



STATE OF NEW YORK  
OFFICE OF THE ATTORNEY GENERAL

ERIC T. SCHNEIDERMAN  
ATTORNEY GENERAL

DIVISION OF SOCIAL JUSTICE  
LABOR BUREAU

April 12, 2016

Aeropostale Inc.  
112 West 34th Street, 22nd floor  
New York, NY 10120

Attn: Marc G. Schuback

Re: Request for Information Regarding "on call shifts"

Dear Mr. Schuback,

Our offices together write to you regarding "on call shifts," which we believe that Aeropostale Inc. ("Aeropostale") may be using. Employees assigned to on-call shifts are typically required to contact their employer an hour or two before a scheduled shift to learn whether they must work the shift. If a worker learns that his or her services are not required, the worker is paid no compensation for the day, even though the employee was required to be available to work, to forgo other job and educational opportunities, and to make arrangements for child care or other personal responsibilities.

Such unpredictable work schedules take a toll on employees. Without the security of a definite work schedule, workers who must be "on call" have difficulty making reliable childcare and elder-care arrangements, encounter obstacles in pursuing an education, and in general experience higher incidences of adverse health effects, overall stress, and strain on family life than workers who enjoy the stability of knowing their schedules reasonably in advance. "On-call shifts" also interfere with workers' ability to obtain supplemental employment to ensure financial security for themselves and their families.

Our letter today is prompted by the concerns outlined above and by our shared interest in the well-being of workers nationwide. Aeropostale has store locations in many of our jurisdictions. In addition, certain of the signatory states have reporting pay or call-in pay laws which are applicable within those jurisdictions.

As you may know, in 2015, the New York State Attorney General's office sent letters to fourteen major retailers seeking information about their use of "on-call shifts." These letters sought to address the public policy concerns described above and to ensure compliance with New York's "call in pay" regulation, which provides, "An employee who by request or permission of the employer reports for work on any day shall be paid for at least four hours, or the number of hours in the regularly scheduled shift, whichever is less, at the basic minimum hourly wage." 12 NYCRR 142-2.3. Several recipients of the letter responded that they were not using such shifts and the office independently confirmed these representations. The other retailers, after conversations with the New York State Attorney General's office, agreed to stop using "on call shifts," typically nationwide. In order to provide a more predictable and stable work environment for their workforces, these companies also agreed to provide employees with their work schedules at least one week prior to the start of the workweek.

The results of this inquiry to date strongly indicate "on call shifts" are not a business necessity, given that operations can be, and successfully have been, structured to address unexpected absences and unanticipated fluctuations in business volume in other ways.

Because we have reason to believe that Aeropostale may be using this methodology for scheduling, we would like to know about your use of "on call shifts." In connection with our review, we request that Aeropostale provide the following information and documents.

### **Request for Information**

1. What is the process by which Aeropostale schedules employees for work? Does Aeropostale use a computerized system for scheduling? If so, which system does Aeropostale use and how does it function? How centralized is the scheduling process? How much autonomy do store managers have in the scheduling process? Are scheduling procedures the same for all stores or do they vary by location?
2. Does Aeropostale utilize "on call shifts" at any locations in California, Connecticut, the District of Columbia, Illinois, Maryland, Massachusetts, Minnesota, New York, or Rhode Island? If so, specify the location(s) and, for each such location, provide the total number of employees, the number of employees at the location subject to "on call shift" requirements, the date on which "on call shifts" were instituted, and the specific policies and practices employees are required to follow in being available for work and determining the availability of work on a given day, including the categories of employees subject (and not subject) to "on call shift" requirements and the penalties to which employees are subject for failure to follow Aeropostale's policies in this area as well as the number of employees who have been disciplined or terminated for failure to follow these policies.
3. Has Aeropostale studied or analyzed the efficiencies or cost savings believed to be associated with the use of "on call shifts" or the potential or actual effect of

“on call shifts” on the productivity or well-being of its employees? If so, describe the results of any such study or analysis.

4. Has Aeropostale studied or analyzed alternative methods for addressing unscheduled absences or unanticipated shifts in business volume, other than use of on-call shifts?

### **Request for Documents**

1. Please provide any and all policies, handbooks, documents, postings, or other written materials provided to any employee employed by Aeropostale in California, Connecticut, the District of Columbia, Illinois, Maryland, Massachusetts, Minnesota, New York, and/or Rhode Island regarding any and all requirements that such employee (a) must be available for work without having work time guaranteed, and/or (b) must call, send a text message, email, or otherwise contact his or her supervisor or any other agent or representative of Aeropostale prior to physically presenting himself or herself in the workplace for work on a given day.
2. For each calendar quarter in 2014 and 2015, please provide three to four samples of schedules which include on-call shifts.
3. To the extent that any computerized system used by Aeropostale enables Aeropostale to produce a report showing the number of instances of on-call shifts assigned, please provide such reports for all Aeropostale employees employed within California, Connecticut, the District of Columbia, Illinois, Maryland, Massachusetts, Minnesota, New York, and/or Rhode Island during 2014 and 2015.
4. Please provide any and all time and payroll records showing dates on which any employee performed work for Aeropostale within California, Connecticut, the District of Columbia or New York, and was paid for a time period of fewer than four hours on any given day, or within Massachusetts or Rhode Island and was paid for a time period of fewer than three hours on any given day.
5. Please provide any and all documents, including IT guides, computer user manuals, manager guides or handbooks, or other materials explaining the process by which Aeropostale schedules shifts in stores located in California, Connecticut, the District of Columbia, Illinois, Maryland, Massachusetts, Minnesota, New York, and/or Rhode Island.
6. Please provide any and all documents related to any study or analysis referred to in Requests for Information #3 and #4, above.

Please provide your responses electronically, no later than April 25, 2016, to the attention of [Oncall.Inquiry@ag.ny.gov](mailto:Oncall.Inquiry@ag.ny.gov).

If you are unable to provide responses electronically, please provide hard copies of responses to Terri Gerstein at the New York State Attorney General's Office, 120 Broadway, New York, NY 10271 no later than April 25, 2016.

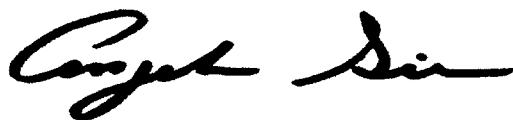
Thank you in advance for your prompt attention,

Sincerely,



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Terri Gerstein  
Labor Bureau Chief  
New York State Attorney General's Office  
120 Broadway  
New York, NY 10271  
(212) 416-6132



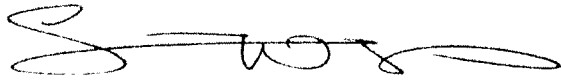
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Angela Sierra  
Senior Assistant Attorney General  
Civil Rights Enforcement Section  
California Department of Justice  
Office of the Attorney General  
300 S. Spring St., Ste. 1702  
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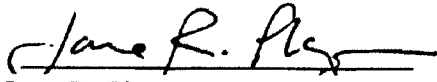
Robert W. Clark  
Special Counsel to the Attorney General  
Office of the Connecticut Attorney General  
55 Elm Street  
Hartford, CT 06106  
(860) 808-5322



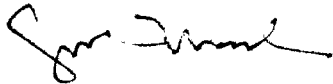
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Elizabeth Wilkins  
Senior Counsel to the Attorney General\*  
Office of the Attorney General for the District of Columbia  
441 4th Street N.W. Suite 1100S  
Washington, D.C. 20001  
(202) 724-5568

\*Admitted to practice only in Maryland. Practicing in the District of Columbia under the direct supervision of Natalie O. Ludaway, a member of the D.C. Bar pursuant to D.C. Court of Appeals Rule 49(c).



Jane R. Flanagan  
Chief, Workplace Rights Bureau  
Office of the Illinois Attorney General  
100 W. Randolph Street, 11th floor  
Chicago, IL 60601  
(312) 814-4720



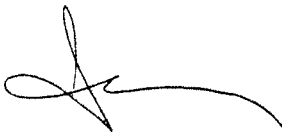
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Cynthia Mark  
Chief, Fair Labor Division  
Office of Massachusetts Attorney General Maura Healey  
One Ashburton Place  
Boston, MA 02108  
(617) 963-2626



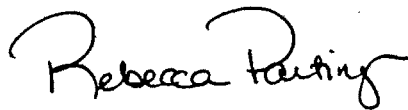
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Joshua N. Auerbach  
Special Assistant & Senior Litigation Counsel  
Maryland Office of the Attorney General  
200 St. Paul Place  
Baltimore, MD 21202  
(410) 576-6311



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Alethea M. Huyser  
Assistant Solicitor General  
Manager, Solicitor General Division  
Minnesota Attorney General's Office  
Bremer Tower, Suite 1100  
445 Minnesota Street  
St. Paul, MN 55101-2128  
(651) 757-1243



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Rebecca T. Partington  
Assistant Attorney General  
Chief, Civil Division  
Rhode Island Attorney General's Office  
150 South Main Street  
Providence, RI 02903  
(401)274-4400, ext. 2303



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DIVISION OF SOCIAL JUSTICE  
LABOR BUREAU

April 12, 2016

American Eagle Outfitters, Inc.  
77 Hot Metal Street  
Pittsburgh, PA 15203

Attn: Charles P. Sandel

Re: Request for Information Regarding “on call shifts”

Dear Mr. Sandel,

Our offices together write to you regarding “on call shifts,” which we believe that American Eagle Outfitters, Inc. (“American Eagle”) may be using. Employees assigned to on-call shifts are typically required to contact their employer an hour or two before a scheduled shift to learn whether they must work the shift. If a worker learns that his or her services are not required, the worker is paid no compensation for the day, even though the employee was required to be available to work, to forgo other job and educational opportunities, and to make arrangements for child care or other personal responsibilities.

