

1 Scott Edward Cole, Esq. (S.B. # 160744)
Heather E. Abelson Esq. (S.B. # 243691)
2 **SCOTT COLE & ASSOCIATES, APC**
1970 Broadway, Ninth Floor
3 Oakland, California 94612
Telephone: (510) 891-9800
4 Facsimile: (510) 891-7030
Web: www.scalaw.com

5 Attorneys for Representative Plaintiff
6 and the Plaintiff Class

**ENDORSED
FILED
ALAMEDA COUNTY**

**APR 19 2010
CLERK OF THE SUPERIOR COURT
BY ESTHER COLEMAN, Deputy**

7
8 **IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA**
9 **IN AND FOR THE COUNTY OF ALAMEDA**

11 MELINDA CROUL, individually, and
12 on behalf of all others similarly
situated,

13 Plaintiffs,

14 vs.

15 KOHL'S DEPARTMENT STORES, INC.,
16 and DOES 1 through 50, inclusive,

17 Defendants.

Case No. **H G 1 0 5 1 0 4 2 7**

CLASS ACTION

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

18 Representative Plaintiff alleges as follows:

19
20 **PRELIMINARY STATEMENT**

21 1. This is a class action, brought on behalf of Melinda Croul (hereinafter
22 "Representative Plaintiff") and all other persons similarly situated ("Class Members") who are or
23 were employed as salaried Assistant Store Managers by defendants Kohl's Department Stores, Inc.
24 and Does 1 through 50, inclusive (collectively "Defendant" and/or "Kohl's") in any Kohl's retail
25 stores in California within the applicable class period. The Representative Plaintiff, on behalf of
26 herself and the Class Members, seeks unpaid wages, including unpaid overtime compensation,
27 compensation for missed meal and rest periods, interest thereon and other penalties, injunctive and
28 other equitable relief, and reasonable attorneys' fees and costs under, *inter alia*, Title 8 of the

SCOTT COLE & ASSOCIATES, APC
ATTORNEYS AT LAW
THE WACHOVIA TOWER
1970 BROADWAY, NINTH FLOOR
OAKLAND, CA 94612
TEL: (510) 891-9800

SCOTT COLE & ASSOCIATES, APC
ATTORNEYS AT LAW
THE WACHOVIA TOWER
1970 BROADWAY, NINTH FLOOR
OAKLAND, CA 94612
TEL: (510) 891-9800

1 California Code of Regulations, California Business and Professions Code §§17200, *et seq.*,
2 California Code of Civil Procedure §1021.5, and various provisions of the California Labor Code.

3 2. The Class Period is designated as the time from April 19, 2006 through the date of
4 trial or settlement, based upon the allegation that the violations of California's wage and hour laws,
5 as described more fully below, have been ongoing throughout that time.

6 3. During the Class Period, Kohl's has had a consistent policy of (1) permitting,
7 encouraging and/or requiring its allegedly overtime-exempt salaried Assistant Store Managers,
8 including the Representative Plaintiff and Class Members, to work in excess of eight hours per day
9 and in excess of forty hours per week without paying them overtime compensation as required by
10 California's wage and hour laws, (2) unlawfully failing to provide the Representative Plaintiff and
11 Class Members statutorily-mandated meal and rest periods, and (3) willfully failing to provide the
12 Representative Plaintiff and the Class Members with accurate semi-monthly itemized wage
13 statements reflecting the total number of hours each worked, the applicable deductions, and the
14 applicable hourly rates in effect during the pay period.

15 4. In addition, Representative Plaintiff alleges, on information and belief, that Kohl's
16 has had a consistent policy of willfully failing to pay compensation (including unpaid overtime) in a
17 prompt and timely manner to certain Class Members whose employment with Kohl's had terminated.

18
19 **INTRODUCTION**

20 5. Kohl's operates numerous stores throughout California, including those in which
21 Representative Plaintiff has worked as an Assistant Store Manager. The Representative Plaintiff is
22 informed and believes and, on that basis, alleges that within the Class Period, Kohl's employed
23 hundreds of individuals in California in recent years who occupied salaried Assistant Store Manager
24 positions at its Kohl's retail locations, employment positions which did not, and currently do not,
25 meet any known test for exemption from the payment of overtime wages and/or the entitlement to
26 meal or rest periods.

