

APR 17 2008

Clerk of the Superior Court

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and the Plaintiff Class

8 **IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA**

9 **IN AND FOR THE COUNTY OF SAN MATEO**

11 BETTE INGRAHAM, individually;  
HELENA MCCALL, BENJAMIN  
12 FREEMAN, individually, and on behalf  
of all others similarly situated,

13 Plaintiffs,

14 vs.

15 ORCHARD SUPPLY HARDWARE,  
16 CORP., and DOES 1 through 25,  
inclusive,

17 Defendants.

Case No.: 457004

CLASS ACTION

**SECOND AMENDED COMPLAINT FOR  
DAMAGES, INJUNCTIVE RELIEF AND  
RESTITUTION**

**Demand for Jury Trial**

19 Representative Plaintiffs allege as follows:

21 **PRELIMINARY STATEMENT**

22 1. This is a class action, under Code of Civil Procedure § 382, brought on behalf of  
23 Plaintiff, Bette Ingraham, individually, and Representative Plaintiffs Helena McCall and Benjamin  
24 Freeman on behalf of themselves and all other persons who are or have been employed by defendant  
25 Orchard Supply Hardware Corp., and DOES 1 through 25 inclusive (collectively "Orchard" and/or  
26 "Defendant"), in any of Defendant's retail stores in the State of California, at any time after the  
27 commencement of the pay period including August 16, 2002 who (1) have been forced by Orchard  
28 to maintain Orchard issued uniforms as a term and condition of their employment with Orchard, in

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1 violation of Title 8 California Code of Regulations, § 11070, subdivision 9(A), which provides:

2 "When uniforms are required by the employer to be worn by the employee  
3 as a condition of employment, such uniforms shall be provided and  
4 maintained by the employer"

5 and (2) who, as such, have been denied compensation for all hours worked, the legally-mandated  
6 minimum wage, statutorily mandated meal and rest periods and related penalties.

7 2. Plaintiffs seek reimbursement of monies expended pursuant to Defendant's directives  
8 that they maintain a uniform required to be worn by Orchard's employees during all working times,  
9 as set forth herein. Additionally, Plaintiffs are seeking unpaid wages, including unpaid overtime  
10 compensation and interest thereon, meal and rest period compensation, waiting time penalties,  
11 liquidated damages and other penalties, injunctive and other equitable relief and reasonable  
12 attorneys' fees and costs, under, *inter alia*, Labor Code §§ 201, 202, 203, 226, 226.7, 510, 512, 558,  
13 1174 and 1194, and CCP § 1021.5. Plaintiffs also seek penalties pursuant to California Labor Code  
14 §§ 2698 and 2699 (the Labor Code Private Attorneys General Act of 2004) injunctive relief and  
15 restitution of all benefits Orchard has enjoyed from its violations of Business and Professions Code  
16 §§ 17200-17208. In some circumstances, these violations also resulted in minimum wage violations,  
17 pursuant to California Labor Code § 1197.

18 3. The "Class Period" is designated as the time from at least the commencement of the  
19 pay period including August 16, 2002 through the conclusion of trial on all issues presented in this  
20 action, based upon the allegation that Orchard's violations of California wage and hour laws, as  
21 described more fully below, have been ongoing since at least this date. During the Class Period,  
22 Orchard has had a consistent policy of requiring its retail employees, including Plaintiffs and  
23 members of the Class to wear vests, which the employees are required to maintain as a term and  
24 condition of their employment with Orchard, without reimbursing them for amounts expended in  
25 performing that maintenance. Additionally, Orchard has required its employees to perform labor for  
26 Orchard's benefit in the form of maintaining their uniforms (1) without paying them straight time  
27 and/or overtime compensation as required by California wage and hour laws; (2) while unlawfully  
28 denying Plaintiffs and Class Members statutorily-mandated meal and rest periods; (3) while willfully  
failing to pay compensation (including unpaid overtime) owing in a prompt and timely manner to

1 the Plaintiffs and/or those Class Members whose employment with Orchard was terminated; and  
2 (4) while willfully failing to provide Plaintiffs and the Class Members with accurate semimonthly  
3 itemized wage statements of the total number of hours each of them worked, the applicable  
4 deductions and the applicable hourly rates in effect during the pay period.

