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16 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
17 **FOR THE COUNTY OF LOS ANGELES – CENTRAL DISTRICT**

18 STEPHANIE WRIGHT; RONALD PAZ;
19 AMBER BAILEY; individually and on
20 behalf of members of the general public
21 similarly situated;

22 Plaintiffs,

23 vs.

24 WILLIAMS-SONOMA STORES, INC.,
25 a California corporation; and Does 1 through
26 100, inclusive.

27 Defendants.

CONFIRMED COPY
OF ORIGINAL FILED
Superior Court of California
County of Los Angeles

AUG 20 2009

John A. Clarke, Executive Officer/Clerk
By [Signature] Deputy
RUGENAL LOPEZ

Case No. BC 413498

Honorable John A. Kronstadt
Department 30

CLASS ACTION

**SECOND AMENDED CLASS
ACTION COMPLAINT**

- (1) Violation of California Labor Code §§ 510 and 1198
- (2) Violation of California Labor Code §§ 226.7 and 512(a)
- (3) Violation of California Labor Code § 226.7
- (4) Violation of California Labor Code § 204
- (5) Violation of California Labor Code §§ 201 and 202
- (6) Violation of California Labor Code §§ 212 and 213

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- (7) Violation of California Labor Code § 226(a)
- (8) Violation of California Labor Code § 1174(d)
- (9) Violation of California Labor Code §§ 2800 and 2802
- (10) Violation of California Business & Professions Code § 17200

DEMAND FOR JURY TRIAL

COME NOW, Plaintiffs Stephanie Wright, Amber Bailey, and Ronald Paz, individually and on behalf of other members of the public similarly situated, and allege as follows:

PARTIES

- 1. Plaintiff Stephanie Wright (“WRIGHT”) is an individual residing in the County of Los Angeles, State of California.
- 2. Plaintiff Amber Bailey (“BAILEY”) is an individual residing in the County of Los Angeles, State of California.
- 3. Plaintiff Ronald Paz (“PAZ”) is an individual residing in the County of Los Angeles, State of California.
- 4. Defendant Williams-Sonoma Stores, Inc., at all times herein mentioned, was and is a California corporation.
- 5. Williams-Sonoma Stores, Inc. owns and operates home-centered retail stores in the State of California, including the County of Los Angeles
- 6. At all times herein relevant, Williams-Sonoma Stores and Does 1 through 100, and each of them, were the agents, partners, joint venturers, representatives, servants, employees, successors-in-interest, co-conspirators and assigns, each of the other, and at all times relevant hereto were acting within the course and scope of their

1 authority as such agents, partners, joint venturers, representatives, servants,
2 employees, successors, co-conspirators and assigns, and that all acts or omissions
3 alleged herein were duly committed with the ratification, knowledge, permission,
4 encouragement, authorization and consent of each defendant designated herein.

5 7. The true names and capacities, whether corporate, associate, individual or
6 otherwise, of defendants Does 1 through 100, inclusive, are unknown to Plaintiffs
7 who sue said defendants by such fictitious names. Plaintiffs are informed and
8 believe, and based on that information and belief allege, that each of the
9 defendants designated as a Doe is legally responsible for the events and
10 happenings referred to in this complaint, and unlawfully caused the injuries and
11 damages to Plaintiffs and the other class members alleged in this complaint.
12 Plaintiffs will seek leave of court to amend this Complaint to show the true names
13 and capacities when the same have been ascertained.

14 8. Williams-Sonoma Stores, Inc. and Does 1 through 100 will hereinafter be
15 collectively referred to as Defendants.

16 **FACTUAL ALLEGATIONS**

17 9. Defendants employed WRIGHT as a "General Manager" from approximately
18 November 5, 2007 to approximately January 19, 2009.

19 10. Upon terminating WRIGHT's employment, Defendants sent WRIGHT her final
20 wages in the form of a Visa debit pay card. WRIGHT never consented to nor
21 authorized Defendants to send her final wages using a debit card. WRIGHT was
22 never given the option of being paid her final wages by check or direct deposit.
23 To date, despite multiple attempts, WRIGHT has not been able to withdraw her
24 wages from the debit card.

25 11. Defendants have employed and continue to employ BAILEY as an "Assistant
26 Manager" as of approximately August 13, 2008.

27 12. Defendants employed PAZ as an "Assistant Manager" during the period of
28 approximately July 15, 2005 to approximately March 22, 2009.

- 1 13. Plaintiffs are informed and believe, and based thereon allege, that at all times
2 herein relevant, Defendants were advised by skilled lawyers and other
3 professionals, employees, advisors, and consultants highly knowledgeable about
4 California wage law, employment and personnel practices.
- 5 14. Plaintiffs are informed and believe, and based thereon allege, that at all times
6 herein relevant, without any justification, Defendants ignored the employment and
7 personnel policy changes proposed by skilled lawyers and other professionals,
8 employees, advisors, and consultants highly knowledgeable about California wage
9 law, employment and personnel practice.
- 10 15. Plaintiffs are informed and believe, and based thereon allege, that Defendants
11 knew or should have known that Plaintiffs and the other class members were
12 entitled to receive certain wages for overtime compensation and that they were not
13 receiving wages for overtime compensation.
- 14 16. Plaintiffs are informed and believe, and based thereon allege, that Defendants
15 engaged in a uniform policy and systematic scheme of wage abuse against their
16 salaried General Managers and Assistant Managers. This scheme involved, inter
17 alia, misclassifying these positions as "exempt" managerial employees for
18 purposes of the payment of overtime compensation when, in fact, they were "non-
19 exempt" non-managerial employees according to California law.
- 20 17. Plaintiffs are informed and believe, and based thereon allege, that Defendants
21 failed to provide the Plaintiffs and class members the required rest and meal
22 periods during the relevant time period as required under the IWC Wage Orders
23 and thus are entitled to any and all applicable penalties
- 24 18. Plaintiffs are informed and believe, and based thereon allege, that Defendants
25 knew or should have know that Plaintiffs and the other class members were
26 entitled to receive all meal periods or payment of one additional hour of pay at
27 Plaintiffs' and the other class members' regular rate of pay when a meal period
28 was missed.