27 6. Despite actual knowledge of these facts and legal mandates, Kohl's has and continues
28 to enjoy an advantage over its competition and a resultant disadvantage to its workers by electing not

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THE WACHOVIA TOWER
1970 BROADWAY, NINTH FLOOR
OAKLAND, CA 94612
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1 to pay premium (overtime, meal and rest period wages) and/or "penalty" (a.k.a. "waiting time")
2 wages to its salaried Assistant Store Managers at its Kohl's retail locations.

3 7. Representative Plaintiff is informed and believes and, based thereon, alleges that
4 officers of Kohl's knew of these facts and legal mandates yet, nonetheless, repeatedly authorized
5 and/or ratified the violation of the laws cited herein.

6 8. Despite Kohl's knowledge of Class Members' entitlement to overtime pay and meal
7 and/or rest periods for all applicable work periods, Kohl's failed to provide the same to the Class
8 Members thereof, in violation of California state statutes, the applicable California Industrial
9 Welfare Commission Wage Order, and Title 8 of the California Code of Regulations. This action is
10 brought to redress and end this long-time pattern of unlawful conduct once and for all.

11
12 **JURISDICTION AND VENUE**

13 9. This Court has jurisdiction over the Representative Plaintiff's and Class Members'
14 claims for unpaid wages and/or penalties under, *inter alia*, the applicable Industrial Welfare
15 Commission Wage Order, Title 8 of the California Code of Regulations, Labor Code §§201-204,
16 226.7, 510, 512, 1194, 1198, and/or the California Code of Civil Procedure §1021.5.

17 10. This Court also has jurisdiction over the Representative Plaintiff's and Class
18 Members' claims for injunctive relief and restitution of ill-gotten benefits arising from Kohl's unfair
19 and/or fraudulent business practices under California Business & Professions Code §17200, *et seq.*

20 11. Venue as to Defendant is proper in this judicial district pursuant to Code of Civil
21 Procedure §395(a). Kohl's maintains stores within the County of Alameda, transacts business, has
22 agents, and is otherwise within this Court's jurisdiction for purposes of service of process. The
23 unlawful acts alleged herein have and have had a direct effect on the Representative Plaintiff and
24 those similarly situated within the State of California and within the County of Alameda. Kohl's
25 operates said facilities and has employed numerous Class Members in the County of Alameda and
26 throughout counties within the State of California.

SCOTT COLE & ASSOCIATES, APC
ATTORNEYS AT LAW
THE WACHOVIA TOWER
1970 BROADWAY, NINTH FLOOR
OAKLAND, CA 94612
TEL: (510) 891-9800

PLAINTIFFS

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12. Representative Plaintiff Melinda Croul is a natural person who was employed by Kohl's as a salaried Assistant Store Manager during the Class Period.

13. As used throughout this Complaint, the term "Class Members" refers to the Representative Plaintiff herein as well as each and every person eligible for membership in the class of persons as further described and defined herein.

14. At all times herein relevant, the Representative Plaintiff was and is now a person within the class of persons further described and defined herein.

15. The Representative Plaintiff brings this action on behalf of herself and as a class action, pursuant to California Code of Civil Procedure §382, on behalf of all persons similarly situated and proximately damaged by the unlawful conduct described herein.

DEFENDANTS

16. Representative Plaintiff is informed and believes and, based thereon, alleges that at all times herein relevant, defendants Kohl's Department Stores, Inc. and Does 1 through 50, did business within the state of California selling a variety of retail products and merchandise to members of the public through its Kohl's retail locations.

17. The defendants identified as Does 1 through 50, inclusive, are and were, at all relevant times herein-mentioned, officers, directors, partners, and/or managing agents of some or each of the remaining defendants. Representative Plaintiff is informed and believes and, on that basis, alleges that at all relevant times herein mentioned, defendants Kohl's Department Stores, Inc. and those identified as Does 1 through 50, inclusive, employed, and/or exercised control over the wages, hours, and/or working conditions of the Representative Plaintiff and Class Members at numerous California locations as identified in the preceding paragraph.

