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SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF SAN DIEGO

KRISTIN HALL, individually and on behalf
of all others similarly situated,

Plaintiff,

vs.

RITE AID CORPORATION, and DOES 1-50,
inclusive,

Defendants.

FILED
CIVIL BUSINESS OFFICE 5
CENTRAL DIVISION

2009 APR 17 P 3:13

CLERK SUPERIOR COURT
SAN DIEGO COUNTY, CA

CASE NO. **37-2009-00087938-CU-OE-CTL**

**CLASS ACTION COMPLAINT FOR
VIOLATION OF THE LABOR CODE
PRIVATE ATTORNEYS GENERAL ACT
OF 2004 (CAL. LAB. CODE SECTION
2698 ET SEQ.)**

1 Plaintiff Kristin Hall, individually and on behalf of all others similarly situated, alleges as
2 follows:

3 INTRODUCTION

4 1. This is a class action and a representative action for recovery of penalties under the
5 California Labor Code Private Attorneys General Act of 2004 ("PAGA"), Cal. Lab. Code section
6 2698 et seq. PAGA permits an "aggrieved employee" to bring a lawsuit on behalf of himself and
7 other current and former employees to address an employer's violations of the California Labor
8 Code. In this case, defendants violated California Labor Code section 1198 and Wage Order 7-
9 2001, section 14 by failing to provide suitable seats to plaintiff and other current and former
10 employees. Plaintiff seeks penalties on behalf of herself and other current and former employees
11 of defendants as provided herein.

12 2. Plaintiff Kristin Hall is an individual residing in the State of California.

13 3. Defendant Rite Aid Corporation is a Delaware corporation doing business in San
14 Diego, California.

15 4. Plaintiff does not know the names of those defendants sued as DOES 1 through 50
16 but will amend this complaint when she learns those names. Plaintiff alleges on information and
17 belief that each of the defendants is the agent, representative, successor, affiliate, officer, director,
18 employee, co-conspirator, or alter ego of each of the other defendants and is in some manner
19 responsible for the wrongdoing alleged herein. For the purposes of this complaint, the defendants
20 are collectively referred to as "Rite Aid."

21 5. Venue is proper in this judicial district because at least some of the alleged
22 wrongdoing occurred in this judicial district, and Rite Aid has failed to designate a principal
23 business office in California.

24 6. Within the applicable statute of limitations, plaintiff was employed as a cashier at
25 Rite Aid. Wage Order 7-2001, which covers the "mercantile industry," states: "All working
26 employees shall be provided with suitable seats when the nature of the work reasonably permits
27 the use of seats." Id., section. 14(a). Rite Aid failed to provide its cashiers, including plaintiff,
28 with seats, despite the fact that the nature of cashier work reasonably permits the use of seats.

1 CLASS ALLEGATIONS

2 7. Class Definition: Plaintiff brings this lawsuit on her own behalf and as a class
3 action under Cal. Code Civ. Proc. section 382 and Fed. R. Civ. P. 23. The class ("Class") that
4 plaintiff seeks to represent is defined as follows: "All persons who, during the applicable statute of
5 limitations, were employed as a cashier or operated a cash register for Rite Aid in the State of
6 California and were not provided with a seat."

7 8. Ascertainable Class: The Class is ascertainable in that its members may be
8 identified and located using information contained in Rite Aid's personnel records.

9 9. Numerosity: The Class is so numerous that the individual joinder of all members is
10 impractical under the circumstances of this case. Plaintiff is informed and believes the Class
11 consists of well over 1,000 individuals.

12 10. Common Questions of Fact or Law: This lawsuit is suitable for class treatment
13 because common questions of fact and law predominate over individual issues. Common
14 questions include, but are not limited to, the following: (1) whether Rite Aid is subject to the
15 requirements of Wage Order 7-2001, section 14; (2) whether the job of a cashier or the operation
16 of a cash register at Rite Aid reasonably permits the use of a seat; (3) what type(s) of seat would
17 be suitable; and (4) the amount of penalties that should be awarded under the PAGA.

18 11. Typicality: Plaintiff's claims are typical of the claims of Class members. Plaintiff
19 and the Class members were injured by Rite Aid's common practice of failing to provide seats.

20 12. Adequacy: Plaintiff will fairly and adequately protect the interests of the Class.
21 Plaintiff has no interests that are adverse to the interests of the Class.

22 13. Superiority: A class action is superior to other available means for the fair and
23 efficient adjudication of this controversy, since individual joinder of all members of the Class is
24 impractical. Class action treatment will permit a large number of similarly situated persons to
25 prosecute their common claims in a single forum simultaneously, efficiently, and without
26 unnecessary duplication of effort and expense. Furthermore, the expenses and burden of
27 individualized litigation would make it difficult or impossible for individual members of the Class
28 to redress the wrongs done to them, while an important public interest will be served by

1 addressing the matter as a class action. Individualized litigation would also present the potential
2 for inconsistent or contradictory judgments.

3 FIRST CAUSE OF ACTION

4 (Violation of PAGA)

5 14. Plaintiff incorporates by reference the allegations set forth above.

6 15. California Labor Code section 1198 makes it illegal to employ an employee under
7 conditions of labor that are prohibited by the applicable wage order. By failing to provide plaintiff
8 and the other Class members with seats, in violation of Wage Order 7-2001, section 14, Rite Aid
9 violated Lab. Code section 1198.

10 16. PAGA permits an "aggrieved employee" to recover penalties on behalf of himself
11 or herself and other current or former employees as a result of the employer's violations of certain
12 sections of the California Labor Code. Plaintiff is an aggrieved employee, in that plaintiff was
13 employed by Rite Aid and was not provided with a seat, in violation of Lab. Code section 1198
14 and Wage Order 7-2001, section 14. A violation of Lab. Code section 1198 gives rise to private
15 right of action under PAGA.

16 17. Plaintiff has complied with the PAGA notice provision set forth in Cal. Lab. Code
17 section 2699.3(a)(1). The Labor and Workforce Development Agency has not provided plaintiff
18 with notice that it intends to investigate this violation, although 33 calendar days have elapsed
19 since the postmark date of plaintiff's notice. Accordingly, plaintiff is entitled to commence this
20 action.

21 18. Plaintiff requests penalties against Rite Aid as provided under Lab. Code section
22 2699(f), plus reasonable attorneys' fees and costs, in amounts to be proved at trial.

23 PRAYER

24 WHEREFORE, plaintiff requests entry of judgment, on behalf of herself and the other
25 Class members, against each defendant, jointly and severally, as follows:

26 1. For penalties according to proof;

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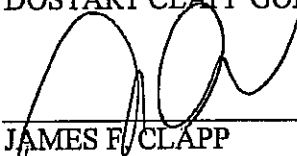
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- 2. For reasonable attorneys' fees and costs of suit; and
- 3. For such other relief that the Court deems proper.

Dated: April 17 2009

DOSTART CLAPP GORDON & COVENEY, LLP



JAMES F. CLAPP
Attorneys for Plaintiff

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