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ELECTRONICALLY  
**FILED**  
Superior Court of California,  
County of San Francisco

**04/11/2022**  
Clerk of the Court  
BY: LAURA SIMMONS  
Deputy Clerk

7 **SUPERIOR COURT OF CALIFORNIA**  
8 **COUNTY OF SAN FRANCISCO**

9 SOPHIA SADLOWSKI,  
10 individually and on behalf of  
11 others similarly situated,

12 Plaintiff,

13 v.

14 ALBERTSONS, L.L.C.,  
15 a Delaware limited liability  
16 company, and  
17 DOES 1 through 50,

18 Defendants.

Case Number:

**CGC-22-599110**

**CLASS ACTION**  
**(Plaintiff Class,**  
**Cal.Code Civ.Proc., § 382)**

**COMPLAINT FOR MINIMUM WAGE;**  
**JURY DEMAND**

ACTION FILED:

11 APRIL 2022

TRIAL DATE:

Not set.

1 **JURISDICTION**

2 1. This Court has jurisdiction over the claims for relief asserted herein  
3 pursuant to Article 6, Section 10 of the Constitution of the State of California.

4 **VENUE**

5 2. Venue of this civil action is properly fixed in the County of San Francisco  
6 pursuant to Code of Civil Procedure section 395.5.

7 **PARTIES**

8 3. Plaintiff, Sophia Sadlowski (**hereinafter “Plaintiff”**), is an individual  
9 citizen of the State of California.

10 4. Plaintiff is informed and believes, and thereupon avers, that Defendant,  
11 Albertsons, L.L.C. (**hereinafter “Albertsons”**), is a limited liability company  
12 organized and existing pursuant to the laws of the State of Delaware, whose principal  
13 place of business is unknown to Plaintiff.

14 5. Plaintiff is informed and believes, and thereupon avers, that DOES 1  
15 through 50 are also citizens of the State of California who are other natural persons,  
16 corporations, limited liability companies, general partnerships, limited partnerships,  
17 limited liability partnerships, trusts, unincorporated associations, and/or other entities  
18 of any kind or character, who/which have incurred liability to Plaintiff and the  
19 members of the Plaintiff Class defined, *infra*, in relation to the transactions and/or  
20 occurrences which are the subject of the instant Complaint, and/or who/which have  
21 any interest in the subject of the instant Complaint.

22 6. Except as may be described herein, Plaintiff is as yet ignorant of the true  
23 names, capacities, and nature and extent of participation in the course of conduct  
24 alleged herein of the persons sued as DOES 1 through 50 inclusive, and Plaintiff is as  
25 yet ignorant of the nature and extent of any interest which the persons sued as DOES  
26 1 through 50 inclusive may have in the subject of the instant Complaint; Plaintiff  
27 therefore sues these defendants by such fictitious names. Plaintiff will amend this  
28

1 complaint to allege the true names and capacities of the DOE defendants when  
2 ascertained.

### 3 CLASS ALLEGATIONS

4 7. The averments of fact which are contained within certain Paragraphs of  
5 this Complaint are made upon information and belief, which may be grounded in  
6 whole or in part upon matter discovered through investigation conducted by the  
7 undersigned counsel.

8 8. Albertsons operates the “Albertsons” retail grocery stores, of which there  
9 are many situated within the State of California.

10 9. This action is grounded in systematic violations by Defendants,  
11 Albertsons, and DOES 1 through 50, of California’s minimum wage laws, including  
12 the Minimum Wage Order and Wage Order 7.

13 10. At all times relevant hereto, and through and including the present time,  
14 Albertsons has employed many people in its California stores, and they perform  
15 different job functions.

16 11. One employee job function within a Albertsons store is called “cashier”  
17 (sometimes referred to as “checker”).

18 12. In earlier times, all the cashiers were regularly hired, their working hours  
19 were recorded, and they were paid for their work.

20 13. Thereafter, Albertsons conceived the idea that, if some of  
21 Albertsons’ customers were to perform (without compensation) work which had  
22 theretofore been performed exclusively by Albertsons’ regularly-employed, paid  
23 cashiers, Albertsons could reduce its payroll costs.

24 14. Albertsons then installed customer-operated checkout stands in many of  
25 its California stores.

26 15. Albertsons suffers and permits its customers to perform cashier work  
27 without compensation.  
28

1 16. Albertsons’ customers perform this cashier work alongside Albertsons’  
2 paid cashiers.

3 17. The cashier work performed by Albertsons’ customers is substantially  
4 identical to the cashier work performed by Albertsons’ paid cashiers; this substantially  
5 identical work includes lifting and physical manipulation of items of Albertsons’  
6 inventory held for retail sale in order to present bar codes thereon to Albertsons’ laser  
7 scanner, for the purpose of facilitating calculation by Albertsons’ computerized point-  
8 of-sale system of the amount Albertsons proposes to charge the customer for the items  
9 the customer has previously selected.

10 18. Plaintiff shops at one or more of Albertsons’ stores, and, within the time  
11 period relevant to this action, has often performed cashier work without compensation  
12 while operating Albertsons’ customer-operated checkout stands.