18. The Representative Plaintiff is unaware of the true names and capacities of those defendants sued herein as Does 1 through 50, inclusive and, therefore, sue these defendants by such fictitious names. The Representative Plaintiff will seek leave of court to amend this Complaint when such names are ascertained. The Representative Plaintiff is informed and believes and, on that basis,

1 alleges that each of the fictitiously-named defendants were responsible in some manner for, gave
2 consent to, ratified, and/or authorized the conduct herein alleged and that the Representative
3 Plaintiff's and Class Members' damages, as herein alleged, were proximately caused thereby.

4 19. The Representative Plaintiff is informed and believes and, on that basis, alleges that at
5 all relevant times herein mentioned each of the defendants was the agent and/or employee of each of
6 the remaining defendants and, in doing the acts herein alleged, was acting within the course and
7 scope of such agency and/or employment.

8
9 **CLASS ACTION ALLEGATIONS**

10 20. Representative Plaintiff brings this action individually and as a class action on behalf
11 of all persons similarly situated and proximately damaged by Kohl's conduct including, but not
12 necessarily limited to, the following Plaintiff Class:

13 "All persons who were employed as salaried Assistant Store
14 Managers by Defendant in one or more of its Kohl's retail locations
in California at any time on or after April 19, 2006"

15 21. Kohl's, its officers and directors are excluded from the Plaintiff Class.

16 22. This action has been brought and may properly be maintained as a class action under
17 Code of Civil Procedure §382 because there is a well-defined community of interest in the litigation
18 and the proposed Class is easily ascertainable:

19 a. Numerosity: A class action is the only available method for the fair and efficient
20 adjudication of this controversy. The members of the Plaintiff Class are so
21 numerous that joinder of all members is impractical, if not impossible, insofar as
22 Representative Plaintiff are informed and believes and, on that basis, allege that
there are sufficient Class Members to meet the numerosity requirement.
Membership in the Class will be determined upon analysis of employee and
payroll, among other, records maintained by Kohl's.

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

26 1) Whether defendant Kohl's violated the applicable IWC Wage Order
27 and/or Labor Code §510 by failing to pay overtime compensation to its
28 salaried Assistant Store Managers who worked in excess of forty hours
per week and/or eight hours per day;

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- 2) Whether defendant Kohl's violated California Business and Professions Code §17200, *et seq.* by failing to pay overtime compensation to its salaried Assistant Store Managers who worked in excess of forty hours per week and/or eight hours per day;
 - 3) Whether defendant Kohl's violated California Labor Code §1174 by failing to keep accurate records of employees' hours of work;
 - 4) Whether defendant Kohl's violated California Labor Code §§201-204 by failing to pay overtime wages due and owing at the time that certain Class Members' employment with Defendant terminated;
 - 5) Whether defendant Kohl's violated California Labor Code §226 by failing to provide the semimonthly itemized statements to Class Members of total hours worked by each and all applicable hourly rates in effect during the pay period; and
 - 6) Whether Class Members are entitled to "waiting time" penalties, pursuant to California Labor Code §203.
- c. Typicality: The Representative Plaintiff's claims are typical of the claims of Class Members. The Representative Plaintiff and Class Members sustained damages arising out of and caused by Defendant'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 Class Members to seek redress individually for the wrongful conduct alleged herein. Should separate actions be brought, or be required to be brought, by each individual Class Member, 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 Plaintiff in this class action is an adequate representative of the Plaintiff Class in that the Representative Plaintiff's claims are typical of those of the Plaintiff Class and the Representative Plaintiff has the same interest in the litigation of this case as the Class Members. The Representative Plaintiff is committed to vigorous prosecution of this case and has retained competent counsel who are experienced in conducting litigation of this nature. The Representative Plaintiff is not subject to any individual defenses unique from those conceivably applicable to Class Members as a whole. The Representative Plaintiff anticipates no management difficulties in this litigation.

