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10 SUPERIOR COURT OF THE STATE OF CALIFORNIA
11 LOS ANGELES COUNTY

12 Stacy Thompson,
13 Plaintiff,
14 v.
15 Target Corporation and DOES 1
16 through 10, inclusive,
17 Defendants.

CASE NO.: BC475813

**FIRST AMENDED CLASS ACTION
COMPLAINT FOR:**

1. Class Action Claim for Failure to Pay Wages as Required by California Labor Code §226.7;
2. Representative Claim for Violation of Business and Professions Code §17200 *et seq.*

DEMAND FOR JURY TRIAL

18 Dept: 72
19 Judge: Hon. Ruth Ann Kwan

**CONFORMED COPY
ORIGINAL FILED**
Superior Court of California
County of Los Angeles

MAY 13 2014

Sherril R. Carter, Executive Officer/Clerk
By Shaunya Bolden, Deputy

1 Plaintiff alleges as follows:
2

3 **INTRODUCTION**

4 1. Plaintiff files this Amended Complaint pursuant to California Code of Civil
5 Procedure §472. Because this matter was removed to Federal Court prior to any
6 Answerer Demurrer, Defendant has not yet filed an Answer or Demurrer to this Action in
7 State Court.

8 2. In this Complaint, Plaintiff uses the term “Hourly Employee” to refer to
9 individuals whom Defendant employed on an hourly basis in its California locations.

10 3. Plaintiff brings the First Cause of Action in this Complaint on behalf of
11 herself and a class of current and former Hourly Employees working at Target
12 Corporation’s (“Target” or “the Company”) California locations pursuant to California
13 Code of Civil Procedure §382.

14 4. With regard to the violations of Business and Professions Code §17200 *et*
15 *seq.* alleged in the Second Cause of Action, Plaintiff brings a representative action on
16 behalf of all Hourly Employees in California who were subject to the unfair practices that
17 are described or incorporated by reference in that count.

18
19 **THE PARTIES**

20 5. Plaintiff is a citizen of the United States and a resident of Los Angeles
21 County, California. Target employed Plaintiff as an Hourly Employee in Los Angeles
22 County beginning in August 2004 and continuing through July 2011.

23 6. Defendant Target is a corporation organized under the laws of the state of
24 Minnesota with its principal place of business in Minneapolis, Minnesota. It operates
25 over 1,700 retail locations throughout the United States. This includes approximately 250
26 stores in California such as the Los Angeles County store at which Plaintiff worked.

1 FIRST CAUSE OF ACTION

2 (Class Claim for Failure to Pay Wages

3 as Required by California Labor Code §226.7)

4 13. Plaintiff re-alleges and incorporates herein by this reference the allegations
5 of paragraphs 1 through 12 hereof, inclusive.

6 14. Labor Code §512 and the Wage Order require that Target must provide each
7 Hourly Employee who works more than five hours in a shift with an uninterrupted half-
8 hour period in which the Hourly Employee is relieved of any duty or employer control
9 and is free to come and go as he or she pleases. The Hourly Employee must be relieved of
10 all duties for the entire period.

11 15. With regard to timing of meal breaks, Labor Code §512 and the Wage Order
12 require that Target provide a first meal period after no more than five hours of work and a
13 second meal period after no more than ten hours of work.

14 16. Labor Code §1198 requires that Target comply with the meal break and
15 record-keeping requirements of the Wage Order.

16 17. Labor Code §226.7 requires that Defendant pay an extra hour of wages to
17 any employee who works without being timely relieved of duty for a meal break.

18 18. Since at least 2007, Target has maintained a uniform policy with regard to
19 meal breaks at all of its stores in California.

20 19. Under the uniform policy, Hourly Employees are required to clock out when
21 they are relieved of duty for a meal break.

22 20. Under the uniform policy, Hourly Employees are required to take all meal
23 breaks that are provided. When an employee is relieved of duty for a meal break, he or
24 she is required to cease all work. Employees may not elect to keep working during a meal
25 break.

26 21. Under the uniform policy, Hourly Employees may not waive meal breaks.
27 For example, when an Hourly Employee works more than five, but less than six hours, the
28 Hourly Employee may not waive his or her meal break for that shift.

1 22. Under Defendant's uniform policy, an employee is relieved of duty for a
2 first meal break only if the store is fully staffed, not busy, and there is no operational need
3 for an Hourly Employee to work through his or her break. If the store is busy, short-
4 staffed, or there is any need for the Hourly Employee to work through his or her break, the
5 Hourly Employee is not relieved of duty.