- 1 19. Plaintiffs are informed and believe, and based thereon allege, that Defendants
2 knew or should have know that Plaintiffs and the other class members were
3 entitled to receive all rest periods or payment of one additional hour of pay at
4 Plaintiffs' and the other class members' regular rate of pay when a rest period was
5 missed.
- 6 20. Plaintiffs are informed and believe, and based thereon allege, that Defendants
7 knew or should have know that Plaintiffs and the other class members were
8 entitled to receive all wages owed to them upon discharge or resignation.
- 9 21. Plaintiffs are informed and believe, and based thereon allege, that Defendants
10 knew or should have know that Plaintiffs and the other class members were
11 entitled to receive complete and accurate wage statements in accordance with
12 California law.
- 13 22. Plaintiffs are informed and believe, and based thereon allege, that Defendants
14 knew or should have know that Plaintiffs and the other class members were
15 entitled to reimbursement of all necessary expenditures incurred by Plaintiffs and
16 the other class members in direct consequence of the discharge of their job duties
17 or in direct consequence of their obedience to the directions of the employer.
- 18 23. Plaintiffs are informed and believe, and based thereon allege, that Defendants
19 knew or should have know that they had a duty to compensate Plaintiffs and the
20 other class members pursuant to California law, and that Defendants had the
21 financial ability to pay such compensation, but willfully, knowingly, and
22 intentionally failed to do so, and falsely represented to Plaintiffs and the other
23 class members that they were properly denied wages, all in order to increase
24 Defendants' profits.
- 25 24. At all material times set forth herein, Defendants regularly and consistently failed
26 to pay overtime wages to Plaintiffs and the other class members.
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1 25. At all material times set forth herein, Defendants regularly and consistently failed
2 to provide uninterrupted meal and rest periods to Plaintiffs and the other class
3 members.

4 26. At all material times set forth herein, Defendants regularly and consistently failed
5 to provide complete and accurate wage statement to Plaintiffs and the other class
6 members.

7 27. At all material times set forth herein, Defendants regularly and consistently failed
8 to pay Plaintiffs and the other class members all wages owed to them upon
9 discharge or resignation.

10 28. At all material times set forth herein, Defendants regularly and consistently failed
11 to reimburse Plaintiffs and the other class members for all necessary expenditures
12 incurred by Plaintiffs and the other class members in direct consequence of the
13 discharge of their job duties or in direct consequence of their obedience to the
14 directions of the employer.

15 **CLASS ACTION ALLEGATIONS**

16 29. Plaintiffs bring this action on their own behalf and on behalf of all other members
17 of the general public similarly situated, and thus, seek class certification under
18 Code of Civil Procedure § 382.

19 30. The claims of individual class members, including Plaintiffs, are under the
20 \$75,000 jurisdictional threshold for federal court. For example, a class member
21 who was or has been employed for a relatively brief period could never reasonably
22 be expected to receive a recovery of \$75,000 or more. The total damages for the
23 entire case does not exceed \$5,000,000.00. In addition, there is no federal
24 question at issue, as all the issues related to payment wages alleged herein are
25 based solely on California law and statutes, including the Labor Code, Civil Code,
26 Code of Civil Procedure, and Business and Professions Code.

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1 31. The proposed class consists of three subclasses, which are defined as follows:

2 **Subclass One:**

3 All current and former "Assistant Managers," or persons with similar titles and/or
4 similar job duties, who worked for WILLIAMS-SONOMA STORES, INC. in the
5 State of California at any time during the applicable statute(s) of limitations
6 period(s).

7 **Subclass Two:**

8 All current and former "General Managers," or persons with similar titles and/or
9 similar job duties, who worked for WILLIAMS-SONOMA STORES, INC. in the
10 State of California at any time during the applicable statute(s) of limitations
11 period(s).

12 **Subclass Three:**

13 All employees who worked for WILLIAMS-SONOMA STORES, INC. in the
14 State of California at any time during the applicable statute(s) of limitations
15 period(s) who received their final wages in the form of a debit pay card and who
16 had not consented to, nor authorized receiving, their final wages in the form of a
17 debit pay card.

18 32. Plaintiffs reserve the right to establish other subclasses as appropriate.

19 33. The class is ascertainable and there is a well-defined community of interest in the
20 litigation:

- 21 a. The class members are so numerous that joinder of all class members is
22 impracticable. The membership of the entire class is unknown to Plaintiffs at this
23 time; however, the class is estimated to be greater than one-hundred fifty (150)
24 individuals and the identity of such membership is readily ascertainable by
25 inspection of Williams-Sonoma Stores, Inc.'s employment records.
- 26 b. Plaintiffs' claims are typical of all other class members' as demonstrated herein.
27 Plaintiffs will fairly and adequately protect the interests of the class members with
28 whom they have a well defined community of interest.