COMMON FACTUAL ALLEGATIONS

23. As described herein, for years Kohl's has knowingly failed to adequately compensate those employees within the class definition identified above for all wages earned (including premium

1 wages such as overtime wages and/or compensation for missed meal and/or rest periods) under the
2 California Labor Code and the applicable IWC Wage Order, thereby enjoying a significant
3 competitive edge over other retailers.

4 24. Kohl's has declined to pay these wages, even upon a Class Member's termination or
5 resignation from employment, in blatant violation of California Labor Code §201 and/or §202.

6 25. California Labor Code §§201 and 202 require Defendant to pay severed employees
7 all wages due and owed to the employee immediately upon discharge or within 72 hours of
8 resignation of their positions, in most circumstances. California Labor Code §203 provides that an
9 employer who willfully fails to timely pay such wages must, as a penalty, continue to pay the subject
10 employees' wages until the back wages are paid in full or an action is commenced, and the payment
11 of such penalty shall continue for a period of time up to 30 days.

12 26. Furthermore, despite its knowledge of the Representative Plaintiff's and the Class
13 Members' entitlement to compensation for all hours worked, Defendant violated California Labor
14 Code §1174(d) by failing to provide or require the use, maintenance, or submission of time records
15 by members of the class. Kohl's also failed to provide the Representative Plaintiff and Class
16 Members with accurate semimonthly itemized statements of the total number of hours worked by
17 each, and all applicable hourly rates in effect, during the pay period, in violation of California Labor
18 Code §226. In failing to provide the required documents, Defendant has not only failed to pay its
19 workers the full amount of compensation due but the company has also, until now, effectively
20 shielded itself from its employees' scrutiny by concealing the magnitude and financial impact of its
21 wrongdoing that such documents might otherwise have led workers to discover.

22 27. Representative Plaintiff and all persons similarly situated are entitled to unpaid
23 compensation, yet, to date, have not received such compensation despite many of the same having
24 been terminated by and/or resigned from Kohl's. More than 30 days have passed since certain Class
25 Members have left Defendant's employ.

26 28. As a consequence of Defendant's willful conduct in not paying former employees
27 compensation for all hours worked in a prompt and timely manner, Representative Plaintiff Melinda
28

1 Croul and certain Class Members are entitled to up to 30 days wages as a penalty under Labor Code
2 §203, together with attorneys' fees and costs.

3 29. As a direct and proximate result of Defendant's unlawful conduct, as set forth herein,
4 Representative Plaintiff and Class Members have sustained damages, as described above, including
5 compensation for loss of earnings for hours worked on behalf of Defendant, in an amount to be
6 established at trial. As a further direct and proximate result of Defendant's unlawful conduct, as set
7 forth herein, certain Class Members are entitled to recover "waiting time" penalties (pursuant to
8 California Labor Code §203) and penalties for failure to provide semimonthly statements of hours
9 worked and all applicable hourly rates (pursuant to Labor Code §226) in an amount to be established
10 at trial. As a further direct and proximate result of Defendant's unlawful conduct, as set forth herein,
11 Representative Plaintiff and Class Members are also entitled to recover costs and attorneys' fees
12 pursuant to California Labor Code §1194 and/or California Civil Code §1021.5, among other
13 authorities.

14 30. Representative Plaintiff seeks injunctive relief prohibiting Defendant from engaging
15 in the complained-of illegal labor acts and practices in the future. Representative Plaintiff also seeks
16 restitution of costs incurred by Representative Plaintiff and Class Members under California's Unfair
17 Competition Law. Unless enjoined, Defendant's unlawful conduct will continue unchecked, while
18 Representative Plaintiff and Class Members bear the financial brunt of Defendant's unlawful
19 conduct. As a further direct and proximate result of Defendants unlawful conduct, as set forth herein,
20 Representative Plaintiff and the Plaintiff Class are also entitled to recover costs and attorneys' fees,
21 pursuant to statute.