Such unpredictable work schedules take a toll on employees. Without the security of a definite work schedule, workers who must be “on call” have difficulty making reliable childcare and elder-care arrangements, encounter obstacles in pursuing an education, and in general experience higher incidences of adverse health effects, overall stress, and strain on family life than workers who enjoy the stability of knowing their schedules reasonably in advance. “On-call shifts” also interfere with workers’ ability to obtain supplemental employment to ensure financial security for themselves and their families.

Our letter today is prompted by the concerns outlined above and by our shared interest in the well-being of workers nationwide. American Eagle has store locations in many of our jurisdictions. In addition, certain of the signatory states have reporting pay or call-in pay laws which are applicable within those jurisdictions.

As you may know, in 2015, the New York State Attorney General's office sent letters to fourteen major retailers seeking information about their use of "on-call shifts." These letters sought to address the public policy concerns described above and to ensure compliance with New York's "call in pay" regulation, which provides, "An employee who by request or permission of the employer reports for work on any day shall be paid for at least four hours, or the number of hours in the regularly scheduled shift, whichever is less, at the basic minimum hourly wage." 12 NYCRR 142-2.3. Several recipients of the letter responded that they were not using such shifts and the office independently confirmed these representations. The other retailers, after conversations with the New York State Attorney General's office, agreed to stop using "on call shifts," typically nationwide. In order to provide a more predictable and stable work environment for their workforces, these companies also agreed to provide employees with their work schedules at least one week prior to the start of the workweek.

The results of this inquiry to date strongly indicate "on call shifts" are not a business necessity, given that operations can be, and successfully have been, structured to address unexpected absences and unanticipated fluctuations in business volume in other ways.

Because we have reason to believe that American Eagle may be using this methodology for scheduling, we would like to know about your use of "on call shifts." In connection with our review, we request that American Eagle provide the following information and documents.

### **Request for Information**

1. What is the process by which American Eagle schedules employees for work? Does American Eagle use a computerized system for scheduling? If so, which system does American Eagle use and how does it function? How centralized is the scheduling process? How much autonomy do store managers have in the scheduling process? Are scheduling procedures the same for all stores or do they vary by location?
2. Does American Eagle utilize "on call shifts" at any locations in California, Connecticut, the District of Columbia, Illinois, Maryland, Massachusetts, Minnesota, New York, or Rhode Island? If so, specify the location(s) and, for each such location, provide the total number of employees, the number of employees at the location subject to "on call shift" requirements, the date on which "on call shifts" were instituted, and the specific policies and practices employees are required to follow in being available for work and determining the availability of work on a given day, including the categories of employees subject (and not subject) to "on call shift" requirements and the penalties to which employees are subject for failure to follow American Eagle's policies in this area as well as the number of employees who have been disciplined or terminated for failure to follow these policies.
3. Has American Eagle studied or analyzed the efficiencies or cost savings believed to be associated with the use of "on call shifts" or the potential or actual effect of "on



call shifts” on the productivity or well-being of its employees? If so, describe the results of any such study or analysis.

4. Has American Eagle studied or analyzed alternative methods for addressing unscheduled absences or unanticipated shifts in business volume, other than use of on-call shifts?

### **Request for Documents**

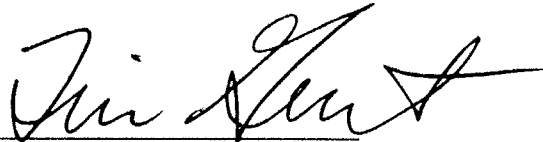
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2. For each calendar quarter in 2014 and 2015, please provide three to four samples of schedules which include on-call shifts.
3. To the extent that any computerized system used by American Eagle enables American Eagle to produce a report showing the number of instances of on-call shifts assigned, please provide such reports for all American Eagle employees employed within California, Connecticut, the District of Columbia, Illinois, Maryland, Massachusetts, Minnesota, New York, and/or Rhode Island during 2014 and 2015.
4. Please provide any and all time and payroll records showing dates on which any employee performed work for American Eagle within California, Connecticut, the District of Columbia or New York, and was paid for a time period of fewer than four hours on any given day, or within Massachusetts or Rhode Island and was paid for a time period of fewer than three hours on any given day.
5. Please provide any and all documents, including IT guides, computer user manuals, manager guides or handbooks, or other materials explaining the process by which American Eagle schedules shifts in stores located in California, Connecticut, the District of Columbia, Illinois, Maryland, Massachusetts, Minnesota, New York, and/or Rhode Island.
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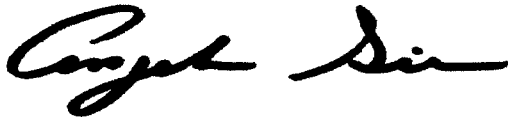
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New York State Attorney General's Office  
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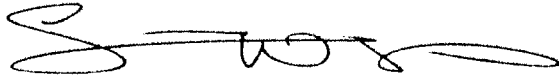
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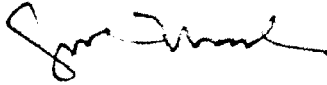
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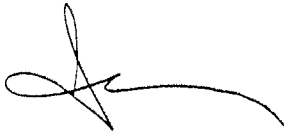
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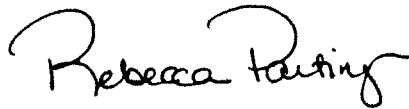
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Assistant Solicitor General  
Manager, Solicitor General Division  
Minnesota Attorney General's Office  
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ATTORNEY GENERAL

DIVISION OF SOCIAL JUSTICE  
LABOR BUREAU

April 12, 2016

BCBG Max Azria Group LLC  
2761 Fruitland Ave.  
Vernon, CA 90058  
Attn: Erica Alterwitz

Re: Request for Information Regarding "on call shifts"

Dear Ms. Alterwitz,

Our offices together write to you regarding "on call shifts," which we believe that BCBG Max Azria Group LLC ("BCBG Max Azria") may be using. Employees assigned to on-call shifts are typically required to contact their employer an hour or two before a scheduled shift to learn whether they must work the shift. If a worker learns that his or her services are not required, the worker is paid no compensation for the day, even though the employee was required to be available to work, to forgo other job and educational opportunities, and to make arrangements for child care or other personal responsibilities.

Such unpredictable work schedules take a toll on employees. Without the security of a definite work schedule, workers who must be "on call" have difficulty making reliable childcare and elder-care arrangements, encounter obstacles in pursuing an education, and in general experience higher incidences of adverse health effects, overall stress, and strain on family life than workers who enjoy the stability of knowing their schedules reasonably in advance. "On-call shifts" also interfere with workers' ability to obtain supplemental employment to ensure financial security for themselves and their families.

Our letter today is prompted by the concerns outlined above and by our shared interest in the well-being of workers nationwide. BCBG Max Azria has store locations in many of our jurisdictions. In addition, certain of the signatory states have reporting pay or call-in pay laws which are applicable within those jurisdictions.

As you may know, in 2015, the New York State Attorney General's office sent letters to fourteen major retailers seeking information about their use of "on-call shifts." These letters sought to address the public policy concerns described above and to ensure compliance with New York's "call in pay" regulation, which provides, "An employee who by request or permission of the employer reports for work on any day shall be paid for at least four hours, or the number of hours in the regularly scheduled shift, whichever is less, at the basic minimum hourly wage." 12 NYCRR 142-2.3. Several recipients of the letter responded that they were not using such shifts and the office independently confirmed these representations. The other retailers, after conversations with the New York State Attorney General's office, agreed to stop using "on call shifts," typically nationwide. In order to provide a more predictable and stable work environment for their workforces, these companies also agreed to provide employees with their work schedules at least one week prior to the start of the workweek.