- 1 c. Plaintiffs will fairly and adequately protect the interests of each class member,
2 with whom they have a well-defined community of interest and typicality of
3 claims, as demonstrated herein. Plaintiffs have no interest that is antagonistic to
4 the other class members. Plaintiffs' attorneys, the proposed class counsel, are
5 versed in the rules governing class action discovery, certification, and settlement.
6 Plaintiffs have incurred, and during the pendency of this action will continue to
7 incur, costs and attorneys' fees, that have been, are, and will be necessarily
8 expended for the prosecution of this action for the substantial benefit of each class
9 member.
- 10 d. A class action is superior to other available methods for the fair and efficient
11 adjudication of this litigation because individual joinder of all damages class
12 members is impractical. This case involves one large corporate employer
13 (Williams-Sonoma Stores, Inc.) and a large number of individual employees
14 (Plaintiffs and the other class members) with many relatively small claims with
15 common issues of law and fact. If each employee were required to file an
16 individual lawsuit, the corporate employer would necessarily gain an
17 unconscionable advantage since it would be able to exploit and overwhelm the
18 limited resources of each individual class member with its vastly superior financial
19 and legal resources. Requiring each class member to pursue an individual remedy
20 would also discourage the assertion of lawful claims by employees who would be
21 disinclined to pursue an action against their present and/or former employer for a
22 justifiable fear of retaliation and permanent damage to their careers at present
23 and/or subsequent employment. Proof of a common business practice or factual
24 pattern, of which the named Plaintiffs experienced, that is representative of the
25 class mentioned herein, will establish the right of each class member to recovery
26 on the causes of action alleged herein. Class action will achieve economies of
27 time, effort, and expense as compared with separate lawsuits, and avoid
28

- 1 inconsistent outcomes because the same issues can be adjudicated in the same
2 manner for the entire class.
- 3 e. Public Policy Considerations: Employers of this great state violate employment
4 and labor laws every day. Current employees are often afraid to assert their rights
5 out of fear of direct or indirect retaliation. Former employees are fearful of
6 bringing actions because they believe their former employers can damage their
7 future endeavors through negative references and other means. Class actions
8 provide the class members who are not named in the complaint with a type of
9 anonymity that allows for the vindication of their rights.
- 10 34. There are common questions of law and fact as to the class members that
11 predominate over questions affecting only individual members. The following
12 common questions of law or fact, among others, exists as to the members of the
13 class:
- 14 a. Whether Defendants' California-based General Managers were classified as
15 "exempt" in violation of California law;
- 16 b. Whether Defendants' California-based Assistant Managers were classified as
17 "exempt" in violation of California law;
- 18 c. Whether Plaintiffs and the class could waive the wage and hour laws designed for
19 their benefit under California law and whether such waivers were voluntary,
20 knowing and valid;
- 21 d. Whether Defendants required Plaintiffs and the other class members to work over
22 eight (8) hours per day, over twelve (12) hours per day, and/or over forty (40) hour
23 per week and failed to pay the legally required overtime compensation to Plaintiffs
24 and the other class members;
- 25 e. Whether Defendants routinely interrupted and/or failed to permit, authorize and/or
26 provide Plaintiffs and the other class members of meal periods without
27 compensation;
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- 1 f. Whether Defendants routinely interrupted and/or failed to permit, authorize and/or
2 provide deprived Plaintiffs and the other class members of rest periods periods
3 without compensation;
- 4 g. Whether Defendants failed to pay all wages due to Plaintiffs and the other class
5 members within the required time upon their discharge or resignation;
- 6 h. Whether Defendants complied with wage reporting as required by the California
7 Labor Code; including but not limited to § 226;
- 8 i. Whether Defendants failed to reimburse Plaintiffs and the other class members for
9 necessary business related expenses and costs.
- 10 j. Whether Defendants' conduct was willful or reckless;
- 11 k. Whether Defendants engaged in unfair business practices in violation of California
12 Business & Professions Code §§ 17200 *et seq.*; and
- 13 l. The appropriate amount of damages, restitution, and/or monetary penalties
14 resulting from Defendants' violation of California law.
- 15 m. Whether Plaintiffs and the class are entitled to compensatory damages pursuant to
16 the California Labor Code;
- 17 n. What is the correct computation formula for the payment of overtime in
18 California?
- 19 o. What work is customarily and regularly accomplished by class members in
20 Defendants – and what category (exempt or non-exempt) does that work properly
21 fall into?
- 22 p. What are the realistic requirements of the General Manager positions?
- 23 q. What are the realistic requirements of the Assistant Manager positions?
- 24 r. What are the expectations of Defendants vis-à-vis the class members job
25 performance?
- 26 s. Who has the burden of proof on the exemption issue?
- 27
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1 t. Can Defendants rely on the “sole charge” or “primary duty” exemption standards
2 applicable under federal law, or must defendants comply with California’s more
3 strict quantitative exemption standards?

4 **FIRST CAUSE OF ACTION**

5 **(Violation of California Labor Code § 510 and 1198)**

6 **(Against WILLIAMS-SONOMA STORES, INC. and DOES 1 through 100)**

7 35. Plaintiffs incorporate by reference the allegations contained in paragraphs 1
8 through 34, and each and every part thereof with the same force and effect as
9 though fully set forth herein.

10 36. Pursuant to California Labor Code § 1198 and the applicable Industrial Welfare
11 Commission (“IWC”) Wage Order, it is unlawful to employ persons without
12 compensating them at a rate of pay either time-and-one-half or two-times that
13 person’s regular rate of pay, depending on the number of hours worked by the
14 person on a daily or weekly basis.