5  
6 **JURISDICTION AND VENUE**

7 4. This Court has jurisdiction over Plaintiffs' and Class Members' claims under  
8 California Labor Code §§ 201, 202, 203, 204, 221, 226, 226.7, 450, 510, 512, 558, 1174, 1194, 1197,  
9 2698, 2699, 2802 and Title 8 California Code of Regulations § 11070(9)(a).

10 5. This Court also has jurisdiction over Plaintiffs' and Class Members' claims for  
11 injunctive relief and restitution of ill-gotten benefits arising from defendant Orchard's unfair,  
12 unlawful and/or fraudulent business practices under Business & Professions Code §§ 17203 and  
13 17204.

14 6. Venue as to Defendant is proper in this judicial district, pursuant to Code of Civil  
15 Procedure § 395(a). Orchard is a corporation, maintaining offices and doing business in San Mateo  
16 County, and is otherwise within this Court's jurisdiction for purposes of service of process. The  
17 unlawful acts alleged herein have a direct effect on Plaintiffs and those similarly situated within the  
18 State of California and within San Mateo County. Defendant Orchard employed Plaintiffs and  
19 numerous Class Members in San Mateo County during the class period.

20  
21 **PLAINTIFFS**

22 7. Plaintiff Bette Ingraham, suing in her individual capacity, and Representative  
23 Plaintiffs Helena McCall and Benjamin Freeman are natural persons and were, during the relevant  
24 time period identified herein, employed by defendant Orchard at one or more of Defendant's  
25 California retail stores.

26 8. As used throughout this Complaint, the terms "Plaintiffs" and/or "Class" refer to the  
27 named Plaintiffs herein as well as each and every person eligible for membership in the Plaintiff  
28 Class, as further described and defined below.



CLASS ACTION ALLEGATIONS

1  
2 15. Representative Plaintiffs Helena McCall and Benjamin Freeman bring this action on  
3 their own behalf individually and as a class action on behalf of all persons similarly situated and  
4 proximately damaged by Orchard's conduct as set forth herein, including, but not necessarily limited  
5 to the following Class:

6 All persons who are/were employed as non-exempt retail employees by  
7 Orchard Hardware Supply Corporation, in one or more of Orchard's  
8 California retail stores and who were required to maintain Orchard issued  
9 uniforms at any time between August 16, 2002 and the present.

10 16. Defendant, its officers and directors are excluded from the Class.

11 17. This action has been brought and may properly be maintained as a class action under  
12 Code of Civil Procedure § 382 because there is a well-defined community of interest in the litigation  
13 and the proposed class members are easily ascertainable.

14 a. Numerosity: A class action is the only available method for the fair and  
15 efficient adjudication of this controversy. The members of the class are so  
16 numerous that joinder of all members is impractical, if not impossible, insofar  
17 as Representative Plaintiffs are informed and believe and, on that basis,  
18 allege that the total membership in the class is in the thousands of  
19 individuals. Membership in the Class will be determined upon analysis of  
20 employee and payroll, among other, records maintained by Orchard.

21 b. Commonality: The Representative Plaintiffs and the Class Members share a  
22 community of interests in that there are numerous common questions and  
23 issues of fact and law which predominate over any questions and issues solely  
24 affecting individual members, including, but not necessarily limited to:

- 25 1. whether Defendant has violated California law, including California's  
26 Unfair Competition laws (B&P §§ 17200, et seq.) and/or California  
27 Labor Code § 2802 and Title 8 California Code of Regulations §  
28 11070(9)(A);
2. whether Defendant has violated Labor Code §§ 201, 204, and 221 by  
withholding wages from Plaintiffs and the Class in furtherance of  
Defendant's unlawful uniform policies;
3. whether Defendant's illegal labor policies and practices, as described  
herein, constitute intentional or reckless violations of California law;
4. whether defendant Orchard violated the California laws by failing to  
pay compensation to Orchard employees for time worked maintaining  
Orchard's uniforms;