The results of this inquiry to date strongly indicate "on call shifts" are not a business necessity, given that operations can be, and successfully have been, structured to address unexpected absences and unanticipated fluctuations in business volume in other ways.

Because we have reason to believe that BCBG Max Azria may be using this methodology for scheduling, we would like to know about your use of "on call shifts." In connection with our review, we request that BCBG Max Azria provide the following information and documents.

### **Request for Information**

1. What is the process by which BCBG Max Azria schedules employees for work? Does BCBG Max Azria use a computerized system for scheduling? If so, which system does BCBG Max Azria use and how does it function? How centralized is the scheduling process? How much autonomy do store managers have in the scheduling process? Are scheduling procedures the same for all stores or do they vary by location?
2. Does BCBG Max Azria utilize "on call shifts" at any locations in California, Connecticut, the District of Columbia, Illinois, Maryland, Massachusetts, Minnesota, or New York? If so, specify the location(s) and, for each such location, provide the total number of employees, the number of employees at the location subject to "on call shift" requirements, the date on which "on call shifts" were instituted, and the specific policies and practices employees are required to follow in being available for work and determining the availability of work on a given day, including the categories of employees subject (and not subject) to "on call shift" requirements and the penalties to which employees are subject for failure to follow BCBG Max Azria's policies in this area as well as the number of employees who have been disciplined or terminated for failure to follow these policies.
3. Has BCBG Max Azria studied or analyzed the efficiencies or cost savings believed to be associated with the use of "on call shifts" or the potential or actual effect of "on call shifts" on the productivity or well-being of its employees? If so, describe the results of any such study or analysis.

4. Has BCBG Max Azria studied or analyzed alternative methods for addressing unscheduled absences or unanticipated shifts in business volume, other than use of on-call shifts?

### **Request for Documents**

- 1 Please provide any and all policies, handbooks, documents, postings, or other written materials provided to any employee employed by BCBG Max Azria in California, Connecticut, the District of Columbia, Illinois, Maryland, Massachusetts, Minnesota, and/or New York regarding any and all requirements that such employee (a) must be available for work without having work time guaranteed, and/or (b) must call, send a text message, email, or otherwise contact his or her supervisor or any other agent or representative of BCBG Max Azria prior to physically presenting himself or herself in the workplace for work on a given day.
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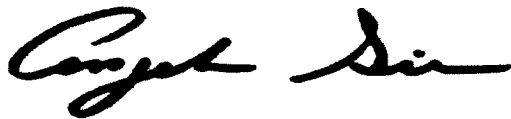
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Terri Gerstein  
Labor Bureau Chief  
New York State Attorney General's Office  
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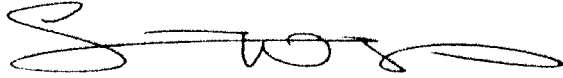
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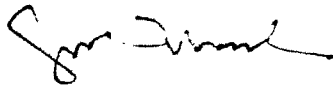
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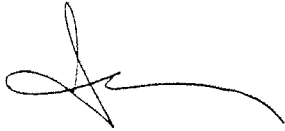
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(651) 757-1243



STATE OF NEW YORK  
OFFICE OF THE ATTORNEY GENERAL

ERIC T. SCHNEIDERMAN  
ATTORNEY GENERAL

DIVISION OF SOCIAL JUSTICE  
LABOR BUREAU

April 12, 2016

Carters, Inc.  
The Proscenium  
1170 Peachtree Street NE  
Suite 900  
Atlanta, GA 30309

Attn: Michael C. Wu

Re: Request for Information Regarding "on call shifts"

Dear Mr. Wu,

Our offices together write to you regarding "on call shifts," which we believe that Carters, Inc. ("Carters") may be using. Employees assigned to on-call shifts are typically required to contact their employer an hour or two before a scheduled shift to learn whether they must work the shift. If a worker learns that his or her services are not required, the worker is paid no compensation for the day, even though the employee was required to be available to work, to forgo other job and educational opportunities, and to make arrangements for child care or other personal responsibilities.

Such unpredictable work schedules take a toll on employees. Without the security of a definite work schedule, workers who must be "on call" have difficulty making reliable childcare and elder-care arrangements, encounter obstacles in pursuing an education, and in general experience higher incidences of adverse health effects, overall stress, and strain on family life than workers who enjoy the stability of knowing their schedules reasonably in advance. "On-call shifts" also interfere with workers' ability to obtain supplemental employment to ensure financial security for themselves and their families.

Our letter today is prompted by the concerns outlined above and by our shared interest in the well-being of workers nationwide. Carters has store locations in many of our jurisdictions. In addition, certain of the signatory states have reporting pay or call-in pay laws which are applicable within those jurisdictions.

As you may know, in 2015, the New York State Attorney General's office sent letters to fourteen major retailers seeking information about their use of "on-call shifts." These letters sought to address the public policy concerns described above and to ensure compliance with New York's "call in pay" regulation, which provides, "An employee who by request or permission of the employer reports for work on any day shall be paid for at least four hours, or the number of hours in the regularly scheduled shift, whichever is less, at the basic minimum hourly wage." 12 NYCRR 142-2.3. Several recipients of the letter responded that they were not using such shifts and the office independently confirmed these representations. The other retailers, after conversations with the New York State Attorney General's office, agreed to stop using "on call shifts," typically nationwide. In order to provide a more predictable and stable work environment for their workforces, these companies also agreed to provide employees with their work schedules at least one week prior to the start of the workweek.

The results of this inquiry to date strongly indicate "on call shifts" are not a business necessity, given that operations can be, and successfully have been, structured to address unexpected absences and unanticipated fluctuations in business volume in other ways.

Because we have reason to believe that Carters may be using this methodology for scheduling, we would like to know about your use of "on call shifts." In connection with our review, we request that Carters provide the following information and documents.

### **Request for Information**

1. What is the process by which Carters schedules employees for work? Does Carters use a computerized system for scheduling? If so, which system does Carters use and how does it function? How centralized is the scheduling process? How much autonomy do store managers have in the scheduling process? Are scheduling procedures the same for all stores or do they vary by location?
2. Does Carters utilize "on call shifts" at any locations in California, Connecticut, the District of Columbia, Illinois, Maryland, Massachusetts, Minnesota, New York, or Rhode Island? If so, specify the location(s) and, for each such location, provide the total number of employees, the number of employees at the location subject to "on call shift" requirements, the date on which "on call shifts" were instituted, and the specific policies and practices employees are required to follow in being available for work and determining the availability of work on a given day, including the categories of employees subject (and not subject) to "on call shift" requirements and the penalties to which employees are subject for failure to follow Carters' policies in this area as well as the number of employees who have been disciplined or terminated for failure to follow these policies.
3. Has Carters studied or analyzed the efficiencies or cost savings believed to be associated with the use of "on call shifts" or the potential or actual effect of "on call shifts" on the productivity or well-being of its employees? If so, describe the results of any such study or analysis.

4. Has Carters studied or analyzed alternative methods for addressing unscheduled absences or unanticipated shifts in business volume, other than use of on-call shifts?

### **Request for Documents**

1. Please provide any and all policies, handbooks, documents, postings, or other written materials provided to any employee employed by Carters in California, Connecticut, the District of Columbia, Illinois, Maryland, Massachusetts, Minnesota, New York, and/or Rhode Island regarding any and all requirements that such employee (a) must be available for work without having work time guaranteed, and/or (b) must call, send a text message, email, or otherwise contact his or her supervisor or any other agent or representative of Carters prior to physically presenting himself or herself in the workplace for work on a given day.
2. For each calendar quarter in 2014 and 2015, please provide three to four samples of schedules which include on-call shifts.
3. To the extent that any computerized system used by Carters enables Carters to produce a report showing the number of instances of on-call shifts assigned, please provide such reports for all Carters employees employed within California, Connecticut, the District of Columbia, Illinois, Maryland, Massachusetts, Minnesota, New York, and/or Rhode Island during 2014 and 2015.
4. Please provide any and all time and payroll records showing dates on which any employee performed work for Carters within California, Connecticut, the District of Columbia or New York, and was paid for a time period of fewer than four hours on any given day, or within Massachusetts or Rhode Island and was paid for a time period of fewer than three hours on any given day.
5. Please provide any and all documents, including IT guides, computer user manuals, manager guides or handbooks, or other materials explaining the process by which Carters schedules shifts in stores located in California, Connecticut, the District of Columbia, Illinois, Maryland, Massachusetts, Minnesota, New York, and/or Rhode Island.
6. Please provide any and all documents related to any study or analysis referred to in Requests for Information #3 and #4, above.

Please provide your responses electronically, no later than April 25, 2016, to the attention of [Oncall.Inquiry@ag.ny.gov](mailto:Oncall.Inquiry@ag.ny.gov).