15 37. Pursuant to California Labor Code § 1198, the maximum hours of work and the
16 standard conditions of labor fixed by the commission shall be the maximum hours
17 of work and the standard conditions of labor for employees. The employment of
18 any employee for longer hours than those fixed by the order or under conditions of
19 labor prohibited by the order is unlawful.

20 38. Pursuant to the applicable IWC Wage Order, Defendants are and were required to
21 pay Plaintiffs and the other class members at the rate of time-and-one-half for all
22 hours worked in excess of eight (8) hours in a day or more than forty (40) hours in
23 a workweek.

24 39. The applicable IWC Wage Order further provides that Defendants are and were
25 required to pay Plaintiffs and the other class members overtime compensation at a
26 rate of two times her regular rate of pay for all hours worked in excess of twelve
27 (12) hours in a day.
28

- 1 40. Pursuant to California Labor Code § 510, any work in excess of eight hours in one
2 workday and any work in excess of 40 hours in any one workweek and the first
3 eight hours worked on the seventh day of work in any one workweek shall be
4 compensated at the rate of no less than one and one-half times the regular rate of
5 pay for an employee. Any work in excess of 12 hours in one day shall be
6 compensated at the rate of no less than twice the regular rate of pay for an
7 employee. In addition, any work in excess of eight hours on any seventh day of a
8 workweek shall be compensated at the rate of no less than twice the regular rate of
9 pay of an employee.
- 10 41. Pursuant to California Labor Code § 510, Plaintiffs and the other class members
11 are entitled to overtime compensation at one-and-one-half times the regular hourly
12 rate for hours worked in excess of eight (8) hours in a day or forty (40) hours in a
13 week or for the first eight (8) hours worked on the seventh day of work, and to
14 overtime compensation at twice the regular hourly rate for hours worked in excess
15 of twelve (12) hours in a day or in excess of eight (8) hours in a day on the seventh
16 day of work.
- 17 42. During the relevant time period, Plaintiffs and the other class members regularly
18 and/or consistently worked in excess of eight (8) hours in a day.
- 19 43. During the relevant time period, Plaintiffs and the other class members regularly
20 and/or consistently worked in excess of twelve (12) hours in a day.
- 21 44. During the relevant time period, Plaintiffs and the other class members regularly
22 and/or consistently worked in excess of forty (40) hours in a week.
- 23 45. During the relevant time period, Defendants intentionally and willfully failed to
24 pay overtime wages owed to Plaintiffs and the other class members.
- 25 46. Defendants' failure to pay Plaintiffs and the other class members overtime
26 compensation, as required by California laws, violates the provisions of California
27 Labor Code §§ 510 and 1198, and is therefore unlawful.
- 28

1 47. Pursuant to California Labor Code § 1194(a), notwithstanding any agreement to
2 work for a lesser wage, any employee receiving less than the legal minimum wage
3 or the legal overtime compensation applicable to the employee is entitled to
4 recover in a civil action the unpaid balance of the full amount of this minimum
5 wage or overtime compensation, including interest thereon, reasonable attorneys'
6 fees, and costs of suit.

7 48. Pursuant to California Labor Code § 1194, Plaintiffs and the other class members
8 are entitled to recover unpaid overtime compensation, as well as interest, costs,
9 and attorneys' fees.

10 **SECOND CAUSE OF ACTION**

11 **(Violation of California Labor Code §§ 226.7 and 512(a))**

12 **(Against WILLIAMS-SONOMA STORES, INC. and DOES 1 through 100)**

13 49. Plaintiffs incorporate by reference the allegations contained in paragraphs 1
14 through 48, and each and every part thereof with the same force and effect as
15 though fully set forth herein.

16 50. At all times herein mentioned, the Industrial Welfare Commission Order and
17 California Labor Code §§ 226.7 and 512(a) were applicable to Plaintiffs and the
18 other class members employment by Defendants.

19 51. Pursuant to California Labor Code § 226.7, no employer shall require any
20 employee to work during any meal or rest period mandated by an applicable order
21 of the Industrial Welfare Commission.

22 52. Pursuant to California Labor Code § 512(a), an employer may not employ an
23 employee for a work period of more than five hours per day without providing the
24 employee with a meal period of not less than 30 minutes, except that if the total
25 work period per day of the employee is no more than six hours, the meal period
26 may be waived by mutual consent of both the employer and employee.

27 53. Pursuant to California Labor Code § 512(a), an employer may not employ an
28 employee for a work period of more than 10 hours per day without providing the

1 employee with a second meal period of not less than 30 minutes, except that if the
2 total hours worked is no more than 12 hours, the second meal period may be
3 waived by mutual consent of the employer and the employee only if the first meal
4 period was not waived.

5 54. As alleged herein, Defendants routinely interrupted and/or failed to permit,
6 authorize and/or provide Plaintiff's and Class members' meal breaks. By these
7 actions, defendants violated California Labor Code § 226.7(a) and § 512(a), and is
8 liable to Plaintiff and the Class.

9 55. During the relevant time period, Plaintiffs and the other class members who were
10 scheduled to work for a period of time in excess of six (6) hours were required to
11 work for a period of time in excess of six (6) hours, and were required to work for
12 periods longer than five (5) hours without an uninterrupted meal period of not less
13 than thirty (30) minutes.

14 56. During the relevant time period, Plaintiffs and the other class members who were
15 scheduled to work in excess of ten (10) hours but not longer than twelve (12)
16 hours, and who did not waive their legally-mandated meal periods by mutual
17 consent were required to work in excess of ten (10) hours without receiving a
18 second uninterrupted meal period of not less than thirty (30) minutes.