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5. whether defendant Orchard violated California laws by failing to pay overtime compensation to Orchard's employees who performed labor in the form of maintaining uniforms and, resultantly, worked in excess of 40 hours per week and/or eight (8) hours a day;
  6. whether defendant Orchard violated California Business and Professions Code § 17200 by failing to pay straight time and/or overtime compensation to Orchard's employees for time worked in the form of maintaining uniforms;
  7. whether defendant Orchard violated California Labor Code §§ 226.7 and/or 512 by failing to consistently provide statutorily mandated meal and rest periods to its employees;
  8. whether defendant Orchard failed, and continues to fail, to provide statutorily mandated meal and rest periods to the Plaintiffs and the Class Members in violation of Section 11 of the applicable California Wage Orders;
  9. whether defendant Orchard violated California Labor Code § 1174 by failing to keep accurate records of employees' hours of work;
  10. whether defendant Orchard violated California Labor Code § 226 by failing to provide the semimonthly itemized wage statements to Class Members of total hours worked by each, and all applicable hourly rates in effect during the pay period;
  11. whether Representative Plaintiffs and Class Members are entitled to "waiting time" penalties/wages pursuant to California Labor Code § 203; and
  12. whether Plaintiffs and Class Members are entitled to seek recovery of penalties for the California Labor Code and Wage Order violations alleged herein, pursuant to Labor Code §§ 2698 and 2699 and, if so, for what time period.
- c. Typicality: The Representative Plaintiffs' claims are typical of the claims of the Class. The Representative Plaintiffs and all members of the Class sustained injuries and damages arising out of and caused by defendant Orchard's common course of conduct in violation of law, as alleged herein.
- d. Superiority of Class Action: Since the damages suffered by individual Class Members, while not inconsequential, may be relatively small, the expense and burden of individual litigation by each member makes or may make it impractical for members of the Class to seek redress individually for the wrongful conduct alleged herein. Should separate actions be brought or be required to be brought by each individual member of the Class, the resulting multiplicity of lawsuits would cause undue hardship and expense for the Court and the litigants. The prosecution of separate actions would also create a risk of inconsistent rulings, which might be dispositive of the interests of other Class Members who are not parties to the adjudications and/or may substantially impede their ability to adequately protect their interests.
- e. Adequacy of Representation: The Representative Plaintiffs in this class action are each individually adequate representatives of the Class, in that the

1 Representative Plaintiffs' claims are typical of those of the Class and the  
2 Representative Plaintiffs have the same interests in the litigation of this case  
3 as the Class Members. The Representative Plaintiffs are committed to  
4 vigorous prosecution of this case, and have retained competent counsel,  
5 experienced in litigation of this nature. The Representative Plaintiffs are not  
6 subject to any individual defenses unique from those conceivably applicable  
7 to the Class as a whole. The Representative Plaintiffs anticipate no  
8 management difficulties in this litigation.

9  
10 **COMMON FACTUAL ALLEGATIONS**

11 18. As described herein, Orchard has, for years, knowingly failed to reimburse those  
12 employees within the class definition identified above for financial expenses incurred in maintaining  
13 Orchard's uniforms, thereby enjoying a significant competitive edge over other retail chains.

14 19. Additionally, as described herein, Orchard has, for years, knowingly failed to  
15 adequately compensate those employees within the class definition identified above for all wages  
16 earned, including premium (overtime) wages, and due under the California Labor Code and  
17 applicable California Wage Orders, and has knowingly failed to provide said workers with statutorily  
18 mandated meal and rest periods, thereby enjoying a significant competitive edge over other retail  
19 chains.

20 20. Even upon termination or resignation of the employment of numerous Class  
21 Members, Orchard has declined to pay these wages, in blatant violation of California Labor Code  
22 §§ 201 and/or 202.

