiff's claims for unfair business practices are based on
6 Target's alleged failure to reimburse or indemnify for necessary business expenditures or losses,
7 to render accurate wage statements, or to pay timely wages upon termination, Target incorporates
8 by reference and re-alleges its defenses to those claims, as set forth in paragraphs 20-26, 28-30,
9 and 32-36, *supra*, to plaintiff's claim for unfair business practices.

10 38. Plaintiff's claims for unfair business practices are barred to the extent that plaintiff
11 seeks damages, disgorgement, or penalties because section 17200 provides only for restitution
12 and injunctive relief; damages and penalties are not restitution.

13 39. Plaintiff's claim for unfair business practices is barred because plaintiff cannot
14 show an injury to competition, as distinguished from injury to herself, the existence of which
15 Target expressly denies.

16 40. Plaintiff's claim for unfair business practices is barred because plaintiff cannot
17 show a deception upon the public.

18 41. Plaintiff's claim for unfair business practices is barred because as a private litigant,
19 plaintiff lacks standing to bring a cause of action for relief under California Business and
20 Professions Code section 17200 *et seq.*, on behalf of herself or similarly-situated individuals.

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

27 43. Plaintiff's claim for unfair business practices is barred because California Business
28 and Professions Code section 17200 *et seq.*, as stated and sought to be applied by plaintiff,

1 violates Target's rights to due process under the Constitution of the United States of America and
2 the Constitution of the State of California to the extent that the cause of action does not afford
3 Target the protections against multiple suits and duplicative liability ordinarily provided by class
4 actions.

5 44. Plaintiff's claim for unfair business practices is barred because plaintiff has failed
6 to plead with sufficient particularity her claims of false, unfair, or fraudulent conduct.

7 45. Plaintiff's claim for unfair business practices is barred because plaintiff is not
8 seeking recovery of a quantifiable sum owed by Target to plaintiff.

9 46. Plaintiff's claims for unfair business practices are barred because plaintiff has
10 adequate remedies at law for the alleged violations, and the requirements for equitable relief have
11 not been met.

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

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

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

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

24 51. Plaintiff lacks standing to seek the prospective injunctive and declaratory relief she
25 seeks in the Complaint.

26 52. Plaintiff has failed to mitigate or reasonably attempt to mitigate her damages, if
27 any, as required by law, and any recovery to which plaintiff otherwise would be entitled should
28 be precluded or reduced accordingly.

1 53. Recovery of interest, attorneys' fees, or costs is barred to the extent that such
2 amounts are based on the recovery of penalties or equitable restitution.

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

7 55. Plaintiff's claim for equitable relief is barred because plaintiff has an adequate and
8 complete remedy at law.

9 56. Plaintiff has failed to satisfy the prerequisites for class certification, and therefore,
10 lacks standing and cannot represent the interests of others.

11 57. The claims alleged by plaintiff are neither common to nor typical of those, if any,
12 of the members of the putative class.

13 58. The claims alleged by plaintiff are matters in which individual questions
14 predominate and are not appropriate for class treatment.

15 59. Plaintiff's interests are in conflict with the interest of the members of the proposed
16 class or any of its members.

17 60. The members of the putative class are not so numerous that joinder is
18 impracticable.

19 61. Plaintiff's counsel is inadequate counsel for the proposed class or allegedly
20 aggrieved employees.

21 62. The interests of certain members of the proposed class are in conflict with the
22 interests of other members of the proposed class.

23 63. Plaintiff is an inadequate representative of the putative class.

24 64. Plaintiff is not similarly situated to other allegedly aggrieved employees.

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

27 66. Because liability or damages, if any, to each member of the putative class may not
28 be determined by a single jury or on a class-wide basis, allowing this action to proceed as a class

1 action would violate Target's rights under the Seventh and Fourteenth Amendments to the United
2 States Constitution.

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

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

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

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

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

17 RELIEF REQUESTED

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

22 Dated: February 27, 2019.

23 JEFFREY D. WOHL
24 RYAN D. DERRY
25 ANNA M. SKAGGS
26 JEFFREY G. BRIGGS
27 PAUL HASTINGS LLP

28 By: _____

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

JURY DEMAND

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

Dated: February 27, 2019.

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

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

PROOF OF SERVICE

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

On February 27, 2019, I served the foregoing document described as:

- **DEFENDANT TARGET CORPORATION'S ANSWER TO PLAINTIFF MARIAH THOMAS'S UNVERIFIED COMPLAINT**

on the interested parties by placing true and correct copies thereof in envelopes addressed as follows:

Shaun Setareh
H. Scott Leviant
William M. Pao
Setareh Law Group
315 South Beverly Drive, Suite 315
Beverly Hills, California 90212

Attorneys for Plaintiff Mariah D. Thomas

Telephone: (310) 888-7771
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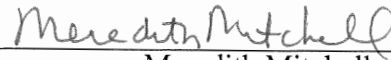
Superior Court of California
County of San Mateo
Department 2
Courtroom 2E
400 County Center
Redwood City, CA 94063

Courtesy Copy

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

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

3 Executed on February 27, 2019, at San Francisco, California.

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5 _____
6 Meredith Mitchell
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ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Target Fails to Reimburse Workers for Business Expenses, Class Action Says](#)