If you are unable to provide responses electronically, please provide hard copies of responses to Terri Gerstein at the New York State Attorney General's Office, 120 Broadway, New York, NY 10271 no later than April 25, 2016.

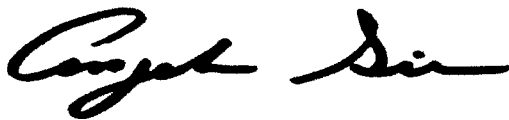
Thank you in advance for your prompt attention,

Sincerely,



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Terri Gerstein  
Labor Bureau Chief  
New York State Attorney General's Office  
120 Broadway  
New York, NY 10271  
(212) 416-6132



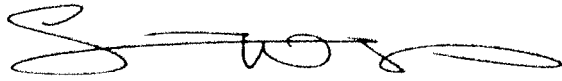
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Angela Sierra  
Senior Assistant Attorney General  
Civil Rights Enforcement Section  
California Department of Justice  
Office of the Attorney General  
300 S. Spring St., Ste. 1702  
Los Angeles, CA 90013  
(213) 620-6312



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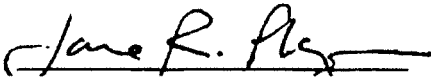
Robert W. Clark  
Special Counsel to the Attorney General  
Office of the Connecticut Attorney General  
55 Elm Street  
Hartford, CT 06106  
(860) 808-5322



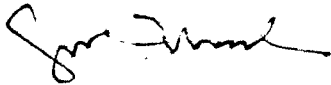
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Elizabeth Wilkins  
Senior Counsel to the Attorney General\*  
Office of the Attorney General for the District of Columbia  
441 4th Street N.W. Suite 1100S  
Washington, D.C. 20001  
(202) 724-5568

\*Admitted to practice only in Maryland. Practicing in the District of Columbia under the direct supervision of Natalie O. Ludaway, a member of the D.C. Bar pursuant to D.C. Court of Appeals Rule 49(c).



Jane R. Flanagan  
Chief, Workplace Rights Bureau  
Office of the Illinois Attorney General  
100 W. Randolph Street, 11th floor  
Chicago, IL 60601  
(312) 814-4720



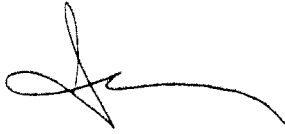
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Cynthia Mark  
Chief, Fair Labor Division  
Office of Massachusetts Attorney General Maura Healey  
One Ashburton Place  
Boston, MA 02108  
(617) 963-2626



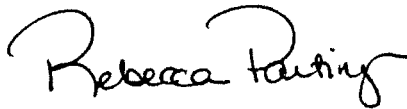
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Joshua N. Auerbach  
Special Assistant & Senior Litigation Counsel  
Maryland Office of the Attorney General  
200 St. Paul Place  
Baltimore, MD 21202  
(410) 576-6311



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Alethea M. Huyser  
Assistant Solicitor General  
Manager, Solicitor General Division  
Minnesota Attorney General's Office  
Bremer Tower, Suite 1100  
445 Minnesota Street  
St. Paul, MN 55101-2128  
(651) 757-1243



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Rebecca T. Partington  
Assistant Attorney General  
Chief, Civil Division  
Rhode Island Attorney General's Office  
150 South Main Street  
Providence, RI 02903  
(401)274-4400, ext. 2303





STATE OF NEW YORK  
OFFICE OF THE ATTORNEY GENERAL

ERIC T. SCHNEIDERMAN  
ATTORNEY GENERAL

DIVISION OF SOCIAL JUSTICE  
LABOR BUREAU

April 12, 2016

Coach Inc.  
516 West 34th Street  
New York, NY 10001

Attn: Todd Kahn

Re: Request for Information Regarding "on call shifts"

Dear Mr. Kahn,

Our offices together write to you regarding "on call shifts," which we believe that Coach Inc. ("Coach") may be using. Employees assigned to on-call shifts are typically required to contact their employer an hour or two before a scheduled shift to learn whether they must work the shift. If a worker learns that his or her services are not required, the worker is paid no compensation for the day, even though the employee was required to be available to work, to forgo other job and educational opportunities, and to make arrangements for child care or other personal responsibilities.

Such unpredictable work schedules take a toll on employees. Without the security of a definite work schedule, workers who must be "on call" have difficulty making reliable childcare and elder-care arrangements, encounter obstacles in pursuing an education, and in general experience higher incidences of adverse health effects, overall stress, and strain on family life than workers who enjoy the stability of knowing their schedules reasonably in advance. "On-call shifts" also interfere with workers' ability to obtain supplemental employment to ensure financial security for themselves and their families.

Our letter today is prompted by the concerns outlined above and by our shared interest in the well-being of workers nationwide. Coach has store locations in many of our jurisdictions. In addition, certain of the signatory states have reporting pay or call-in pay laws which are applicable within those jurisdictions.

As you may know, in 2015, the New York State Attorney General's office sent letters to fourteen major retailers seeking information about their use of "on-call shifts." These letters

sought to address the public policy concerns described above and to ensure compliance with New York's "call in pay" regulation, which provides, "An employee who by request or permission of the employer reports for work on any day shall be paid for at least four hours, or the number of hours in the regularly scheduled shift, whichever is less, at the basic minimum hourly wage." 12 NYCRR 142-2.3. Several recipients of the letter responded that they were not using such shifts and the office independently confirmed these representations. The other retailers, after conversations with the New York State Attorney General's office, agreed to stop using "on call shifts," typically nationwide. In order to provide a more predictable and stable work environment for their workforces, these companies also agreed to provide employees with their work schedules at least one week prior to the start of the workweek.

The results of this inquiry to date strongly indicate "on call shifts" are not a business necessity, given that operations can be, and successfully have been, structured to address unexpected absences and unanticipated fluctuations in business volume in other ways.

Because we have reason to believe that Coach may be using this methodology for scheduling, we would like to know about your use of "on call shifts." In connection with our review, we request that Coach provide the following information and documents.

### **Request for Information**

1. What is the process by which Coach schedules employees for work? Does Coach use a computerized system for scheduling? If so, which system does Coach use and how does it function? How centralized is the scheduling process? How much autonomy do store managers have in the scheduling process? Are scheduling procedures the same for all stores or do they vary by location?
2. Does Coach utilize "on call shifts" at any locations in California, Connecticut, the District of Columbia, Illinois, Maryland, Massachusetts, Minnesota, New York, or Rhode Island? If so, specify the location(s) and, for each such location, provide the total number of employees, the number of employees at the location subject to "on call shift" requirements, the date on which "on call shifts" were instituted, and the specific policies and practices employees are required to follow in being available for work and determining the availability of work on a given day, including the categories of employees subject (and not subject) to "on call shift" requirements and the penalties to which employees are subject for failure to follow Coach's policies in this area as well as the number of employees who have been disciplined or terminated for failure to follow these policies.
3. Has Coach studied or analyzed the efficiencies or cost savings believed to be associated with the use of "on call shifts" or the potential or actual effect of "on call shifts" on the productivity or well-being of its employees? If so, describe the results of any such study or analysis.

4. Has Coach studied or analyzed alternative methods for addressing unscheduled absences or unanticipated shifts in business volume, other than use of on-call shifts?

### **Request for Documents**

1. Please provide any and all policies, handbooks, documents, postings, or other written materials provided to any employee employed by Coach in California, Connecticut, the District of Columbia, Illinois, Maryland, Massachusetts, Minnesota, New York, and/or Rhode Island regarding any and all requirements that such employee (a) must be available for work without having work time guaranteed, and/or (b) must call, send a text message, email, or otherwise contact his or her supervisor or any other agent or representative of Coach prior to physically presenting himself or herself in the workplace for work on a given day.
2. For each calendar quarter in 2014 and 2015, please provide three to four samples of schedules which include on-call shifts.
3. To the extent that any computerized system used by Coach enables Coach to produce a report showing the number of instances of on-call shifts assigned, please provide such reports for all Coach employees employed within California, Connecticut, the District of Columbia, Illinois, Maryland, Massachusetts, Minnesota, New York, and/or Rhode Island during 2014 and 2015.
4. Please provide any and all time and payroll records showing dates on which any employee performed work for Coach within California, Connecticut, the District of Columbia or New York, and was paid for a time period of fewer than four hours on any given day, or within Massachusetts or Rhode Island and was paid for a time period of fewer than three hours on any given day.
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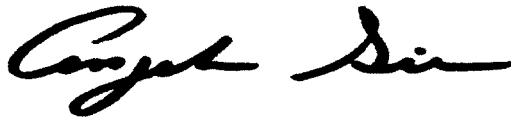
Thank you in advance for your prompt attention,

Sincerely,



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Labor Bureau Chief  
New York State Attorney General's Office  
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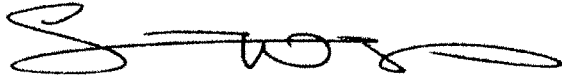
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Senior Assistant Attorney General  
Civil Rights Enforcement Section  
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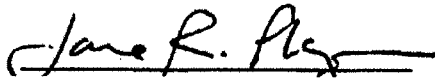
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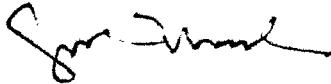
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Senior Counsel to the Attorney General\*  
Office of the Attorney General for the District of Columbia  
441 4th Street N.W. Suite 1100S  
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\*Admitted to practice only in Maryland. Practicing in the District of Columbia under the direct supervision of Natalie O. Ludaway, a member of the D.C. Bar pursuant to D.C. Court of Appeals Rule 49(c).