6 23. Under Defendant's uniform policy, Hourly Employees who work shifts in
7 excess of ten hours are not provided with a second meal break.

8 24. As a result of the uniform policy described above, there have been some
9 occasions on which Target failed to provide one or more required meal breaks to an
10 Hourly Employee who worked a shift in excess of five hours. This failure to provide
11 breaks has occurred on a regular basis beginning at least in 2007 and continuing to the
12 present day.

13 25. As a result of the uniform policy described above, there have also been
14 some occasions on which Target did provide all required meal breaks to an Hourly
15 Employee who worked more than five hours.

16 26. Plaintiff has personally worked shifts over five hours in duration in which
17 she was relieved of duty for a thirty-minute meal break but that relief from duty did not
18 come for more than five hours after the start of her shift.

19 27. Plaintiff has personally worked shifts over five hours in duration in which
20 she was not relieved of duty for a thirty-minute meal break.

21 28. Target is required by the Wage Order to maintain a tracking system that
22 records the hours worked by each Hourly Employee and each time an Hourly Employee is
23 relieved of duty for a meal break. Target stores the records from this system in a single
24 work hour and meal break database.

25 29. Each shift on which Target failed to relieve an Hourly Employee of duty for
26 a required meal break can be identified through a computer analysis of the single work
27 hour and meal break database maintained by Defendant.

28

1 30. Even when Defendant's own database shows that an employee has worked
2 without being provided a required meal break, Defendant maintains a uniform policy of
3 refusing to pay the wages required by Labor Code §226.7.

4 31. Target has provided Plaintiff with a sample of the data in the work hour and
5 meal break database. The sample includes 1,211,494 shifts worked by Hourly Employees.

6 32. Target represented that the work hour and meal break database sample
7 includes all of the shifts worked by Hourly Employees in each of eight randomly selected
8 weeks between December 5, 2007 and the date of production in March 2012.

9 33. Target represented that the sample was randomly selected and representative
10 of the entire period between December 5, 2007 and date of production in March 2012.

11 34. Target has also produced a data set that the company represents to be all
12 time and meal break records for all hourly employees in California for the period between
13 December 5, 2007 and December 31, 2013.

14 35. Target has also provided its own count of meal break violations in
15 correspondence with Plaintiff.

16 36. All three sources of data provided by Defendant show wage liability of less
17 than \$2,300,000 for a four-year liability period based on average wage rates provided by
18 Target.

19 37. Based on the foregoing, Plaintiff alleges that the amount at issue in this
20 matter is less than \$5,000,000.

21 38. The total value of all damages, wages, and penalties associated with
22 violations experienced by Plaintiff individually is less than \$75,000.

23 39. The total value of all damages, wages, penalties associated with violations
24 experienced by any one Hourly Employee individually is less than \$75,000.

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1 SECOND CAUSE OF ACTION

2 (Representative Claim for Violation of

3 **Business and Professions Code §17200 et seq. Against All Defendants)**

4 40. Plaintiff re-alleges and incorporates herein by this reference the allegations
5 of paragraphs 1 through 39 hereof, inclusive.

6 41. The conduct described in the First Cause of Action constitutes an unfair
7 business practice.

8 42. By deliberately failing to pay its Hourly Employees wages to which they are
9 entitled, Target avoided substantial expenses and thereby enriched itself at the expense of
10 its Hourly Employees.

11
12 CLASS ACTION ALLEGATIONS

13 43. Plaintiff re-alleges and incorporates herein by this reference the allegations
14 of paragraphs 1 through 42 hereof, inclusive.

15 44. Target employs over 30,000 Hourly Employees in California who have been
16 subject to the violations described in this Complaint and are entitled to the relief described
17 herein.

18 45. Plaintiff is informed and believes, and thereon alleges, that all of Target's
19 Hourly Employees in California have been subject to Target's violations of the California
20 Labor Code and the California Wage Orders described herein.

21 46. Plaintiff is informed and believes, and thereon alleges, that she has been
22 subject to the exact same violations of the California Labor Code and the California Wage
23 Orders described herein as all other Hourly Employees in California.

24 47. Plaintiff has agreed to fairly and adequately represent the rights of the class.

25 48. Plaintiff has the means to fairly and adequately represent the rights of the
26 class.