23 21. Moreover, California Labor Code §§ 201 and 202 require defendant Orchard to pay  
24 all Class Members all wages due, immediately upon discharge. California Labor Code § 203  
25 provides that, if an employer willfully fails to timely pay such wages, the employer must, as a  
26 penalty, continue to pay the subject employee's wages until the back wages are paid in full or an  
27 action is commenced, for a period not to exceed 30 days of wages.

28 22. Furthermore, despite its knowledge of Plaintiffs' and the Class Members' entitlement  
to compensation for all hours worked, Orchard violated California Labor Code § 1174(d) by failing  
to provide or require the use, maintenance or submission of time records by members of the Class.  
Orchard also failed to provide Plaintiffs and members of the Class with accurate semimonthly  
itemized wage statements of the total number of hours worked by each, and all applicable hourly

1 rates in effect during the pay period, in violation of California Labor Code § 226. In so doing,  
2 Orchard has not only failed to pay its workers the full amount of compensation due, it has, until now,  
3 effectively shielded itself from its employee's scrutiny for its unlawful conduct by concealing the  
4 magnitude (the full number of hours worked) and financial impact of its wrongdoing.

5 23. Plaintiffs and all persons similarly situated in the Class are entitled to unpaid  
6 compensation, yet, to date, have not received such compensation despite the termination of their  
7 employment with Orchard.

8 24. More than 30 days have passed since Plaintiffs and certain Class Members have left  
9 defendant Orchard's employ.

10 25. As a consequence of defendant Orchard's willful conduct in not paying compensation  
11 for all hours worked, certain Class Members are entitled to 30 days wages as penalty under Labor  
12 Code § 203, together with interest thereon and attorneys' fees and costs.

13 26. As a direct and proximate result of Orchard's unlawful conduct, as set forth herein,  
14 Plaintiffs and Class Members have sustained damages, as described above, including loss of earnings  
15 for hours worked on behalf of Defendant, in an amount to be established at trial. As a further direct  
16 and proximate result of Defendant's unlawful conduct, as set forth herein, Plaintiffs and many Class  
17 Members herein are entitled to recover "waiting time" penalties/wages (pursuant to California Labor  
18 Code § 203) and penalties for failure to provide semimonthly statements of hours worked and all  
19 applicable hourly rates (pursuant to Labor Code § 226) in an amount to be established at trial. As a  
20 further direct and proximate result of Defendant's unlawful conduct, as set forth herein, Plaintiffs  
21 and the Class Members are also entitled to recover costs and attorneys' fees, pursuant to California  
22 Labor Code §§ 218.5 and 1194 and/or California Civil Code § 1021.5, among other authorities.

23 27. Furthermore, Plaintiffs bring this action on behalf of themselves and other Class  
24 Members pursuant to California Labor Code §§ 2698 and 2699 and seeks recovery of all civil  
25 penalties resulting from the violations alleged herein as follows:

26 a. Where civil penalties are specifically provided in the Labor Code for each of  
27 the violations alleged herein, Plaintiffs seek recovery of such penalties; and

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1 34. By requiring Plaintiffs and members of the Class to pay for the maintenance of  
2 Orchard's uniforms as a condition of employment, Defendant willfully violated California Labor  
3 Code § 2802 and Title 8 California Code of Regulations § 11070(9)(A).

4 35. As a direct and proximate result of Defendant's unlawful conduct, as set forth herein,  
5 Plaintiffs and the Class Members have sustained damages, including loss of earnings, to wit, they  
6 have been forced to maintain Orchard's uniforms under the direct and unequivocal threat of losing  
7 their jobs if they do not fully comply.

8 36. Plaintiffs and the members of the Class are entitled to recover from Defendant any  
9 and all sums expended on the maintenance of Orchard's uniforms as a condition of their  
10 employment, any and all civil penalties, pursuant to California Labor Code § 1199 and California  
11 Code of Regulations § 11070(20)(A), and costs and attorneys' fees pursuant to statute.