22
23 **FIRST CAUSE OF ACTION**
24 **UNLAWFUL FAILURE TO PAY OVERTIME WAGES**
(Violation of IWC Wage Order 7 and Labor Code §§ 510, 1194, and 1198)

25 31. Representative Plaintiff incorporates in this cause of action each and every allegation
26 of the preceding paragraphs, with the same force and effect as though fully set forth herein.
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28

1 32. During the Class Period, the Representative Plaintiff and the Class Members worked,
2 on many occasions, in excess of 8 hours in a workday and/or 40 hours in a workweek. The precise
3 number of overtime hours will be proven at trial.

4 33. During the Class Period, Defendant refused to compensate the Representative
5 Plaintiff and Class Members for all of the overtime wages earned, in violation of the applicable IWC
6 Wage Order and provisions of the California Labor Code.

7 34. Moreover, during said time period, many of the Class Members herein were
8 employed by and thereafter terminated or resigned from their positions with Kohl's, including
9 Representative Melinda Croul, yet were not paid all wages due upon said termination or within 72
10 hours of said resignation of employment therefrom. Said non-payment of all wages due was the
11 direct and proximate result of a willful refusal to do so by Kohl's.

12 35. At all relevant times, Defendant was aware of, and was under a duty to comply with,
13 the overtime provisions of the California Labor Code including, but not limited to, California Labor
14 Code §§510, 1194, and 1198.

15 36. California Labor Code §510(a), in pertinent part, provides:

16 Any work in excess of eight hours in one workday and any work in
17 excess of 40 hours in any one workweek and the first eight hours
18 worked on the seventh day of work in any one workweek shall be
19 compensated at the rate of no less than one and one-half times the
20 regular rate of pay for an employee

21 37. California Labor Code §1194(a), in pertinent part, provides:

22 Notwithstanding any agreement to work for a lesser wage, any
23 employee receiving less than the legal minimum wage or the legal
24 overtime compensation applicable to the employee is entitled to
25 recover in a civil action the unpaid balance of the full amount of this
26 minimum wage or overtime compensation, including interest thereon,
27 reasonable attorneys' fees, and costs of suit.

28 38. California Labor Code §1198, in pertinent part, provides:

 The maximum hours of work and the standard conditions of labor
 fixed by the commission shall be the maximum hours of work and the
 standard conditions of labor for employees. The employment of any
 employee for longer hours than those fixed by the order or under
 conditions of labor prohibited by the order is unlawful.

SCOTT COLE & ASSOCIATES, APC
ATTORNEYS AT LAW
THE WACHOVIA TOWER
1970 BROADWAY, NINTH FLOOR
OAKLAND, CA 94612
TEL: (510) 891-9800

1 39. By refusing to compensate the Representative Plaintiff and Class Members for
2 overtime wages earned, Defendant violated those California Labor Code provisions cited herein as
3 well as the applicable IWC Wage Order(s).

4 40. As a direct and proximate result of Defendant's unlawful conduct, as set forth herein,
5 the Representative Plaintiff and the Plaintiff Class have sustained damages, including loss of
6 earnings for hours of overtime worked on behalf of Kohl's, in an amount to be established at trial,
7 and are entitled to recover attorneys' fees and costs of suit.

8
9 **SECOND CAUSE OF ACTION**
10 **FAILURE TO PROVIDE MEAL AND REST PERIODS**
11 **(California Labor Code §§ 226.7 and 512)**

12 41. Representative Plaintiff incorporates in this cause of action each and every allegation
13 of the preceding paragraphs, with the same force and effect as though fully set forth herein.

14 42. At all relevant times, Kohl's was aware of and was under a duty to comply with
15 California Labor Code §226.7 and §512.

16 43. California Labor Code §226.7 provides:

17 (a) No employer shall require any employee to work during any meal or rest period mandated by
18 an applicable order of the Industrial Welfare Commission.

19 (b) If an employer fails to provide an employee a meal period or rest period in accordance with
20 an applicable order of the Industrial Welfare Commission, the employer shall pay the employee
21 one additional hour of pay at the employee's regular rate of compensation for each work day that
22 the meal or rest period is not provided.

23 44. Moreover, California Labor Code §512(a) provides:

24 An employer may not employ an employee for a work period of more
25 than five hours per day without providing the employee with a meal
26 period of not less than 30 minutes, except that if the total work period
27 per day of the employee is no more than six hours, the meal period
28 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.