19 57. During the relevant time period, Plaintiffs and the other class members were
20 scheduled to work for a period of time in excess of twelve (12) hours was required
21 to work for periods longer than ten (10) hours without a second uninterrupted meal
22 period of not less than thirty (30) minutes.

23 58. During the relevant time period, Defendants intentionally and willfully required
24 Plaintiffs and the other class members to work during meal periods and failed to
25 pay Plaintiffs and the other class members the full meal period premium for work
26 performed during meal periods.

27 59. Defendants' conduct violates applicable Industrial Welfare Commission Wage
28 Orders, and California Labor Code §§ 226.7 and 512(a).

1 60. Pursuant to California Labor Code § 226.7(b), Plaintiffs and the other class
2 members are entitled to recover from Defendants one additional hour of pay at the
3 employee's regular rate of compensation for each work day that the meal or rest
4 period is not provided.

5 **THIRD CAUSE OF ACTION**

6 **(Violation of California Labor Code §§ 226.7)**

7 **(Against WILLIAMS-SONOMA STORES, INC. and DOES 1 through 100)**

8 61. Plaintiffs incorporate by reference the allegations contained in paragraphs 1
9 through 60, and each and every part thereof with the same force and effect as
10 though fully set forth herein.

11 62. At all times herein set forth, the California Industrial Welfare Commission Order
12 and California Labor Code § 226.7 was applicable to Plaintiffs' and the other class
13 members' employment by Defendants.

14 63. Pursuant to California Labor Code § 226.7, no employer shall require an employee
15 to work during any rest period mandated by an applicable order of the California
16 Industrial Welfare Commission.

17 64. As alleged herein, Defendants routinely interrupted and/or failed to permit,
18 authorize and/or provide Plaintiff's and Class members' rest breaks. By these
19 actions, defendants violated California Labor Code § 226.7(a) and is liable to
20 Plaintiff and the Class.

21 65. During the relevant time period, Defendants required Plaintiffs and the other class
22 members of the class to work in excess of four (4) hours without providing them a
23 second ten (10) minute rest period.

24 66. During the relevant time period, Defendants required Plaintiffs and the other class
25 members to work an additional four (4) hours without providing a second ten (10)
26 minute rest period.

27 67. During the relevant time period, Defendants willfully required Plaintiffs and the
28 other class members to work during rest periods and failed to pay Plaintiffs and

1 the other class members the full rest period premium for work performed during
2 rest periods.

3 68. Defendants' conduct violates applicable Industrial Welfare Commission Wage
4 Orders, and California Labor Code § 226.7.

5 69. Pursuant to California Labor Code § 226.7(b), Plaintiffs and the other class
6 members of the class are entitled to recover from Defendants one additional hour
7 of pay at the employees' regular hourly rate of compensation for each work day
8 that the rest period was not provided.

9 **FOURTH CAUSE OF ACTION**

10 **(Violation of California Labor Code § 204)**

11 **(Against WILLIAMS-SONOMA STORES, INC. and DOES 1 through 100)**

12 70. Plaintiffs incorporate by reference the allegations contained in paragraphs 1
13 through 69, and each and every part thereof with the same force and effect as
14 though fully set forth herein.

15 71. Pursuant to California Labor Code § 204(b)(1), all wages earned for labor in
16 excess of the normal work period shall be paid no later than the payday for the
17 next regular payroll period.

18 72. During the relevant time period, Defendants intentionally and willfully failed to
19 pay Plaintiffs and the other class members the overtime and/or regular wages due
20 to them, within any time period permissible under California Labor Code § 204.

21 **FIFTH CAUSE OF ACTION**

22 **(Violation of California Labor Code §§ 201 and 202)**

23 **(Against WILLIAMS-SONOMA STORES, INC. and DOES 1 through 100)**

24 73. Plaintiffs incorporate by reference the allegations contained in paragraphs 1
25 through 72, and each and every part thereof with the same force and effect as
26 though fully set forth herein.

27 74. Pursuant to California Labor Code §§ 201 and 202, if an employer discharges an
28 employee, the wages earned and unpaid at the time of discharge are due and

1 payable immediately, and if an employee quits his or her employment, his or her
2 wages shall become due and payable not later than seventy-two 72 hours
3 thereafter, unless the employee has given seventy-two 72 hours notice of his or her
4 intention to quit, in which case the employee is entitled to his or her wages at the
5 time of quitting.

6 75. During the relevant time period, Defendants intentionally and willfully failed to
7 pay Plaintiffs and the other class members their wages, earned and unpaid, within
8 seventy-two (72) hours of Plaintiff and the other class members leaving
9 Defendants' employ.

10 76. Defendants' failure to pay Plaintiffs and the other class members their wages,
11 earned and unpaid, within (72) hours of her leaving Defendants' employ, is in
12 violation of California Labor Code §§ 201 and 202.

13 77. Pursuant to California Labor Code § 203, if an employer willfully fails to pay,
14 without abatement or reduction, in accordance with §§ 201 and 202, any wages of
15 an employee who is discharged or who quits, the wages of the employee shall
16 continue as a penalty from the due date thereof at the same rate until paid or until
17 an action is commenced; but the wages shall not continue for more than 30 days.

18 78. Plaintiffs and the other class members are entitled to recover the statutory penalty
19 for each day they were not paid, at her regular hourly rate of pay, up to thirty (30)
20 days maximum pursuant to California Labor Code § 203.