12  
13 **SECOND CAUSE OF ACTION**  
14 **UNLAWFUL FAILURE TO PAY WAGES DUE**  
15 **(Violation of California Wage Orders and Labor Code)**

16 37. Plaintiffs incorporate in this cause of action each and every allegation of the preceding  
17 paragraphs, with the same force and effect as though fully set forth herein.

18 38. During the time period beginning August 16, 2002 and continuing through the  
19 present, Plaintiffs and the Class Members were employed by and did perform work for Orchard,  
20 often times in excess of eight hours in a workday and/or forty hours in a workweek. The precise  
21 number of hours will be proven at trial.

22 39. During said time period, Orchard refused to compensate Plaintiffs and the Class  
23 Members for some and/or all of the wages, including overtime wages earned and/or the wage level  
24 required by the applicable minimum wage laws, in violation of Wage Order No. 7-2001 and the  
25 California Labor Code.

26 40. Moreover, during said time period, many of the Class Members herein were employed  
27 by and were thereafter terminated or resigned from their positions with Orchard, yet were not paid  
28 all wages due upon said termination or within seventy-two (72) hours of said resignation of  
employment therefrom. Said non-payment of all wages due was the direct and proximate result of

1 a willful refusal to do so by Defendant.

2 41. At all relevant times, Defendant was aware of and was under a duty to comply with  
3 various provisions of the California Labor Code and/or Wage Orders issued by the Industrial Welfare  
4 Commission. The more recent versions of these provisions include, but are not limited to:

- 5 a. Labor Code § 203: "If an employer willfully fails to pay, without  
6 abatement or reduction, in accordance with Sections 201, 201.5, 202, and  
7 205.5, any wages of an employee who is discharged or who quits, the wages  
8 of the employee shall continue as a penalty from the due date thereof at the  
9 same rate until paid or until an action therefor is commenced; but the wages  
10 shall not continue for more than 30 days."  
11  
12 b. Labor Code § 510: "Any work in excess of eight hours in one workday  
13 and any work in excess of 40 hours in any one workweek and the first eight  
14 hours worked on the seventh day or work in any one workweek shall be  
15 compensated at the rate of no less than one and one-half times the regular rate  
16 of pay for an employee. . . ."  
17  
18 c. Labor Code § 1198: "[t]he maximum hours of work and the standard  
19 conditions of labor fixed by the commission shall be the maximum hours of  
20 work and the standard conditions of labor for employees. The employment  
21 of any employee for longer hours than those fixed by the order or under  
22 conditions of labor prohibited by the order is unlawful."  
23  
24 d. Labor Code § 1199: "Every employer or other person acting either  
25 individually or as an officer, agent, or employee of another person is guilty  
26 of a misdemeanor and is punishable by a fine of not less than one hundred  
27 dollars (\$100) or by imprisonment for not less than 30 days, or by both, who  
28 . . . (a) Requires or causes any employee to work for longer hours than those  
fixed, or under conditions of labor prohibited by an order of the commission.  
...[or] (c) Violates or refuses or neglects to comply with any provision of  
this chapter or any order or ruling of the commission."  
e. Wage Order 7-2001: "[E]mployees shall be employed more than eight (8)  
hours in any workday or more than forty (40) hours in any workweek unless  
the employee receives one and one-half (1 ½) times such employee's regular  
rate of pay for all hours worked over forty (40) hours in the workweek. [. . .]  
Employment beyond eight (8) hours in any workday or more than six (6) days  
in any workweek is permissible provided the employee is compensated for  
such overtime at not less than: (1) One and one-half (1 ½) times the  
employee's regular rate of pay for all hours worked in excess of eight (8)  
hours up to and including twelve (12) hours in any workday, and for the first  
eight (8) hours on the seventh (7<sup>th</sup>) consecutive day of work in a workweek.  
..."

25 42. At all relevant times, Defendant was aware of and was under a duty to comply with  
26 various additional provisions of the California Labor Code and/or Wage Orders issued by the  
27 Industrial Welfare Commission, as cited and discussed elsewhere in this Complaint.

