

MAR 26 2012

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9 Attorneys for Plaintiff AMINTA M. DEGHATIAN,
individually and on behalf of others similarly situated

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

12 AMINTA M. DEGHATIAN, individually and)
13 on behalf of herself and others similarly)
14 situated,)

15 Plaintiff,

16 vs.
17

18 THE TJX COMPANIES, INC., a Delaware)
19 Corporation, and DOES 1 through 100,)
20 inclusive,)

21 Defendants.
22

CASE NO.: BC 4 8 1 5 3 8

CLASS ACTION

COMPLAINT FOR PENALTIES

Failure to Timely Pay Wages to Discharged or Resigned Employees (Labor Code §§201- 203)

DEMAND FOR JURY TRIAL

1 Plaintiff AMINTA M. DEGHTIAN ("Plaintiff"), individually and on behalf of herself
2 and others similarly situated, alleges as follows:

3 **INTRODUCTION**

4 1. Plaintiff brings this class action against Defendant TJX COMPANIES, INC. and
5 DOES 1 through 100 ("Defendants" or "TJX") to seek penalties for Defendants' failure to pay all
6 wages due to all discharged or resigned employees.

7 **JURISDICTION AND VENUE**

8 2. Venue as to each Defendant is proper in this judicial district, pursuant to Code of
9 Civil Procedure, section 395. Defendant TJX is a Delaware corporation with its principal place of
10 business in Massachusetts. Defendants employ retail store employees and conduct business in Los
11 Angeles County, and each Defendant is within the jurisdiction of this Court for service of process
12 purposes. The unlawful acts alleged herein have a direct effect on Plaintiff and those similarly
13 situated within the State of California and within Los Angeles County. Defendants employ
14 numerous Class Members in Los Angeles County. There is no federal question at issue, nor are
15 requirements for diversity jurisdiction met, as the issues herein are based solely on California
16 Labor Code and the plaintiff and individual members of the classes are under the seventy-five
17 thousand dollar (\$75,000) jurisdictional threshold for Federal Court and the aggregate claim is
18 under the five million dollar (\$5,000,000) threshold of the Class Action Fairness Act of 2005.

19 **PARTIES**

20 3. Plaintiff AMINTA M. DEGHTIAN is a resident of the State of California.
21 Plaintiff AMINTA M. DEGHTIAN was employed by Defendants in the State of California as a
22 Merchandise Associate until Defendants discharged her on or about January 9, 2012. Defendants
23 failed to pay wages owed at the time of her discharge before the next schedule regular pay date
24 and also failed to pay all vested vacation wages owed at the time of her discharge within the time
25 provided by the Labor Code.

26 4. Defendant TJX is a Delaware corporation and operates within California. TJX
27 operates Marshalls, T.J. Maxx, and HomeGoods in California and employs numerous Class
28 Members in Los Angeles County. At each of its Marshalls, T.J. Maxx and HomeGoods locations,

1 TJX employs retail store employees. As a matter of company payroll practices, Defendant TJX
2 fails to timely pay all wages owed to terminated or resigned employees.

3 5. Plaintiff is unaware of the true names, capacities, relationships, and extent of
4 participation in the conduct alleged herein, of the Defendants sued as DOES 1 through 100, but is
5 informed and believes and thereon alleges that said Defendants are legally responsible for the
6 wrongful conduct alleged herein and therefore sues these Defendants by such fictitious names.
7 Plaintiff will amend this complaint when their true names and capabilities are ascertained.

8 6. Plaintiff is informed and believes and thereon alleges that each Defendant, directly
9 or indirectly, or through agents or other persons, employed Plaintiff and other members of the
10 class, and exercised control over their wages, hours, and working conditions. Plaintiff is informed
11 and believes and thereon alleges that each Defendant acted in all respects pertinent to this action as
12 the agent of the other Defendants, carried out a joint scheme, business plan or policy in all respects
13 pertinent hereto, and the acts of each Defendant is legally attributable to the other Defendants.

14 **GENERAL ALLEGATIONS**

15 7. During all, or a portion, of the Class Period, Plaintiff and each member of the
16 Plaintiff Class were employed by Defendants and each of them, in the State of California.

17 8. Plaintiff and each Plaintiff Class member were store employees covered under one
18 or more Industrial Welfare Commission (IWC) Wage Orders, including 4-2001 ("Wage Orders"),
19 and Labor Code section 203, and/or other applicable wage orders, regulations and statutes.

20 9. During the class period, the Defendants, and each of them, failed to pay all wages
21 owed to discharged and resigned members of the Plaintiff Class.

22 **CLASS ACTION ALLEGATIONS**

23 10. Plaintiff brings this action on behalf of herself and all others similarly situated as a
24 class action pursuant to Code of Civil Procedure, section 382. The members of the Class are
25 defined as follows:

26 All individuals employed by Defendants in California in any of The TJX
27 Companies' retail stores, including Marshalls, T.J. Maxx, and HomeGoods,
28 within three years of the filing of the Complaint, who were subject to a
company practice of failing to timely pay all wages owed upon separation
from employment.

1 11. Plaintiff reserves the right under California Rule of Court 3.765(b) and other
2 applicable law to amend or modify the class definition with respect to issues or in any other ways.
3 Plaintiff is the Named Representative and is a member of the Plaintiff Class. Plaintiff seeks class-
4 wide recovery based on the allegations set forth in this complaint.