21 **SIXTH CAUSE OF ACTION**

22 **(Violation of California Labor Code §§ 212 and 213)**

23 **(Against WILLIAMS-SONOMA STORES and DOES 1 through 100)**

24 79. Plaintiffs incorporate by reference the allegations contained in paragraphs 1
25 through 78, and each and every part thereof with the same force and effect as
26 though fully set forth herein.

27 80. Pursuant to California Labor Code § 212, employer's are prohibited from paying
28 wages using any instrument unless it is negotiable and payable in cash, on

1 demand, without discount, at some established place of business in the state, the
2 name and address of which must appear on the instrument, and at the time of its
3 issuance and for a reasonable time thereafter, which must be at least 30 days, the
4 maker or drawer has sufficient funds in, or credit, arrangement, or understanding
5 with the drawee for its payment.

6 81. Pursuant to California Labor Code § 213, employers may make direct deposits of
7 wages in employees' accounts, provided that the employee has voluntarily
8 authorized that deposit. If an employer discharges an employee or the employee
9 quits, the employer may pay the wages earned and unpaid at the time the
10 employee is discharged or quits by making a deposit authorized pursuant to this
11 subdivision.

12 82. Pursuant to an Opinion published by the California Department of Labor
13 Standards Enforcement, payroll debit card programs are lawful under California
14 Labor Code §§ 212 and 213 if (1) employees have the option of having their pay
15 directly deposited into their own bank accounts, rather than using the payroll debit
16 card, and (2) employees have immediate and free access to their wages in full.

17 83. Defendants did not give Wright the option of having her last pay directly
18 deposited into her bank account, and Wright did not and still does not have access
19 to her *full* wages through the debit card.

20 84. As a result of Defendants' violation of California Labor Code §§ 212 and 213
21 Wright and the other class members have suffered injury and damage to their
22 statutorily-protected rights.

23 85. More specifically, Wright and the other class members have been injured by
24 Defendants' intentional and willful violation of California Labor Code §§ 212 and
25 213 because they were denied both their legal right to receive, and their protected
26 interest in receiving, their final wages in full and directly deposited in their bank
27 accounts pursuant to California Labor Code §§ 212 and 213.
28

- 1 86. Pursuant to California Labor Code § 218.6, in any action brought for the
2 nonpayment of wages, the court shall award interest on all due and unpaid wages
3 at the rate of interest specified in subdivision (b) of Section 3289 of the Civil
4 Code, which shall accrue from the date that the wages were due and payable as
5 provided in Part 1 (commencing with Section 200) of Division 2.
- 6 87. Pursuant to California Labor Code § 225.5, in addition to, and entirely
7 independent and apart from, any other penalty provided in this article, every
8 person who unlawfully withholds wages due any employee in violation of Section
9 212, shall be subject to a civil penalty as follows: (a) For any initial violation, one
10 hundred dollars (\$100) for each failure to pay each employee, and (b) For each
11 subsequent violation, or any willful or intentional violation, two hundred dollars
12 (\$200) for each failure to pay each employee, plus 25 percent of the amount
13 unlawfully withheld.
- 14 88. Wright and the other class members are entitled to recover the statutory interest
15 and penalty pursuant to California Labor Code §§ 218.6 and 225.5.

16 **SEVENTH CAUSE OF ACTION**

17 **(Violation of California Labor Code § 226(a))**

18 **(Against WILLIAMS-SONOMA STORES, INC. and DOES 1 through 100)**

- 19 89. Plaintiffs incorporate by reference the allegations contained in paragraphs 1
20 through 88, and each and every part thereof with the same force and effect as
21 though fully set forth herein.
- 22 90. Pursuant to California Labor Code § 226(a), every employer shall furnish each of
23 his or her employees an accurate itemized statement in writing showing (1) gross
24 wages earned, (2) total hours worked by the employee, (3) the number of piece-
25 rate units earned and any applicable piece rate if the employee is paid on a piece-
26 rate basis, (4) all deductions, provided that all deductions made on written orders
27 of the employee may be aggregated and shown as one item, (5) net wages earned,
28 (6) the inclusive dates of the period for which the employee is paid, (7) the name

1 of the employee and his or her social security number, (8) the name and address of
2 the legal entity that is the employer, and (9) all applicable hourly rates in effect
3 during the pay period and the corresponding number of hours worked at each
4 hourly rate by the employee. The deductions made from payments of wages shall
5 be recorded in ink or other indelible form, properly dated, showing the month,
6 day, and year, and a copy of the statement or a record of the deductions shall be
7 kept on file by the employer for at least three years at the place of employment or
8 at a central location within the State of California.

9 91. Defendants intentionally and willfully failed to provide Plaintiffs and the other
10 class members with complete and accurate wage statements. The deficiencies
11 included one or more of the following: the failure to include the total number of
12 hours worked by Plaintiffs and the other class members, the failure to include the
13 hourly rate, the failure to provide their social security numbers.

14 92. As a result of Defendants' violation of California Labor Code § 226(a), Plaintiffs
15 and the other class members have suffered injury and damage to their statutorily-
16 protected rights.

17 93. More specifically, Plaintiffs and the other class members have been injured by
18 Defendants' intentional and willful violation of California Labor Code § 226(a)
19 because they were denied both their legal right to receive, and their protected
20 interest in receiving, accurate and itemized wage statements pursuant to California
21 Labor Code § 226(a).

22 94. Plaintiffs and the other class members are entitled to recover from Defendants the
23 greater of their actual damages caused by Defendants' failure to comply with
24 California Labor Code § 226(a), or an aggregate penalty not exceeding four
25 thousand dollars per employee.