28 ///



**FOURTH CAUSE OF ACTION  
FAILURE TO PROVIDE MEAL AND REST PERIODS  
(California Labor Code §§ 226.7 and 512)**

50. Plaintiffs incorporate in this cause of action each and every allegation of the preceding paragraphs, with the same force and effect as though fully set forth herein.

51. California Labor Code § 512 provides:

An employer may not employ an employee for a work period of more than five hours per day without providing the employee with a meal period of not less than 30 minutes, except that if the total work period per day of the employee is no more than six hours, the meal period may be waived by mutual consent of both the employer and employee. An employer may not employ an employee for a work period of more than 10 hours per day without providing the employee with a second meal period of not less than 30 minutes, except that if the total hours worked is no more than 12 hours, the second meal period may be waived by mutual consent of the employer and the employee only if the first meal period was not waived.

52. At all relevant times, Defendant was aware of and was under a duty to comply with California Labor Code § 512 as well as California Labor Code § 226.7.

53. Specifically, California Labor Code § 226.7 provides:

- (a) No employer shall require any employee to work during any meal or rest period mandated by an applicable order of the Industrial Welfare Commission.
- (b) If an employer fails to provide an employee a meal period or rest period in accordance with an applicable order of the Industrial Welfare Commission, the employer shall pay the employee one additional hour of pay at the employee's regular rate of compensation for each work day that the meal or rest period is not provided.

54. Industrial Welfare Commission Wage Order No. 7-2001(11) and (12) also mandate that employers provide all applicable meal and/or rest periods to their workers.

55. IWC Wage Order No. 7-2001(11) provides:

(A) No employer shall employ any person for a work period of more than five (5) hours without a meal period of not less than 30 minutes . . . (B) An employer may not employ an employee for a work period of more than ten (10) hours per day without providing the employee with a second meal period of not less than 30 minutes . . . (D) If an employer fails to provide an employee a meal period in accordance with the applicable provisions of this order, the employer shall pay the employee one (1) hour of pay at the employee's regular rate of compensation for each workday that the meal period is not provided.

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56. IWC Wage Order No. 7-2001(12) provides:

(A) Every employer shall authorize and permit all employees to take rest periods, which insofar as practicable shall be in the middle of each work period. The authorized rest period time shall be based on the total hours worked daily at the rate of ten (10) minutes net rest time per four (4) hours or major fraction thereof. . . . (B) If an employer fails to provide an employee a rest period in accordance with the applicable provisions of this order, the employer shall pay the employee one (1) hour of pay at the employee's regular rate of compensation for each workday that the rest period is not provided.

57. By failing to consistently provide uninterrupted thirty-minute meal periods to Plaintiffs and the Class Members, Defendant violated these California Labor Code and IWC Wage Order provisions.

58. As a direct and proximate result of Defendant's unlawful conduct, as set forth herein, Plaintiffs and the Class Members have sustained damages, in an amount to be established at trial. As a further direct and proximate result of Defendant's unlawful conduct, as set forth herein, Plaintiffs and the Class Members are entitled to recover various penalties, in an amount to be established at trial, as well as costs and attorneys' fees, pursuant to statute.

**FIFTH CAUSE OF ACTION  
FAILURE TO PROVIDE ACCURATE ITEMIZED WAGE STATEMENTS  
(California Labor Code §§ 226, 1174)**

59. Plaintiffs incorporate in this cause of action each and every allegation of the preceding paragraphs, with the same force and effect as though fully set forth herein.

60. California Labor Code § 226(a) provides:

Each employer shall semimonthly, or at the time of each payment of wages, furnish each of his or her employees either as a detachable part of the check, draft or voucher paying the employee's wages, or separately when wages are paid by personal check or cash, an itemized wage statement in writing showing: (1) gross wages earned; (2) total number of hours worked by each employee whose compensation is based on an hourly wage; (3) all deductions; provided, that all deductions made on written orders of the employee may be aggregated and shown as one item; (4) net wages earned; (5) the inclusive date of the period for which the employee is paid; (6) the name of the employee and his or her social security number; and (7) the name and address of the legal entity which is the employer.