27 49. Plaintiff is informed and believes, and thereon alleges, that her claims are
28 typical of the class.

1 50. Plaintiff is informed and believes, and thereon alleges, that common
2 questions of law and fact predominate with regard to all class claims.

3 51. Plaintiff is informed and believes, and thereon alleges, that a class action is
4 superior to all other available means of resolving the class members' claims.

5 52. Plaintiff is informed and believes, and thereon alleges, that treatment of the
6 instant claims as a class action will accrue substantial benefits to the litigants, the class,
7 the public, and the courts.

8
9 **PRAYER FOR RELIEF**

10 WHEREFORE, Plaintiff prays for judgment against Target and Does 1
11 through 10, inclusive, and each of them, as follows:

12
13 **ON THE FIRST CAUSE OF ACTION:**

- 14 1. For damages according to proof;
- 15 2. For temporary, preliminary, and permanent injunctive relief against Defendants'
- 16 ongoing violations of the Labor Code;
- 17 3. For wages on behalf of current and former Hourly Employees pursuant to
- 18 Labor Code §226.7;
- 19 4. For attorney fees and costs reasonably incurred in accordance with California Labor
- 20 Code §§218.5, 2699, 1194, and California Code of Civil Procedure §1021.5; and
- 21 5. For interest pursuant to Labor Code §§218.6 and 1194, and Civil Code §3287.

22
23 **ON THE SECOND CAUSE OF ACTION:**

- 24 1. For temporary, preliminary, and permanent injunctive relief against Defendants'
- 25 ongoing violations of the Labor Code;
- 26 2. For disgorgement of Defendants' ill-gotten gains and other relief that may be
- 27 necessary to remedy Defendants' misconduct;
- 28 3. For restitution of payments unlawfully withheld from Hourly Employees in California;

- 1 4. For attorney fees and costs reasonably incurred pursuant to California Code of Civil
2 Procedure §1021.5; and
3 5. For interest pursuant to Civil Code §3287.
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5 **ON ALL CAUSES OF ACTION:**

- 6 1. For costs of suit, to the extent not otherwise prayed for above; and
7 2. For attorney fees and costs to the extent not otherwise prayed for above.
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9 **DEMAND FOR JURY TRIAL**

10 Plaintiff hereby demands a jury trial.
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12 DATED: May 13, 2014

THE GRAVES FIRM

13
14 By: 

15 ALLEN GRAVES

16 Attorney for Plaintiff
17 Stacy Thompson
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1 PROOF OF SERVICE

2 STATE OF CALIFORNIA)
3 COUNTY OF LOS ANGELES) ss:
4)

5 I am employed in the County of Los Angeles, State of California. I am over
6 the age of 18, and not a party to the within action. My business address is 122 N. Baldwin
7 Ave., Sierra Madre, CA 91024.

8 On May 13, 2014, I served the following document(s) described as:

9 **FIRST AMENDED CLASS ACTION COMPLAINT** on the interested parties by
10 placing a true copy thereof in a sealed envelope(s) addressed as follows:

11 Jeffrey D. Wohl
12 Paul Hastings LLP
13 55 Second Street, 24th Floor
14 San Francisco, CA 94105

15

16 **VIA OVERNIGHT MAIL:**

17 By delivering such document(s) to an overnight mail service or an authorized courier in a
18 sealed envelope or package designated by the express service courier addressed to the
19 person(s) on whom it is to be served.

20

21 **VIA U.S. MAIL:**

22 I am readily familiar with the firm's practice of collection and processing of
23 correspondence for mailing. Under that practice such sealed envelope(s) would be
24 deposited with the U.S. postal service on May 13, 2014 with postage thereon fully
25 prepaid, at Sierra Madre California.

26

27 **VIA PERSONAL DELIVERY:**

28 I personally delivered such sealed envelope(s) by hand to the offices of the addressee(s)
pursuant to CCP § 1011.

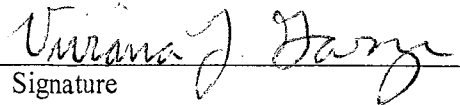
VIA FACSIMILE:

I personally sent such document(s) via facsimile to the known facsimile number of the
person(s) on whom it is to be served before 5:00 p.m.

I declare under penalty of perjury under the laws of the State of California that the
above is true and correct and was executed on May 13, 2014, at Sierra Madre, California.

Viviana Garza

Type or Print Name


Signature