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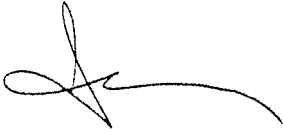
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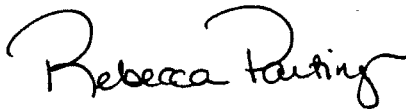
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Alethea M. Huyser  
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Manager, Solicitor General Division  
Minnesota Attorney General's Office  
Bremer Tower, Suite 1100  
445 Minnesota Street  
St. Paul, MN 55101-2128  
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Rebecca T. Partington  
Assistant Attorney General  
Chief, Civil Division  
Rhode Island Attorney General's Office  
150 South Main Street  
Providence, RI 02903  
(401)274-4400, ext. 2303



STATE OF NEW YORK  
OFFICE OF THE ATTORNEY GENERAL

ERIC T. SCHNEIDERMAN  
ATTORNEY GENERAL

DIVISION OF SOCIAL JUSTICE  
LABOR BUREAU

April 12, 2016

David's Tea  
5430 Ferrier St.  
Town of Mount-Royal  
Québec, Canada H4P 1M2  
Attn: Sylvain Toutant

Re: Request for Information Regarding "on call shifts"

Dear Mr. Toutant,

Our offices together write to you regarding "on call shifts," which we believe that David's Tea may be using. Employees assigned to on-call shifts are typically required to contact their employer an hour or two before a scheduled shift to learn whether they must work the shift. If a worker learns that his or her services are not required, the worker is paid no compensation for the day, even though the employee was required to be available to work, to forgo other job and educational opportunities, and to make arrangements for child care or other personal responsibilities.

Such unpredictable work schedules take a toll on employees. Without the security of a definite work schedule, workers who must be "on call" have difficulty making reliable childcare and elder-care arrangements, encounter obstacles in pursuing an education, and in general experience higher incidences of adverse health effects, overall stress, and strain on family life than workers who enjoy the stability of knowing their schedules reasonably in advance. "On-call shifts" also interfere with workers' ability to obtain supplemental employment to ensure financial security for themselves and their families.

Our letter today is prompted by the concerns outlined above and by our shared interest in the well-being of workers nationwide. David's Tea has store locations in many of our jurisdictions. In addition, certain of the signatory states have reporting pay or call-in pay laws which are applicable within those jurisdictions.

As you may know, in 2015, the New York State Attorney General's office sent letters to fourteen major retailers seeking information about their use of "on-call shifts." These letters sought to address the public policy concerns described above and to ensure compliance with New York's "call in pay" regulation, which provides, "An employee who by request or permission of the employer reports for work on any day shall be paid for at least four hours, or the number of hours in the regularly scheduled shift, whichever is less, at the basic minimum hourly wage." 12 NYCRR 142-2.3. Several recipients of the letter responded that they were not using such shifts and the office independently confirmed these representations. The other retailers, after conversations with the New York State Attorney General's office, agreed to stop using "on call shifts," typically nationwide. In order to provide a more predictable and stable work environment for their workforces, these companies also agreed to provide employees with their work schedules at least one week prior to the start of the workweek.

The results of this inquiry to date strongly indicate "on call shifts" are not a business necessity, given that operations can be, and successfully have been, structured to address unexpected absences and unanticipated fluctuations in business volume in other ways.

Because we have reason to believe that David's Tea may be using this methodology for scheduling, we would like to know about your use of "on call shifts." In connection with our review, we request that David's Tea provide the following information and documents.

### **Request for Information**

1. What is the process by which David's Tea schedules employees for work? Does David's Tea use a computerized system for scheduling? If so, which system does David's Tea use and how does it function? How centralized is the scheduling process? How much autonomy do store managers have in the scheduling process? Are scheduling procedures the same for all stores or do they vary by location?
2. Does David's Tea utilize "on call shifts" at any locations in California, Connecticut, Illinois, Massachusetts, Minnesota, or New York? If so, specify the location(s) and, for each such location, provide the total number of employees, the number of employees at the location subject to "on call shift" requirements, the date on which "on call shifts" were instituted, and the specific policies and practices employees are required to follow in being available for work and determining the availability of work on a given day, including the categories of employees subject (and not subject) to "on call shift" requirements and the penalties to which employees are subject for failure to follow David's Tea's policies in this area as well as the number of employees who have been disciplined or terminated for failure to follow these policies.
3. Has David's Tea studied or analyzed the efficiencies or cost savings believed to be associated with the use of "on call shifts" or the potential or actual effect of "on call shifts" on the productivity or well-being of its employees? If so, describe the results of any such study or analysis.



4. Has David's Tea studied or analyzed alternative methods for addressing unscheduled absences or unanticipated shifts in business volume, other than use of on-call shifts?

#### **Request for Documents**

1. Please provide any and all policies, handbooks, documents, postings, or other written materials provided to any employee employed by David's Tea in California, Connecticut, Illinois, Massachusetts, Minnesota, and/or New York regarding any and all requirements that such employee (a) must be available for work without having work time guaranteed, and/or (b) must call, send a text message, email, or otherwise contact his or her supervisor or any other agent or representative of David's Tea prior to physically presenting himself or herself in the workplace for work on a given day.
2. For each calendar quarter in 2014 and 2015, please provide three to four samples of schedules which include on-call shifts.
3. To the extent that any computerized system used by David's Tea enables David's Tea to produce a report showing the number of instances of on-call shifts assigned, please provide such reports for all David's Tea employees employed within California, Connecticut, Illinois, Massachusetts, Minnesota, and/or New York during 2014 and 2015.
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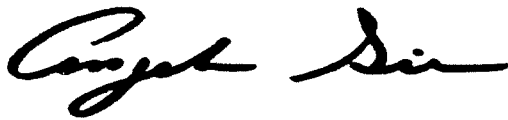
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Sincerely,



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Terri Gerstein  
Labor Bureau Chief  
New York State Attorney General's Office  
120 Broadway  
New York, NY 10271  
(212) 416-6132



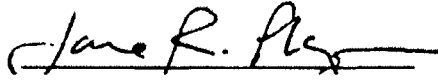
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Angela Sierra  
Senior Assistant Attorney General  
Civil Rights Enforcement Section  
California Department of Justice  
Office of the Attorney General  
300 S. Spring St., Ste. 1702  
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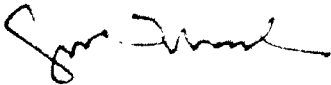


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Robert W. Clark  
Special Counsel to the Attorney General  
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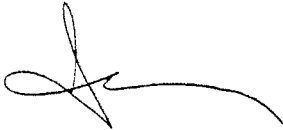


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Chief, Fair Labor Division  
Office of Massachusetts Attorney General Maura Healey  
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Alethea M. Huyser  
Assistant Solicitor General  
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STATE OF NEW YORK  
OFFICE OF THE ATTORNEY GENERAL

ERIC T. SCHNEIDERMAN  
ATTORNEY GENERAL

DIVISION OF SOCIAL JUSTICE  
LABOR BUREAU

April 12, 2016

The Walt Disney Company  
500 S. Buena Vista St.  
Burbank, CA 91521-0001

Attn: Alan Braverman

Re: Request for Information Regarding "on call shifts" at Disney Stores

Dear Mr. Braverman,

Our offices together write to you regarding "on call shifts," which we believe that The Walt Disney Company may be using at Disney Stores ("Disney"). Employees assigned to on-call shifts are typically required to contact their employer an hour or two before a scheduled shift to learn whether they must work the shift. If a worker learns that his or her services are not required, the worker is paid no compensation for the day, even though the employee was required to be available to work, to forgo other job and educational opportunities, and to make arrangements for child care or other personal responsibilities.

Such unpredictable work schedules take a toll on employees. Without the security of a definite work schedule, workers who must be "on call" have difficulty making reliable childcare and elder-care arrangements, encounter obstacles in pursuing an education, and in general experience higher incidences of adverse health effects, overall stress, and strain on family life than workers who enjoy the stability of knowing their schedules reasonably in advance. "On-call shifts" also interfere with workers' ability to obtain supplemental employment to ensure financial security for themselves and their families.