5 12. This action has been brought and may be maintained as a class action pursuant to
6 Code of Civil Procedure, section 382 because there is a well-defined community of interest in the
7 litigation and the proposed Class is easily ascertainable through the records Defendants are
8 required to keep.

9 13. Numerosity. The members of the Class are so numerous that individual joinder of
10 all of them as Plaintiff is impracticable. While the exact number of the Class members is
11 unknown to Plaintiff at this time, Plaintiff is informed and believes and thereon alleges that there
12 are in excess of 1,000 Class members.

13 14. Commonality. Common questions of law and fact exist as to all Class members
14 and predominate over any questions that affect only individual members of the Class. These
15 common questions include, but are not limited to:

- 16 a. Did Defendants violate Labor Code sections 201 and/or 202 by not paying
17 Class Members who are no longer employed by Defendants all earned
18 wages, including wages, overtime wages, and accrued vacation pay due
19 upon their discharge or resignation of employment?
- 20 b. If so, were such violations "willful" within the meaning of Labor Code
21 section 203?
- 22 c. What are the effects and the extent of any injuries sustained by the Plaintiff
23 Class members and appropriate type and/or measure of damages?
- 24 d. What is the appropriateness and nature of relief to each Plaintiff Class and
25 member?
- 26 e. What is the extent of liability of each Defendant, including DOE
27 defendants, to each Plaintiff Class member?

28 15. Typicality. Plaintiff's claims are typical of the claims of the other members of the

1 Class. Plaintiff and other members of the Class were subject to Defendant's same policy and
2 practice of failing pay all wages owed to Plaintiff and Plaintiff Class members upon discharge or
3 resignation of employment.

4 16. Adequacy. Plaintiff will adequately and fairly protect the interests of the members
5 of the Class. Plaintiff has no interest adverse to the interests of absent Class members. Plaintiff is
6 represented by attorneys who have substantial class action experience in wage-and-hour and class
7 action law.

8 17. Superiority. A class action is superior to other available means for fair and
9 efficient adjudication of the claims of the Class and would be beneficial for the parties and the
10 Court. Class action treatment will allow a large number of similarly situated persons to prosecute
11 their common claims in a single forum, simultaneously, efficiently, and without the unnecessary
12 duplication of effort and expense that numerous individual actions would require. The damages
13 suffered by each Class member are relatively small in the sense pertinent to class action analysis,
14 and the expense and burden of individual litigation would make it extremely difficult or
15 impossible for the individual Class members to seek and obtain individual relief. A class action
16 will serve an important public interest by permitting such individuals to effectively pursue
17 recovery of the sums owed to them. Further, class litigation prevents the potential for inconsistent
18 or contradictory judgments raised by individual litigation.

19 **FIRST CAUSE OF ACTION**

20 **FAILURE TO PAY WAGES OWED AT SEPARATION**

21 **(Plaintiff and Class against each Defendant)**

22 18. Plaintiff incorporates the preceding paragraphs.

23 19. Labor Code sections 201 and 202 require Defendants to pay employees all wages
24 no later than 72 hours after resignation from of employment, or immediately in the case of
25 discharge by the employer. Labor Code section 203 provides that if an employer willfully fails to
26 timely pay such wages, then the employer must, as a penalty, continue to pay the subject
27 employees' wages until the back wages are paid in full or an action is commenced. The penalty
28 cannot exceed 30 days of wages.

1 20. As alleged above, Plaintiff and the Class she seeks to represent were not paid all
2 compensation for regular pay and vested vacation pay within the time provided by statute upon
3 separation from employment. Plaintiff has received payments owed her, but Defendants owe
4 penalties due to the untimely payments.

5 21. More than 30 days have passed since Plaintiff and certain members of the Plaintiff
6 Class have left Defendants' employ.

7 22. As a consequence of Defendants' willful conduct in not paying wages owed,
8 certain members of the Plaintiff Class are entitled to wages as a penalty under Labor Code section
9 203 for failure to timely pay legal wages, together with attorneys' fees and costs.

10 23. WHEREFORE, Plaintiff and the members of the Plaintiff Class request relief as
11 described below.

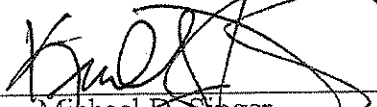
12 PRAYER

13 WHEREFORE, Plaintiff, on behalf of herself and all others similarly situated, prays for
14 relief and judgment against Defendants, jointly and severally, as follows:

- 15 A. For certification of this action as a class action;
- 16 B. For appointment of Plaintiff as the representative of the Class;
- 17 C. For appointment of counsel for Plaintiff as Class Counsel;
- 18 D. For penalties for failure to timely pay wages to terminated or resigned employees
19 under Labor Code section 203;
- 20 E. For reasonable attorneys' fees and costs of suit pursuant to Labor Code section
21 1021.5;
- 22 F. For such other relief the Court deems just and proper.

23 Dated: March 22, 2012

COHELAN KHOURY & SINGER
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25 By: 
26 Michael D. Singer
Kimberly D. Neilson

27 Attorneys for Plaintiff AMINTA M.
28 DEGHATIAN, individually and on behalf of
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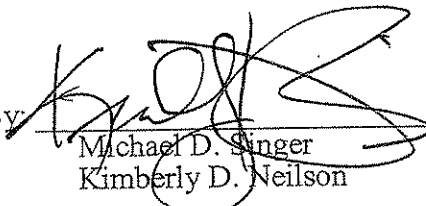
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DEMAND FOR JURY TRIAL

Plaintiff demands jury trial for all claims so triable.

Dated: March 22, 2012

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