1 45. Sections 11 and 12, respectively, of the applicable IWC Wage Order mandate that
2 employers provide all applicable meal and/or rest periods to non-exempt (including exempt-
3 misclassified) employees.

4 46. Section 11 of the applicable IWC Wage Order provides:

5 (A) No employer shall employ any person for a work period of more
6 than five (5) hours without a meal period of not less than 30
7 minutes...

8 (B) An employer may not employ an employee for a work period of
9 more than ten (10) hours per day without providing the employee
10 with a second meal period of not less than 30 minutes...

11 (C) If an employer fails to provide an employee a meal period in
12 accordance with the applicable provisions of this order, the
13 employer shall pay the employee one (1) hour of pay at the
14 employee's regular rate of compensation for each workday that
15 the meal period is not provided.

16 47. Moreover, Section 12 of the applicable IWC Wage Order provides:

17 (A) Every employer shall authorize and permit all employees to
18 take rest periods, which insofar as practicable shall be in the middle
19 of each work period. The authorized rest period time shall be based
20 on the total hours worked daily at the rate of ten (10) minutes net rest
21 time per four (4) hours or major fraction thereof

22 (B) If an employer fails to provide an employee a rest period in
23 accordance with the applicable provisions of this order, the employer
24 shall pay the employee one (1) hour of pay at the employee's regular
25 rate of compensation for each workday that the rest period is not
26 provided.

27 48. By failing to consistently provide uninterrupted thirty-minute meal periods within the
28 first five hours of work each day and/or uninterrupted net ten-minute rest periods to Representative
Plaintiff and the Class Members, Defendant violated the California Labor Code and applicable IWC
Wage Order provisions.

49. Representative Plaintiff is informed and believes and, on that basis, alleges that
Defendant has never paid the one hour of compensation to any Class Members due to its violations
of the California Labor Code and applicable IWC Wage Order provisions.

SCOTT COLE & ASSOCIATES, APC
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THE WACHOVIA TOWER
1970 BROADWAY, NINTH FLOOR
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1 50. As a direct and proximate result of Kohl's unlawful conduct, as set forth herein,
2 Representative Plaintiff and Class Members have sustained damages, including lost compensation
3 resulting from missed meal and/or rest periods, in an amount to be established at trial.

4 51. As a further direct and proximate result of Defendant's unlawful conduct, as set forth
5 herein, certain Class Members are entitled to recover "waiting time" and other penalties, in amounts
6 to be established at trial, as well as recovery of attorneys' fees and costs, pursuant to statute.

7
8 **THIRD CAUSE OF ACTION**
9 **FAILURE TO PROVIDE ACCURATE ITEMIZED WAGE STATEMENTS**
10 **(California Labor Code §§ 226 and 1174)**

11 52. Representative Plaintiff incorporates in this cause of action each and every allegation
12 of the preceding paragraphs, with the same force and effect as though fully set forth herein.

13 53. California Labor Code §226(a) provides:

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

26 54. Moreover, California Labor Code §226(e) provides:

27 An employee suffering injury as a result of a knowing and intentional
28 failure by an employer to comply with subdivision (a) is entitled to
recover the greater of all actual damages or fifty dollars (\$50) for the
initial pay period in which a violation occurs and one hundred dollars
(\$100) per employee for each violation in a subsequent pay period,
not exceeding an aggregate penalty of four thousand dollars (\$4,000),
and is entitled to an award of costs and reasonable attorney's fees.

55. Finally, California Labor Code §1174(d) provides:

Every person employing labor in this state shall . . . [k]eep, at a central
location in the state...payroll records showing the hours worked daily
by and the wages paid to...employees.... 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.

1 56. Representative Plaintiff seeks to recover actual damages, costs, and attorneys' fees
2 under these provisions on behalf of herself and on behalf of all Class Members.