Our letter today is prompted by the concerns outlined above and by our shared interest in the well-being of workers nationwide. Disney has store locations in many of our jurisdictions. In addition, certain of the signatory states have reporting pay or call-in pay laws which are applicable within those jurisdictions.

As you may know, in 2015, the New York State Attorney General's office sent letters to fourteen major retailers seeking information about their use of "on-call shifts." These letters sought to address the public policy concerns described above and to ensure compliance with New York's "call in pay" regulation, which provides, "An employee who by request or permission of the employer reports for work on any day shall be paid for at least four hours, or the number of hours in the regularly scheduled shift, whichever is less, at the basic minimum hourly wage." 12 NYCRR 142-2.3. Several recipients of the letter responded that they were not using such shifts and the office independently confirmed these representations. The other retailers, after conversations with the New York State Attorney General's office, agreed to stop using "on call shifts," typically nationwide. In order to provide a more predictable and stable work environment for their workforces, these companies also agreed to provide employees with their work schedules at least one week prior to the start of the workweek.

The results of this inquiry to date strongly indicate "on call shifts" are not a business necessity, given that operations can be, and successfully have been, structured to address unexpected absences and unanticipated fluctuations in business volume in other ways.

Because we have reason to believe that Disney may be using this methodology for scheduling, we would like to know about your use of "on call shifts." In connection with our review, we request that Disney provide the following information and documents.

### **Request for Information**

1. What is the process by which Disney schedules employees for work? Does Disney use a computerized system for scheduling? If so, which system does Disney use and how does it function? How centralized is the scheduling process? How much autonomy do store managers have in the scheduling process? Are scheduling procedures the same for all stores or do they vary by location?
2. Does Disney utilize "on call shifts" at any locations in California, Connecticut, the District of Columbia, Illinois, Maryland, Massachusetts, Minnesota, or New York? If so, specify the location(s) and, for each such location, provide the total number of employees, the number of employees at the location subject to "on call shift" requirements, the date on which "on call shifts" were instituted, and the specific policies and practices employees are required to follow in being available for work and determining the availability of work on a given day, including the categories of employees subject (and not subject) to "on call shift" requirements and the penalties to which employees are subject for failure to follow Disney's policies in this area as well as the number of employees who have been disciplined or terminated for failure to follow these policies.
3. Has Disney studied or analyzed the efficiencies or cost savings believed to be associated with the use of "on call shifts" or the potential or actual effect of "on

call shifts” on the productivity or well-being of its employees? If so, describe the results of any such study or analysis.

4. Has Disney studied or analyzed alternative methods for addressing unscheduled absences or unanticipated shifts in business volume, other than use of on-call shifts?

### **Request for Documents**

1. Please provide any and all policies, handbooks, documents, postings, or other written materials provided to any employee employed by Disney in California, Connecticut, the District of Columbia, Illinois, Maryland, Massachusetts, Minnesota, and/or New York regarding any and all requirements that such employee (a) must be available for work without having work time guaranteed, and/or (b) must call, send a text message, email, or otherwise contact his or her supervisor or any other agent or representative of Disney prior to physically presenting himself or herself in the workplace for work on a given day.
2. For each calendar quarter in 2014 and 2015, please provide three to four samples of schedules which include on-call shifts.
3. To the extent that any computerized system used by Disney enables Disney to produce a report showing the number of instances of on-call shifts assigned, please provide such reports for all Disney employees employed within California, Connecticut, the District of Columbia, Illinois, Maryland, Massachusetts, Minnesota, and/or New York during 2014 and 2015.
4. Please provide any and all time and payroll records showing dates on which any employee performed work for Disney within California, Connecticut, the District of Columbia or New York, and was paid for a time period of fewer than four hours on any given day, or within Massachusetts and was paid for a time period of fewer than three hours on any given day.
5. Please provide any and all documents, including IT guides, computer user manuals, manager guides or handbooks, or other materials explaining the process by which Disney schedules shifts in stores located in California, Connecticut, the District of Columbia, Illinois, Maryland, Massachusetts, Minnesota, and/or New York.
6. Please provide any and all documents related to any study or analysis referred to in Requests for Information #3 and #4, above.

Please provide your responses electronically, no later than April 25, 2016, to the attention of [Oncall.Inquiry@ag.ny.gov](mailto:Oncall.Inquiry@ag.ny.gov).

If you are unable to provide responses electronically, please provide hard copies of responses to Terri Gerstein at the New York State Attorney General's Office, 120 Broadway, New York, NY 10271 no later than April 25, 2016.

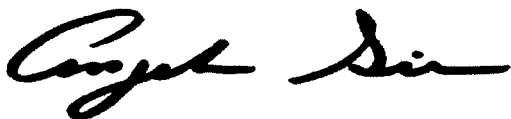
Thank you in advance for your prompt attention,

Sincerely,



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Terri Gerstein  
Labor Bureau Chief  
New York State Attorney General's Office  
120 Broadway  
New York, NY 10271  
(212) 416-6132



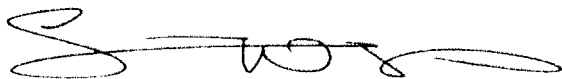
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Angela Sierra  
Senior Assistant Attorney General  
Civil Rights Enforcement Section  
California Department of Justice  
Office of the Attorney General  
300 S. Spring St., Ste. 1702  
Los Angeles, CA 90013  
(213) 620-6312



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Robert W. Clark  
Special Counsel to the Attorney General  
Office of the Connecticut Attorney General  
55 Elm Street  
Hartford, CT 06106  
(860) 808-5322




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Elizabeth Wilkins  
 Senior Counsel to the Attorney General\*  
 Office of the Attorney General for the District of Columbia  
 441 4th Street N.W. Suite 1100S  
 Washington, D.C. 20001  
 (202) 724-5568

\*Admitted to practice only in Maryland. Practicing in the District of Columbia under the direct supervision of Natalie O. Ludaway, a member of the D.C. Bar pursuant to D.C. Court of Appeals Rule 49(c).




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Jane R. Flanagan  
 Chief, Workplace Rights Bureau  
 Office of the Illinois Attorney General  
 100 W. Randolph Street, 11th floor  
 Chicago, IL 60601  
 (312) 814-4720




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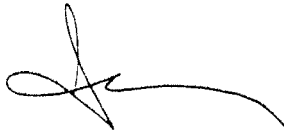
Cynthia Mark  
 Chief, Fair Labor Division  
 Office of Massachusetts Attorney General Maura Healey  
 One Ashburton Place  
 Boston, MA 02108  
 (617) 963-2626




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Joshua N. Auerbach  
 Special Assistant & Senior Litigation Counsel  
 Maryland Office of the Attorney General  
 200 St. Paul Place  
 Baltimore, MD 21202  
 (410) 576-6311





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Alethea M. Huyser  
Assistant Solicitor General  
Manager, Solicitor General Division  
Minnesota Attorney General's Office  
Bremer Tower, Suite 1100  
445 Minnesota Street  
St. Paul, MN 55101-2128  
(651) 757-1243



STATE OF NEW YORK  
OFFICE OF THE ATTORNEY GENERAL

ERIC T. SCHNEIDERMAN  
ATTORNEY GENERAL

DIVISION OF SOCIAL JUSTICE  
LABOR BUREAU

April 12, 2016

Forever 21  
3880 N. Mission Rd.  
Los Angeles, CA 90031  
Attn: Young Kwon

Re: Request for Information Regarding “on call shifts”

Dear Mr. Kwon,

Our offices together write to you regarding “on call shifts,” which we believe that Forever 21 may be using. Employees assigned to on-call shifts are typically required to contact their employer an hour or two before a scheduled shift to learn whether they must work the shift. If a worker learns that his or her services are not required, the worker is paid no compensation for the day, even though the employee was required to be available to work, to forgo other job and educational opportunities, and to make arrangements for child care or other personal responsibilities.

Such unpredictable work schedules take a toll on employees. Without the security of a definite work schedule, workers who must be “on call” have difficulty making reliable childcare and elder-care arrangements, encounter obstacles in pursuing an education, and in general experience higher incidences of adverse health effects, overall stress, and strain on family life than workers who enjoy the stability of knowing their schedules reasonably in advance. “On-call shifts” also interfere with workers’ ability to obtain supplemental employment to ensure financial security for themselves and their families.

Our letter today is prompted by the concerns outlined above and by our shared interest in the well-being of workers nationwide. Forever 21 has store locations in many of our jurisdictions. In addition, certain of the signatory states have reporting pay or call-in pay laws which are applicable within those jurisdictions.