13 19. Wage Order 7, at Section 2 thereof, contains the following definitions  
14 (*inter alia*):

15 “(D) ‘Employ’ means to engage, **suffer, or permit** to work.

16 “(E) ‘Employee’ means any person employed by an employer ...

17 “(F) ‘Employer’ means any person ... who directly or indirectly, or  
18 through an agent or any other person, **employs or** exercises  
19 control over the wages, hours, or working conditions of any  
20 person.

21 “(G) ‘Hours worked’ means the time during which an employee is  
22 subject to the control of an employer, **and includes all the time**  
23 **the employee is suffered or permitted to work, whether or not**  
24 **required to do so.”**

25 (Emphasis added.)

26 20. Pursuant to Wage Order 7, at Section 2(D-F), and pursuant to California’s  
27 various Minimum Wage Orders in effect from 11 April 2018 to present, by suffering  
28 and permitting its customers to perform cashier work at Albertsons’ stores, Albertsons

1 has created an employment relationship for purposes of Wage Order 7 with those of  
2 its customers who have operated Albertsons’ customer-operated checkout stands, and  
3 Albertsons has therefore incurred a legal obligation to pay at least the minimum wage  
4 for each Hour Worked, as defined in Wage Order 7, at Section 2(G).

5 21. Defendants, Albertsons, and DOES 1 through 50, do not compensate their  
6 customers whom they suffer and permit to operate their customer-operated checkout  
7 stands.

8 22. Defendants, Albertsons, and DOES 1 through 50, derive substantial  
9 economic benefit in the form of lower payroll costs by utilizing the uncompensated  
10 work performed by their customers whom they suffer and permit to operate their  
11 customer-operated checkout stands.

12 23. Because Albertsons suffers and permits its customers to perform cashier  
13 work without compensation, Albertsons has been able to, and does, employ fewer  
14 regularly-employed cashiers; this, in turn, contributes to a higher unemployment rate  
15 than would otherwise exist in California, exerts downward pressure on prevailing  
16 wage rates in the retail sector, increases state welfare costs resulting from that higher  
17 unemployment, and promotes the sociological harms that flow from lack of  
18 employment opportunities.

19 24. In July of 2021, retail industry publication *PYMNTS* reported that, “...  
20 self-checkout is on the rise ... [and] [g]rocery jobs are down.”<sup>1</sup>

21 25. The same article reports:

22 “To use the labor that they do have more efficiently, many grocers are  
23 having attendants go ‘fishing,’ which means, ... ‘your self-checkout  
24 attendant, encouraging shoppers to come use the self-service and helping  
25 where necessary’.”

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28 <sup>1</sup> <https://www.pymnts.com/news/retail/2021/the-third-wave-of-self-ser-ve-checkout-turns-grocery-stores-into-omnichannel-hubs/>

1           26. Plaintiff anticipates that evidence obtained on discovery will confirm that  
2 Albertsons trains its paid employees to steer its customers toward its customer-  
3 operated checkout stands so that Albertsons will derive even more unpaid cashier  
4 work from its customers.

5           27. Defendants, Albertsons, and DOES 1 through 50, have in their actual or  
6 constructive possession point-of-sale system transactional records from which can be  
7 ascertained the identities the customers whom they have suffered and permitted to  
8 operate their customer-operated checkout stands; these identifiable customers include,  
9 but may not be limited to, those who have paid for their purchases by debit or credit  
10 card.

11           28. Defendants, Albertsons, and DOES 1 through 50, have in their actual or  
12 constructive possession point-of-sale system transactional records from which can be  
13 ascertained the precise amount of time each customer operated one of Albertsons’  
14 customer-operated checkout stands during each transaction; Plaintiff therefore  
15 anticipates that evidence obtained on discovery will confirm that Defendants,  
16 Albertsons, and DOES 1 through 50, have in their actual or constructive possession  
17 records of the “Hours Worked” by each member of the Plaintiff Class defined, *infra*.

18           29. Plaintiff anticipates that evidence obtained on discovery will confirm that  
19 the number of “Hours Worked” for which Plaintiff and members of the Plaintiff Class  
20 defined, *infra*, have not been compensated is substantial.

21           30. Plaintiff brings this action on behalf of herself, and on behalf of all others  
22 similarly situated, as a class action pursuant to Code of Civil Procedure section 382.  
23 The sub-classes which Plaintiff seeks to represent are composed of and defined as  
24 follows:

25           **Damages Sub-Class Definition:**

26           All citizens of the State of California who have operated a customer-  
27 operated checkout stand at any Albertsons store within the State of  
28 California at any time after 10 April 2019, limited to those whose

1 identities are ascertainable (whether from point-of-sale system  
2 transactional records of debit or credit card payments, or by some other  
3 reasonably-available means).

4 **Restitution Sub-Class Definition:**

5 All citizens of the State of California who have operated a customer-  
6 operated checkout stand at any Albertsons store within the State of  
7 California at any time during the period between 11 April 2018, and 10  
8 April 2019 (inclusive), limited to those whose identities are ascertainable  
9 (whether from point-of-sale system transactional records of debit or  
10 credit card payments, or by some other reasonably-available means).

