

**SUMMONS
(CITACION JUDICIAL)**

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

THE FINISH LINE, INC; an Indiana Corporation; THE INDIANA FINISH LINE, INC., an Indiana Corporation; MACY'S, INC., a Delaware Corporation; and DOES 1-100, inclusive

YOU ARE BEING SUED BY PLAINTIFF:

(LO ESTÁ DEMANDANDO EL DEMANDANTE):

JONATHAN BULLINGER, individually, and on behalf of the State of California, and others similarly situated and aggrieved

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

ELECTRONICALLY FILED
Superior Court of California
County of Alameda
07/14/2023

Chad Finke, Executive Officer / Clerk of the Court

By: S. Ashby-Anderson Deputy

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):

Superior Court of California, County of Alameda - Hayward Hall of Justice
24405 Amador St., Hayward, CA 94544

CASE NUMBER:
(Número del Caso):

23CV038515
CGC-24-613354

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):

CROSNER LEGAL, PC 9440 Santa Monica Blvd., Ste. 301, Beverly Hills, CA 90210 Tel: (866) 276-7637

DATE: 07/14/2023

(Fecha)

Chad Finke, Executive Officer / Clerk of the Court

Clerk, by

(Secretario) S. Ashby-Anderson

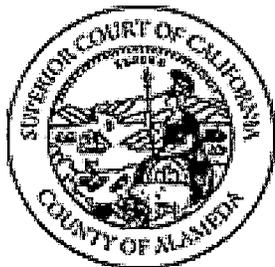
, Deputy

(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)).

(SEAL)



NOTICE TO THE PERSON SERVED: You are served

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

under: CCP 416.10 (corporation)

CCP 416.20' (defunct corporation)

CCP 416.40 (association or partnership)

other (specify):

CCP 416.60 (minor)

CCP 416.70 (conservatee)

CCP 416.90 (authorized person)

ELECTRONICALLY FILED

Superior Court of California,
County of Alameda

07/14/2023 at 05:27:17 PM

By: Steven Ashby-Anderson,
Deputy Clerk

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7 Individually, and on behalf of the State of California,
and others similarly situated and aggrieved
8

9 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

10 **COUNTY OF ALAMEDA**

CGC-24-613354

11 JONATHAN BULLINGER, individually,
12 and on behalf of the State of California, and
others similarly situated and aggrieved,

Case No.: 23CV038515

13 Plaintiff,

**PLAINTIFF'S REPRESENTATIVE
COMPLAINT FOR VIOLATION OF
THE PRIVATE ATTORNEYS
GENERAL ACT, CAL. LABOR CODE
SECTIONS 2698, et seq.**

14
15 v.

16 THE FINISH LINE, INC; an Indiana
17 Corporation; THE INDIANA FINISH LINE,
INC., an Indiana Corporation; MACY'S,
18 INC., a Delaware Corporation; and DOES 1-
19 100, inclusive,

20 Defendants.
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1 Plaintiff, JONATHAN BULLINGER (“PLAINTIFF”), an individual on behalf of
2 PLAINTIFF, the State of California, and all other Aggrieved Employees (as defined below), hereby
3 files this Complaint against Defendants THE FINISH LINE, INC; an Indiana Corporation; THE
4 INDIANA FINISH LINE, INC., an Indiana Corporation; MACY’S, INC., a Delaware Corporation;
5 DOES 1-100, inclusive, (collectively referred to herein as “DEFENDANTS”). PLAINTIFF is
6 informed and believes and thereon alleges as follows:

7 INTRODUCTION

8 1. This is a representative action filed by PLAINTIFF on behalf of PLAINTIFF, all
9 Aggrieved Employees and the State of California against DEFENDANTS, pursuant to California’s
10 Private Attorney General Act, Labor Code section 2698 *et. seq.* (“PAGA”), to recover civil penalties
11 (75% payable to the Labor and Workforce Development Agency and 25% payable to Aggrieved
12 Employees) for DEFENDANTS’ violations of the California Labor Code as alleged below.

13 JURISDICTION AND VENUE

14 2. This Court has jurisdiction over PLAINTIFF’s claims for penalties pursuant to
15 California statutes, including but not limited to the PAGA, and decisional law and regulations.

16 3. Venue is proper in this judicial district and the County of Alameda pursuant to
17 California Code of Civil Procedure section 395.5 because DEFENDANTS transact business within
18 this judicial district and conduct alleged by PLAINTIFF herein occurred in this this judicial district.
19 *See also Crestwood Behavioral Health, Inc. v. Superior Court* (2021) 60 Cal.App.5th 1069 (venue
20 in a PAGA action is proper in any county where the defendants committed Labor Code violations
21 against some of its employees).