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EIGHTH CAUSE OF ACTION

(Violation of California Labor Code § 1174(d))

(Against WILLIAMS-SONOMA STORES, INC. and DOES 1 through 100)

95. Plaintiffs incorporate by reference the allegations contained in paragraphs 1 through 94, and each and every part thereof with the same force and effect as though fully set forth herein.

96. Pursuant to California Labor Code § 1174(d), an employer shall keep, at a central location in the state or at the plants or establishments at which employees are employed, payroll records showing the hours worked daily by and the wages paid to, and the number of piece-rate units earned by and any applicable piece rate paid to, employees employed at the respective plants or establishments. These records shall be kept in accordance with rules established for this purpose by the commission, but in any case shall be kept on file for not less than two years.

97. Defendants have intentionally and willfully failed to keep accurate and complete payroll records showing the hours worked daily and the wages paid, to Plaintiffs and the other class members.

98. As a result of Defendants' violation of California Labor Code § 1174(d), Plaintiffs and the other class members have suffered injury and damage to their statutorily-protected rights.

99. More specifically, Plaintiffs and the other class members have been injured by Defendants' intentional and willful violation of California Labor Code § 1174(d) because they were denied both their legal right and protected interest, in having available, accurate and complete payroll records pursuant to California Labor Code § 1174(d).

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NINTH CAUSE OF ACTION

(Violation of California Labor Code §§ 2800 and 2802)

(Against WILLAIMS-SONOMA STORES, INC. and DOES 1 through 100)

100. Plaintiffs incorporate by reference the allegations contained in paragraphs 1 through 99, and each and every part thereof with the same force and effect as though fully set forth herein.

101. Pursuant to California Labor Code § 2800, an employer shall in all cases indemnify his employee for losses caused by the employer's want of ordinary care.

102. Pursuant to California Labor Code § 2802(a), an employer shall indemnify his or her employee for all necessary expenditures or losses incurred by the employee in direct consequence of the discharge of his or her duties, or of his or her obedience to the directions of the employer, even though unlawful, unless the employee, at the time of obeying the directions, believed them to be unlawful.

103. Plaintiffs and the other class members incurred necessary business-related expenses and costs that were not fully reimbursed by Defendants, including and without limitations, travel costs, including mileage and gasoline, for required trips that resulted from their employment with Williams-Sonoma Stores.

104. Defendants have intentionally and willfully failed to reimburse Plaintiffs and the class members for necessary business-related expenses and costs.

105. Plaintiffs and the other class members are entitled to recover from Defendants their business-related expenses and costs incurred during the course and scope of their employment, plus interest accrued from the date on which the employee incurred the necessary expenditures at the same rate as judgments in civil actions in the State of California.

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TENTH CAUSE OF ACTION

(Violation of California Business & Professions Code §§ 17200 *et seq.*)

(Against WILLAIMS-SONOMA STORES, INC. and DOES 1 through 100)

106. Plaintiffs incorporate by reference the allegations contained in paragraphs 1 through 105, and each and every part thereof with the same force and effect as though fully set forth herein.
107. Defendants' conduct, as alleged in this complaint, has been, and continues to be, unfair, unlawful and harmful to Plaintiffs and the other class members, and Defendants' competitors. Accordingly, Plaintiffs and the other class members seek to enforce important rights affecting the public interest within the meaning of Code of Civil Procedure § 1021.5.
108. Defendants' activities as alleged herein are violations of California law, and constitute unlawful business acts and practices in violation of California Business & Professions Code §§ 17200 *et seq.*
109. A violation of California Business & Professions Code §§ 17200 *et seq.* may be predicated on the violation of any state or federal law. As described herein, Defendants violated California Labor Code §§ 201, 204, 212, 213, 226(a), 226.7, 510, 1174(d), 1198, 2800, and 2802.
110. As a result the herein described violations of California law, Defendants unlawfully gained an unfair advantage over other businesses.
111. Plaintiffs and the other class members have suffered pecuniary loss by Defendants' unlawful business acts and practices alleged herein.
112. Pursuant to California Business & Professions Code §§ 17200 *et seq.*, Plaintiffs and the other class members are entitled to restitution of the wages and other monies wrongfully withheld and retained by Defendants pursuant to California Labor Code §§ 510, 1198, 2800, and 2802.
113. Pursuant to California Business & Professions Code §§ 17200 *et seq.*, injunctive relief is necessary to prevent Defendants from continuing to engage in the unfair

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1 business practices as alleged herein. Plaintiffs are informed and believe that
2 Defendants have committed and will continue to commit the above-described
3 unlawful acts unless restrained or enjoined by this Court. Unless the relief prayed
4 for below is granted, a multiplicity of actions will result. Plaintiffs and the other
5 class members have no plain, speedy, or adequate remedy at law, in that pecuniary
6 compensation alone would not afford adequate and complete relief. The above-
7 described acts will cause great and irreparable damage to Plaintiffs and the other
8 class members unless Defendant is restrained from committing further illegal acts.
9 114. Plaintiffs and the other class members are entitled to an award of attorneys' fees
10 and costs pursuant to California Code of Civil Procedure § 1021.5 and other
11 applicable laws.

12 **PRAYER FOR RELIEF**

13 WHEREFORE, Plaintiffs, individually and on behalf of all other members of
14 the public similarly situated, pray for relief and judgment against Defendants, jointly and
15 severally, as follows:

16 Class Certification

- 17 1. That this action be certified as a class action;
18 2. That Plaintiffs be appointed as the representative of the class;
19 3. That counsel for Plaintiffs be appointed as class counsel;
20 4. That Defendants provide to class counsel, immediately upon its appointment, the
21 names and most current contact information (address and telephone numbers) of
22 all class members.