11 **Exclusions from Both Sub-Classes:**

12 Excluded from membership in each sub-class defined herein shall be: (a) any  
13 judicial officer who exercises any authority over the above-captioned civil  
14 action; (b) any employee of any court which exercises any authority over the  
15 above-captioned civil action; and (c) Plaintiff's undersigned counsel and any  
16 employee of same.

17 31. This action has been brought and may properly be maintained as a class  
18 action pursuant to the provisions of Code of Civil Procedure section 382 because there  
19 is a well-defined community of interest in the litigation and the proposed class is  
20 ascertainable.

21 32. Plaintiff is unaware of any difficulties that are likely to be encountered  
22 in the management of this action that would preclude its maintenance as a class action.

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1                                   **FIRST CLAIM FOR RELIEF**  
2                                   **(for recovery of minimum wage as damages)**  
3                                   **(Labor Code section 1194)**  
4                                   **(by Plaintiff and the Damages Sub-Class, against**  
5                                   **Defendants, Albertsons and DOES 1 through 50)**

6           33. The averments contained in paragraphs 1 through 32 hereof are  
7 incorporated herein by reference.

8           34. This First Claim for Relief seeks remedies only for the time period  
9 commencing 11 April 2019.

10          35. The above-described failure of Defendants, Albertsons, and DOES 1  
11 through 50, to pay at least the minimum wage for all hours worked by Plaintiff and the  
12 members of the Damages Sub-Class contravenes the provisions of both the Minimum  
13 Wage Order and Wage Order 7.

14          36. The facts set forth hereinabove establish that Plaintiff and the members  
15 of the Damages Sub-Class are entitled to judgment over and against Defendants,  
16 Albertsons, and DOES 1 through 50, jointly and severally, awarding recovery of  
17 unpaid minimum wage.

18          WHEREFORE, Plaintiff and the Damages Sub-Class request relief as set forth  
19 hereinbelow.

20                                   **SECOND CLAIM FOR RELIEF**  
21                                   **(for recovery of minimum wage as restitution)**  
22                                   **(Business and Professions Code sections 17200, et seq.)**  
23                                   **(by Plaintiff and the Restitution Sub-Class, against**  
24                                   **Defendants, Albertsons and DOES 1 through 50)**

25          37. The averments contained in paragraphs 1 through 36 hereof are  
26 incorporated herein by reference.

27          38. This Second Claim for Relief seeks remedies only for the time period  
28 commencing 11 April 2018, and concluding 10 April 2019.

          39. The above-described failure of Defendants, Albertsons, and DOES 1  
through 50, to pay at least the minimum wage for all hours worked by Plaintiff and the  
members of the Restitution Sub-Class contravenes the provisions of both the



1 Minimum Wage Order and Wage Order 7, and is therefore unlawful for purposes of  
2 Business and Professions Code section 17200.

3 40. Defendants, Albertsons, and DOES 1 through 50, have therefore engaged  
4 in unfair competition for purposes of Business and Professions Code sections 17200,  
5 *et seq.*

6 41. The facts set forth hereinabove establish that Plaintiff and the members  
7 of the Restitution Sub-Class are entitled to judgment over and against Defendants,  
8 Albertsons, and DOES 1 through 50, jointly and severally, awarding restitution of all  
9 monies which such Defendants have acquired by means of such unfair competition,  
10 *viz.*: the minimum wage to which Plaintiff and the members of the Restitution Sub-  
11 Class are entitled by law.

12 WHEREFORE, Plaintiff and the Restitution Sub-Class request relief as set forth  
13 hereinbelow.

14 **PRAYER FOR RELIEF**

15 WHEREFORE, Plaintiff and the Plaintiff Sub-Classes request the following  
16 relief:

- 17 a. On the First Claim for Relief, judgment over and against Defendants,  
18 Albertsons, and DOES 1 through 50, jointly and severally, awarding  
19 recovery of unpaid minimum wage earned at any time after 10 April  
20 2019;
- 21 b. On the Second Claim for Relief, judgment over and against Defendants,  
22 Albertsons, and DOES 1 through 50, jointly and severally, awarding  
23 restitution of all monies such Defendants have acquired during the period  
24 commencing 11 April 2018, and concluding 10 April 2019, by means of  
25 unfair competition, *viz.*: the minimum wage to which Plaintiff and the  
26 members of the Restitution Sub-Class are entitled by law; and
- 27 c. such other relief, at law or in equity, to which this Court finds Plaintiff  
28 and the Plaintiff Sub-Classes justly entitled.

1 Dated: 11 April 2022

Respectfully submitted,

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27 [COMPLAINT filed 11APR22.wpd]  
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1 **JURY DEMAND**

2 Plaintiff and the Plaintiff Sub-Classes hereby demand trial by jury of all issues  
3 triable by a jury, pursuant to applicable law, including, but not necessarily limited to  
4 Article I, section 16 of the California Constitution, and/or Code of Civil Procedure  
5 section 592.

6  
7 Dated: 11 April 2022

Respectfully submitted,

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28 [COMPLAINT filed 11APR22.wpd]