3 57. Defendant has failed to provide timely, accurate itemized wage statements to the
4 Representative Plaintiff and Class Members in accordance with Labor Code §226. Representative
5 Plaintiff is informed and believes and, on that basis, alleges that none of the statements provided by
6 Defendant accurately reflected actual gross wages earned, net wages earned, or the appropriate
7 deductions of such Class Members.

8 58. As a direct and proximate result of Defendant's unlawful conduct, as set forth herein,
9 the Representative Plaintiff and Class Members have sustained damages in an amount to be
10 established at trial, and are entitled to recover attorneys' fees and costs of suit.

11
12 **FOURTH CAUSE OF ACTION**
13 **FAILURE TO PAY WAGES ON TERMINATION**
14 **(California Labor Code § 203)**

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

17 60. California Labor Code §203 provides that:
18 If an employer willfully fails to pay, without abatement or reduction,
19 in accordance with Sections 201, 201.5, 202, and 205.5, any wages of
20 an employee who is discharged or who quits, the wages of the
employee shall continue as a penalty from the due date thereof at the
same rate until paid or until an action therefor is commenced; but the
wages shall not continue for more than 30 days.

21 61. Numerous Class Members, including Representative Plaintiff Melinda Croul, were
22 employed by Kohl's during the class period and were thereafter terminated or resigned from their
23 positions, yet they were not paid all premium (overtime) wages due upon said termination or within
24 72 hours of said resignation of employment therefrom. Said non-payment was the direct and
25 proximate result of a willful refusal to do so by Kohl's.

26 62. More than thirty days has elapsed since certain Class Members were involuntarily
27 terminated or voluntarily resigned from Defendant's employ.

28

1 2. That the Court declare, adjudge, and decree that this action is a proper class action
2 and certify the proposed Class and/or any other appropriate subclasses under Code of Civil
3 Procedure §382;

4 3. That the Court declare, adjudge, and decree that Defendants violated the overtime
5 provisions of the California Labor Code and the applicable California Industrial Welfare
6 Commission Wage Order as to the Representative Plaintiff and Class Members;

7 4. That the Court declare, adjudge, and decree that Defendant willfully violated its legal
8 duties to pay overtime under the California Labor Code and the applicable California Industrial
9 Welfare Commission Wage Orders;

10 5. That the Court make an award to the Representative Plaintiff and the Class Members
11 of one hour of pay at each employee's regular rate of compensation for each workday that a meal
12 period was not provided;

13 6. That the Court make an award to the Representative Plaintiff and the Class Members
14 of one hour of pay at each employee's regular rate of compensation for each workday that a rest
15 period was not provided;

16 7. That the Court declare, adjudge, and decree that the Representative Plaintiff and Class
17 Members were, at all times relevant hereto, and are still, entitled to be paid overtime for work
18 beyond 8 hours in a day and 40 in a week;

19 8. That the Court make an award to the Representative Plaintiff and Class Members of
20 damages and/or restitution for the amount of unpaid overtime compensation, including interest
21 thereon, and penalties in an amount to be proven at trial;

22 9. That the Court order Defendant to pay restitution to the Representative Plaintiff and
23 the Class Members due to Defendant's unlawful activities, pursuant to California Business and
24 Professions Code §§17200-17208;

25 10. That the Court further enjoin Defendant, ordering it to cease and desist from unlawful
26 activities in violation of California Business and Professions Code §17200, *et seq.*

27 11. For all other Orders, findings and determinations identified and sought in this
28 Complaint;


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- 12. For interest on the amount of any and all economic losses, at the prevailing legal rate;
- 13. For reasonable attorneys' fees, pursuant to California Labor Code §1194 and/or California Code of Civil Procedure §1021.5; and;
- 14. For costs of suit and any and all such other relief as the Court deems just and proper.

Dated: April 19, 2010

SCOTT COLE & ASSOCIATES, APC

By:


Heather E. Abelson, Esq.
Attorneys for the Representative Plaintiff
and the proposed Plaintiff Class

SCOTT COLE & ASSOCIATES, APC
ATTORNEYS AT LAW
THE WACHOVIA TOWER
1970 BROADWAY, NINTH FLOOR
OAKLAND, CA 94612
TEL: (510) 891-9800