22 THE PARTIES

23 4. PLAINTIFF is, and at all relevant times, was an individual domiciled in the State of
24 California and a citizen of the State of California.

25 5. PLAINTIFF was employed by DEFENDANTS during the relevant period. At all
26 relevant times, PLAINTIFF was a non-exempt employee that at times as described herein
27 DEFENDANTS misclassified as an exempt employee. PLAINTIFF worked for DEFENDANTS as

28 [REDACTED] ELM Manager and/or similar job title(s) from on or around June 14, 2022 through

1 on or around October 22, 2022. PLAINTIFF worked for DEFENDANTS out of DEFENDANTS'
2 California location(s), facilities, and/or store(s) including but not limited to, one of DEFENDANTS'
3 locations, facilities and/or stores operating under the name "Finish Line" and located inside of a
4 store/department store owned, operated and/or managed by MACY'S, INC. PLAINTIFF's job
5 duties included but were not limited to assisting customers/customer service duties and operating a
6 cash register.

7 6. DEFENDANTS are an Indiana Corporation and/or Delaware Corporation that, at all
8 relevant times, were authorized to do business within the State of California and is doing business
9 in the State of California.

10 7. Defendants FINISH LINE, INC. and THE INDIANA FINISH LINE, Inc. ("Finish
11 Line") own, operate and/or otherwise manage a chain of retail stores that sell primarily athletic shoes
12 and related apparel and accessories. Based on information and belief, Finish Line, Inc. owns,
13 operates, and/or otherwise manages at least 660 facilities, locations, and/or stores nationwide with
14 multiple locations, stores and/or facilities located throughout California. In addition, Finish Line
15 owns, operates and/or otherwise manages additional facilities, locations, stores and/or shoe
16 departments located in more than 450 MACY'S, INC. and/or Macy's stores nationwide, including
17 but not limited to in stores throughout California, including but not limited to, the California
18 location, department and/or store at which DEFENDANTS assigned PLAINTIFF to work during
19 the relevant period.

20 8. The true names and capacities of the DOE Defendants sued herein as DOES 1
21 through 100, inclusive, are currently unknown to PLAINTIFF, who therefore sues each such
22 Defendant by said fictitious names. Each of the Defendants designated herein as a DOE is legally
23 responsible for the unlawful acts alleged herein. PLAINTIFF will seek leave of Court to amend this
24 Complaint to reflect the true names and capacities of the Doe Defendants when such identities
25 become known.

26 9. PLAINTIFF is further informed and believes that, at all relevant times, each
27 Defendant was the principal, agent, partner, joint venturer, joint employer, officer, director,

1 predecessor in interest of some or all of the other Defendants, and was engaged with some or all of
2 the other defendants in a joint enterprise for profit, and bore such other relationships to some or all
3 of the other Defendants so as to be liable for their conduct with respect to the matters alleged in this
4 complaint. PLAINTIFF is further informed and believes and thereon alleges that each Defendant
5 acted pursuant to and within the scope of the relationships alleged above, and that at all relevant
6 times, each Defendant knew or should have known about, authorized, ratified, adopted, approved,
7 controlled, aided and abetted the conduct of all other Defendants.

8 JOINT LIABILITY

9 10. Under California law, the definition of the terms “to employ” are broadly construed
10 under the applicable IWC Wage Order(s) to have three alternative definitions, including: (1) to
11 exercise control over the wages, hours or working conditions; (2) to suffer or permit to work; or (3)
12 to engage, thereby creating a common law employment relationship. See, *Martinez v. Combs*, 49
13 Cal.4th 35, 64 (2010). One reason that the IWC defined “employer” in terms of exercising control
14 was to reach situations in which multiple entities control different aspects of the employment
15 relationship. Supervision of the work, in the specific sense of exercising control over how services
16 are properly performed, is properly viewed as one of the “working conditions” mentioned in the
17 wage order. *Id.* at 76. A joint employer relationship exists, for example, when one entity (such as a
18 temporary employment agency) hires and pays a worker, and the other entity supervises the work.
19 *Id.* Moreover, the California Court of Appeal recently broadened the test for joint employment in
20 California, applying a less stringent standard to what constitutes sufficient control by a business
21 over its vendor’s employees’ wages and working conditions to render that business liable as a joint
22 employer. See, *Medina v. Equilon Enterprises, LLC*, 68 Cal. App. 5th 868 (2021); “[i]f the putative
23 joint employer instead exercises enough control over the intermediary entity to *indirectly* dictate the
24 wages, hours, or working conditions of the employee, that is a sufficient showing of joint
25 employment,” *Id.* at 875 [emphasis added].

26 11. During PLAINTIFF’s employment by DEFENDANTS, PLAINTIFF and other
27 Aggrieved Employees (defined below) were jointly employed by DEFENDANTS for purposes of

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