23 As to the First Cause of Action

- 24 5. For general unpaid wages at overtime wage rates and such general and special
25 damages as may be appropriate;
26 6. For pre-judgment interest on any unpaid overtime compensation commencing
27 from the date such amounts were due;
28 7. For the imposition of civil penalties and/or statutory penalties;

1 8. For reasonable attorneys' fees and costs of suit incurred herein pursuant to
2 California Labor Code § 1194; and

3 9. For such other and further relief as the court may deem just and proper.

4 As to the Second Cause of Action

5 10. For all actual, consequential, and incidental losses and damages, according to
6 proof;

7 11. For wages pursuant to California Labor Code § 226.7(b);

8 12. For the imposition of civil penalties and/or statutory penalties;

9 13. For reasonable attorneys' fees and costs of suit incurred herein; and

10 14. For such other and further relief as the court may deem just and proper.

11 As to the Third Cause of Action

12 15. For all actual, consequential, and incidental losses and damages, according to
13 proof;

14 16. For wages pursuant to California Labor Code § 226.7(b);

15 17. For reasonable attorneys' fees and costs of suit incurred herein; and

16 18. For such other and further relief as the court may deem just and proper.

17 As to the Fourth Cause of Action

18 19. For actual, consequential and incidental losses and damages, according to proof;

19 20. For pre-judgment interest on any untimely paid compensation, from the date such
20 amount were due;

21 21. For reasonable attorneys' fees and costs of suit incurred herein; and

22 22. For such other and further relief as the court may deem just and proper.

23 As to the Fifth Cause of Action

24 23. For actual, consequential and incidental losses and damages, according to proof;

25 24. For statutory penalties pursuant to California Labor Code § 203 for Plaintiffs and
26 all other class members who have left Defendants' employ;

27 25. For reasonable attorneys' fees and costs of suit incurred herein; and

28 26. For such other and further relief as the court may deem just and proper.

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As to the Sixth Cause of Action

- 27. For actual, consequential and incidental losses and damages, according to proof;
- 28. For statutory penalties pursuant to California Labor Code §§ 218.6 and 225.5 for Plaintiff and all other class members who have left Defendants' employ
- 29. For reasonable attorneys' fees and costs of suit incurred herein.
- 30. For such other and further relief as the court may deem just and proper.

As to the Seventh Cause of Action

- 31. For actual, consequential and incidental losses and damages, according to proof;
- 32. For statutory penalties pursuant to California Labor Code §§ 226(e);
- 33. For injunctive relief to ensure compliance with this section, pursuant to California Labor Code § 226(g);
- 34. For reasonable attorneys' fees and costs of suit incurred herein pursuant to California Labor Code § 226(e); and
- 35. For such other and further relief as the court may deem just and proper.

As to the Eighth Cause of Action

- 36. For actual, consequential and incidental losses and damages, according to proof;
- 37. For statutory penalties pursuant to California Labor Code §§ 1174.5;
- 38. For reasonable attorneys' fees and costs of suit incurred herein; and
- 39. For such other and further relief as the court may deem just and proper.

As to the Ninth Cause of Action

- 40. For actual, consequential and incidental losses and damages, according to proof;
- 41. For the imposition of civil penalties and/or statutory penalties;
- 42. For reasonable attorneys' fees and costs of suit incurred herein; and
- 43. For such other and further relief as the court may deem just and proper.

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As to the Tenth Cause of Action

- 44. For restitution of unpaid wages and other monies wrongfully withheld and retained by Defendants to Plaintiffs and the other class members and prejudgment interest from the day such amount were due and payable;
- 45. For reasonable attorneys' fees and costs of suit incurred herein that Plaintiffs and the other class members are entitled to recover under California Code of Civil Procedure § 1021.5.
- 46. For injunctive relief to ensure compliance with this section, pursuant to California Business & Professions Code § 17200 et seq.; and
- 47. For such other and further relief as the court may deem just and proper.

Dated: August 10, 2009

THE AIWAZIAN LAW FIRM

BY: Edwin Aiwazian
Edwin Aiwazian
Attorneys for Plaintiffs and the Putative Class

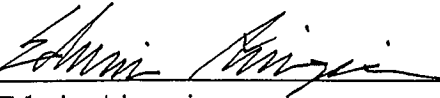
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DEMAND FOR JURY TRIAL

Plaintiffs, individually and on behalf of the members of the public similarly situated, hereby demand a trial by a jury.

Dated: August 10, 2009

THE AIWAZIAN LAW FIRM

BY: 

Edwin Aiwazian

Attorneys for Plaintiffs and the Putative Class

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PROOF OF SERVICE

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STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action; my business address is 410 West Arden Avenue, Suite 203, Glendale, CA 91203.

On August 18, 2009, I served the foregoing document described as: **SECOND AMENDED CLASS ACTION COMPLAINT** on interested parties in this action by placing a true and correct copy thereof, enclosed in a sealed envelope addressed as follows: SEE ATTACHED SERVICE LIST

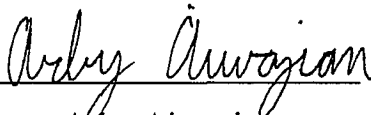
BY MAIL

X

I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. Under that practice, it would be deposited with U.S. Postal Service on that day with postage thereon fully prepaid at Los Angeles, California in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing an affidavit.

Executed on August 18, 2009, at Glendale, California.

(STATE) I declare under penalty of perjury under the laws of the State of California that the above is true and correct.


Arby Aiwazian

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