As you may know, in 2015, the New York State Attorney General’s office sent letters to fourteen major retailers seeking information about their use of “on-call shifts.” These letters

sought to address the public policy concerns described above and to ensure compliance with New York's "call in pay" regulation, which provides, "An employee who by request or permission of the employer reports for work on any day shall be paid for at least four hours, or the number of hours in the regularly scheduled shift, whichever is less, at the basic minimum hourly wage." 12 NYCRR 142-2.3. Several recipients of the letter responded that they were not using such shifts and the office independently confirmed these representations. The other retailers, after conversations with the New York State Attorney General's office, agreed to stop using "on call shifts," typically nationwide. In order to provide a more predictable and stable work environment for their workforces, these companies also agreed to provide employees with their work schedules at least one week prior to the start of the workweek.

The results of this inquiry to date strongly indicate "on call shifts" are not a business necessity, given that operations can be, and successfully have been, structured to address unexpected absences and unanticipated fluctuations in business volume in other ways.

Because we have reason to believe that Forever 21 may be using this methodology for scheduling, we would like to know about your use of "on call shifts." In connection with our review, we request that Forever 21 provide the following information and documents.

### **Request for Information**

1. What is the process by which Forever 21 schedules employees for work? Does Forever 21 use a computerized system for scheduling? If so, which system does Forever 21 use and how does it function? How centralized is the scheduling process? How much autonomy do store managers have in the scheduling process? Are scheduling procedures the same for all stores or do they vary by location?
2. Does Forever 21 utilize "on call shifts" at any locations in California, Connecticut, the District of Columbia, Illinois, Maryland, Massachusetts, Minnesota, New York, or Rhode Island? If so, specify the location(s) and, for each such location, provide the total number of employees, the number of employees at the location subject to "on call shift" requirements, the date on which "on call shifts" were instituted, and the specific policies and practices employees are required to follow in being available for work and determining the availability of work on a given day, including the categories of employees subject (and not subject) to "on call shift" requirements and the penalties to which employees are subject for failure to follow Forever 21's policies in this area as well as the number of employees who have been disciplined or terminated for failure to follow these policies.
3. Has Forever 21 studied or analyzed the efficiencies or cost savings believed to be associated with the use of "on call shifts" or the potential or actual effect of "on call shifts" on the productivity or well-being of its employees? If so, describe the results of any such study or analysis.
4. Has Forever 21 studied or analyzed alternative methods for addressing unscheduled absences or unanticipated shifts in business volume, other than use of on-call shifts?

## **Request for Documents**

- 1 Please provide any and all policies, handbooks, documents, postings, or other written materials provided to any employee employed by Forever 21 in California, Connecticut, the District of Columbia, Illinois, Maryland, Massachusetts, Minnesota, New York, and/or Rhode Island regarding any and all requirements that such employee (a) must be available for work without having work time guaranteed, and/or (b) must call, send a text message, email, or otherwise contact his or her supervisor or any other agent or representative of Forever 21 prior to physically presenting himself or herself in the workplace for work on a given day.
- 2 For each calendar quarter in 2014 and 2015, please provide three to four samples of schedules which include on-call shifts.
- 3 To the extent that any computerized system used by Forever 21 enables Forever 21 to produce a report showing the number of instances of on-call shifts assigned, please provide such reports for all Forever 21 employees employed within California, Connecticut, the District of Columbia, Illinois, Maryland, Massachusetts, Minnesota, New York, and/or Rhode Island during 2014 and 2015.
- 4 Please provide any and all time and payroll records showing dates on which any employee performed work for Forever 21 within California, Connecticut, the District of Columbia or New York, and was paid for a time period of fewer than four hours on any given day, or within Massachusetts or Rhode Island and was paid for a time period of fewer than three hours on any given day.
- 5 Please provide any and all documents, including IT guides, computer user manuals, manager guides or handbooks, or other materials explaining the process by which Forever 21 schedules shifts in stores located in California, Connecticut, the District of Columbia, Illinois, Maryland, Massachusetts, Minnesota, New York, and/or Rhode Island.
- 6 Please provide any and all documents related to any study or analysis referred to in Requests for Information #3 and #4, above.

Please provide your responses electronically, no later than April 25, 2016, to the attention of [Oncall.Inquiry@ag.ny.gov](mailto:Oncall.Inquiry@ag.ny.gov).

If you are unable to provide responses electronically, please provide hard copies of responses to Terri Gerstein at the New York State Attorney General's Office, 120 Broadway, New York, NY 10271 no later than April 25, 2016.

Thank you in advance for your prompt attention,

Sincerely,



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Terri Gerstein  
Labor Bureau Chief  
New York State Attorney General's Office  
120 Broadway  
New York, NY 10271  
(212) 416-6132



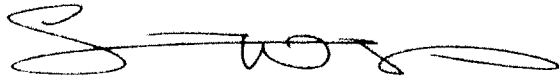
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Angela Sierra  
Senior Assistant Attorney General  
Civil Rights Enforcement Section  
California Department of Justice  
Office of the Attorney General  
300 S. Spring St., Ste. 1702  
Los Angeles, CA 90013  
(213) 620-6312



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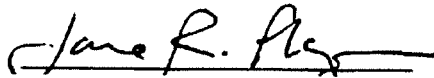
Robert W. Clark  
Special Counsel to the Attorney General  
Office of the Connecticut Attorney General  
55 Elm Street  
Hartford, CT 06106  
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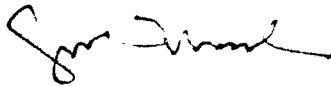
Elizabeth Wilkins  
Senior Counsel to the Attorney General\*  
Office of the Attorney General for the District of Columbia  
441 4th Street N.W. Suite 1100S  
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(202) 724-5568

\*Admitted to practice only in Maryland. Practicing in the District of Columbia under the direct supervision of Natalie O. Ludaway, a member of the D.C. Bar pursuant to D.C. Court of Appeals Rule 49(c).



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Jane R. Flanagan  
Chief, Workplace Rights Bureau  
Office of the Illinois Attorney General  
100 W. Randolph Street, 11th floor  
Chicago, IL 60601  
(312) 814-4720



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Cynthia Mark  
Chief, Fair Labor Division  
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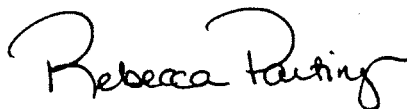
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Joshua N. Auerbach  
Special Assistant & Senior Litigation Counsel  
Maryland Office of the Attorney General  
200 St. Paul Place  
Baltimore, MD 21202  
(410) 576-6311



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Alethea M. Huyser  
Assistant Solicitor General  
Manager, Solicitor General Division  
Minnesota Attorney General's Office  
Bremer Tower, Suite 1100  
445 Minnesota Street  
St. Paul, MN 55101-2128  
(651) 757-1243



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Rebecca T. Partington  
Assistant Attorney General  
Chief, Civil Division  
Rhode Island Attorney General's Office  
150 South Main Street  
Providence, RI 02903  
(401)274-4400, ext. 2303



STATE OF NEW YORK  
OFFICE OF THE ATTORNEY GENERAL

ERIC T. SCHNEIDERMAN  
ATTORNEY GENERAL

DIVISION OF SOCIAL JUSTICE  
LABOR BUREAU

April 12, 2016

Justice Just for Girls/ Ascena Retail Group, Inc.  
8323 Walton Parkway,  
New Albany, OH 43054

Justice Just for Girls/ Ascena Retail Group, Inc.  
933 MacArthur Boulevard,  
Mahwah, New Jersey

Attn: Duane Holloway

Re: Request for Information Regarding "on call shifts"

Dear Mr. Holloway,

Our offices together write to you regarding "on call shifts," which we believe that Justice Just for Girls/ Ascena Retail Group, Inc. may be using. Employees assigned to on-call shifts are typically required to contact their employer an hour or two before a scheduled shift to learn whether they must work the shift. If a worker learns that his or her services are not required, the worker is paid no compensation for the day, even though the employee was required to be available to work, to forgo other job and educational opportunities, and to make arrangements for child care or other personal responsibilities.

Such unpredictable work schedules take a toll on employees. Without the security of a definite work schedule, workers who must be "on call" have difficulty making reliable childcare and elder-care arrangements, encounter obstacles in pursuing an education, and in general experience higher incidences of adverse health effects, overall stress, and strain on family life than workers who enjoy the stability of knowing their schedules reasonably in advance. "On-call shifts" also interfere with workers' ability to obtain supplemental employment to ensure financial security for themselves and their families.



Our letter today is prompted by the concerns outlined above and by our shared interest in the well-being of workers nationwide. Justice Just for Girls/ Ascena Retail Group, Inc. has store locations in many of our jurisdictions. In addition, certain of the signatory states have reporting pay or call-in pay laws which are applicable within those jurisdictions.