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1 and/or Plaintiff Class;

2 5. That the Court declare, adjudge and decree that defendant Orchard willfully violated  
3 its legal duties under the California Labor Code and the IWC Wage Orders to pay overtime;

4 6. That the Court declare, adjudge and decree that Plaintiffs and Class Members were  
5 at all times relevant hereto, and are, entitled to be paid overtime for work beyond 8 hours per day or  
6 40 hours per a week.

7 7. That the Court declare, adjudge and decree that defendant Orchard violated California  
8 Labor Code §§ 226.7 and 512 and applicable IWC Wage Orders for willful failure to provide meal  
9 and rest periods (including second meal periods) to Plaintiffs and the Class Members;

10 8. That the Court declare, adjudge and decree that defendant Orchard violated the record  
11 keeping provisions of California Labor Code §§ 226(a) and 1174(d) and section 7 of the Wage  
12 Orders as to Plaintiffs and the Class Members, and for willful failure to provide accurate  
13 semimonthly itemized wage statements thereto;

14 9. That the Court declare, adjudge and decree that defendant Orchard violated California  
15 Labor Code §§ 201, 202 and 203 for willful failure to pay all compensation owed at the time of  
16 termination of employment to Plaintiffs and some Class Members;

17 10. For a finding that defendant Orchard violated Business and Professions Code § 17200  
18 by enforcing a policy requiring its retail employees to maintain Orchard's uniforms as a term and  
19 condition of their employment;

20 11. That the Court declare, adjudge and decree that defendant Orchard violated California  
21 Business and Professions Code § 17200 *et. seq.*;

22 12. For an award to Plaintiffs and the Plaintiff Class of damages for the amount of monies  
23 expended on maintaining Defendant's uniform pursuant to Defendant's directives;

24 13. That the Court make an award to Plaintiffs and Plaintiff Class of damages for the  
25 amount of unpaid compensation, including interest thereon, and penalties in an amount to be proven  
26 at trial;

27 14. That the Court make an award to the Plaintiffs and members of the Class of one (1)  
28 hour of pay at each employee's regular rate of compensation for each workday that a meal period

1 was not provided;

2 15. That the Court make an award to the Plaintiffs and members of the Class of one (1)  
3 hour of pay at each employee's regular rate of compensation for each workday that a rest and period  
4 was not provided;

5 16. That the Court make an award of penalties to Plaintiffs and Class Members as  
6 authorized by Labor Code §§ 2698 and 2699 (the Labor Code Private Attorneys General Act of  
7 2004);

8 17. For an Order requiring defendant Orchard to pay restitution to Plaintiffs and the  
9 Plaintiff Class of all profits and gains resulting from defendant Orchard's unfair, unlawful and/or  
10 fraudulent activities, pursuant to Business and Professions Code §§ 17200-08;

11 18. For an injunction, enjoining defendant Orchard to cease and desist from unfair,  
12 unlawful and/or fraudulent activities in violation of Business and Professions Code § 17200;

13 19. For Punitive and Exemplary Damages in an amount appropriate and sufficient to  
14 punish Defendants, and each of them, and to deter others from engaging in similar misconduct in the  
15 future;

16 20. For all other Orders, findings, and determinations identified and sought in this  
17 Complaint;

18 21. For interest on the amount of any and all economic losses, at the prevailing legal rate;

19 22. For reasonable attorneys' fees, pursuant to California Labor Code §1194 and/or  
20 California Civil Code §1021.5; and

21 23. For costs of suit and any and all such other relief as the Court deems just and proper.

22  
23 **JURY DEMAND**

24 Plaintiffs and the Plaintiff Class hereby demand trial by jury on all issues triable of right by  
25 jury.

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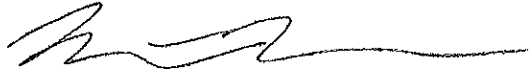
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