As you may know, in 2015, the New York State Attorney General's office sent letters to fourteen major retailers seeking information about their use of "on-call shifts." These letters sought to address the public policy concerns described above and to ensure compliance with New York's "call in pay" regulation, which provides, "An employee who by request or permission of the employer reports for work on any day shall be paid for at least four hours, or the number of hours in the regularly scheduled shift, whichever is less, at the basic minimum hourly wage." 12 NYCRR 142-2.3. Several recipients of the letter responded that they were not using such shifts and the office independently confirmed these representations. The other retailers, after conversations with the New York State Attorney General's office, agreed to stop using "on call shifts," typically nationwide. In order to provide a more predictable and stable work environment for their workforces, these companies also agreed to provide employees with their work schedules at least one week prior to the start of the workweek.

The results of this inquiry to date strongly indicate "on call shifts" are not a business necessity, given that operations can be, and successfully have been, structured to address unexpected absences and unanticipated fluctuations in business volume in other ways.

Because we have reason to believe that Justice Just for Girls/ Ascena Retail Group, Inc. may be using this methodology for scheduling, we would like to know about your use of "on call shifts." In connection with our review, we request that Justice Just for Girls/ Ascena Retail Group, Inc. provide the following information and documents.

### **Request for Information**

1. What is the process by which Justice Just for Girls/ Ascena Retail Group, Inc. schedules employees for work? Does Justice Just for Girls/ Ascena Retail Group, Inc. use a computerized system for scheduling? If so, which system does Justice Just for Girls/ Ascena Retail Group, Inc. use and how does it function? How centralized is the scheduling process? How much autonomy do store managers have in the scheduling process? Are scheduling procedures the same for all stores or do they vary by location?
2. Does Justice Just for Girls/ Ascena Retail Group, Inc. utilize "on call shifts" at any locations in California, Connecticut, the District of Columbia, Illinois, Maryland, Massachusetts, Minnesota, New York, or Rhode Island? If so, specify the location(s) and, for each such location, provide the total number of employees, the number of employees at the location subject to "on call shift" requirements, the date on which "on call shifts" were instituted, and the specific policies and practices employees are required to follow in being available for work and determining the availability of work on a given day, including the categories of employees subject (and not subject) to "on call shift" requirements and the penalties to which employees are subject for

failure to follow Justice Just for Girls/ Ascena Retail Group, Inc.'s policies in this area as well as the number of employees who have been disciplined or terminated for failure to follow these policies.

3. Has Justice Just for Girls/ Ascena Retail Group, Inc. studied or analyzed the efficiencies or cost savings believed to be associated with the use of "on call shifts" or the potential or actual effect of "on call shifts" on the productivity or well-being of its employees? If so, describe the results of any such study or analysis.
4. Has Justice Just for Girls/ Ascena Retail Group, Inc. studied or analyzed alternative methods for addressing unscheduled absences or unanticipated shifts in business volume, other than use of on-call shifts?

### **Request for Documents**

1. Please provide any and all policies, handbooks, documents, postings, or other written materials provided to any employee employed by Justice Just for Girls/ Ascena Retail Group, Inc. in California, Connecticut, the District of Columbia, Illinois, Maryland, Massachusetts, Minnesota, New York, and/or Rhode Island regarding any and all requirements that such employee (a) must be available for work without having work time guaranteed, and/or (b) must call, send a text message, email, or otherwise contact his or her supervisor or any other agent or representative of Justice Just for Girls/ Ascena Retail Group, Inc. prior to physically presenting himself or herself in the workplace for work on a given day.
2. For each calendar quarter in 2014 and 2015, please provide three to four samples of schedules which include on-call shifts.
3. To the extent that any computerized system used by Justice Just for Girls/ Ascena Retail Group, Inc. enables Justice Just for Girls/ Ascena Retail Group, Inc. to produce a report showing the number of instances of on-call shifts assigned, please provide such reports for all Justice Just for Girls/ Ascena Retail Group, Inc. employees employed within California, Connecticut, the District of Columbia, Illinois, Maryland, Massachusetts, Minnesota, New York, and/or Rhode Island during 2014 and 2015.
4. Please provide any and all time and payroll records showing dates on which any employee performed work for Justice Just for Girls/ Ascena Retail Group, Inc. within California, Connecticut, the District of Columbia or New York, and was paid for a time period of fewer than four hours on any given day, or within Massachusetts or Rhode Island and was paid for a time period of fewer than three hours on any given day.
5. Please provide any and all documents, including IT guides, computer user manuals, manager guides or handbooks, or other materials explaining the process by which Justice Just for Girls/ Ascena Retail Group, Inc. schedules shifts in stores located in

California, Connecticut, the District of Columbia, Illinois, Maryland, Massachusetts, Minnesota, New York, and/or Rhode Island.

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Please provide your responses electronically, no later than April 25, 2016, to the attention of [Oncall.Inquiry@ag.ny.gov](mailto:Oncall.Inquiry@ag.ny.gov).

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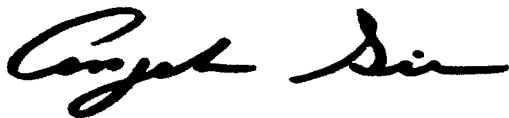
Thank you in advance for your prompt attention,

Sincerely,



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Terri Gerstein  
Labor Bureau Chief  
New York State Attorney General's Office  
120 Broadway  
New York, NY 10271  
(212) 416-6132



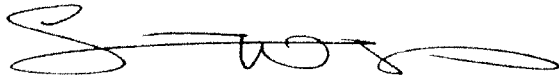
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Angela Sierra  
Senior Assistant Attorney General  
Civil Rights Enforcement Section  
California Department of Justice  
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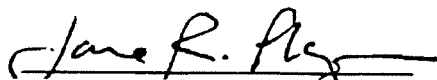
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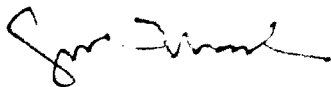
Elizabeth Wilkins  
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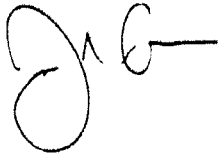
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Jane R. Flanagan  
Chief, Workplace Rights Bureau  
Office of the Illinois Attorney General  
100 W. Randolph Street, 11th floor  
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Cynthia Mark  
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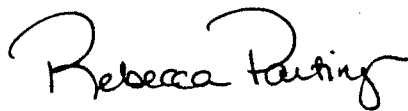
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Joshua N. Auerbach  
Special Assistant & Senior Litigation Counsel  
Maryland Office of the Attorney General  
200 St. Paul Place  
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Alethea M. Huyser  
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STATE OF NEW YORK  
OFFICE OF THE ATTORNEY GENERAL

ERIC T. SCHNEIDERMAN  
ATTORNEY GENERAL

DIVISION OF SOCIAL JUSTICE  
LABOR BUREAU

April 12, 2016

Pacific Sunwear of California, Inc.  
3450 E. Miraloma Ave.  
Anaheim, CA 92806

Attn: Craig Gosselin

Re: Request for Information Regarding "on call shifts"

Dear Mr. Gosselin,

Our offices together write to you regarding "on call shifts," which we believe that Pacific Sunwear of California, Inc. ("PacSun") may be using. Employees assigned to on-call shifts are typically required to contact their employer an hour or two before a scheduled shift to learn whether they must work the shift. If a worker learns that his or her services are not required, the worker is paid no compensation for the day, even though the employee was required to be available to work, to forgo other job and educational opportunities, and to make arrangements for child care or other personal responsibilities.

Such unpredictable work schedules take a toll on employees. Without the security of a definite work schedule, workers who must be "on call" have difficulty making reliable childcare and elder-care arrangements, encounter obstacles in pursuing an education, and in general experience higher incidences of adverse health effects, overall stress, and strain on family life than workers who enjoy the stability of knowing their schedules reasonably in advance. "On-call shifts" also interfere with workers' ability to obtain supplemental employment to ensure financial security for themselves and their families.

Our letter today is prompted by the concerns outlined above and by our shared interest in the well-being of workers nationwide. PacSun has store locations in many of our jurisdictions. In addition, certain of the signatory states have reporting pay or call-in pay laws which are applicable within those jurisdictions.

As you may know, in 2015, the New York State Attorney General's office sent letters to fourteen major retailers seeking information about their use of "on-call shifts." These letters

sought to address the public policy concerns described above and to ensure compliance with New York's "call in pay" regulation, which provides, "An employee who by request or permission of the employer reports for work on any day shall be paid for at least four hours, or the number of hours in the regularly scheduled shift, whichever is less, at the basic minimum hourly wage." 12 NYCRR 142-2.3. Several recipients of the letter responded that they were not using such shifts and the office independently confirmed these representations. The other retailers, after conversations with the New York State Attorney General's office, agreed to stop using "on call shifts," typically nationwide. In order to provide a more predictable and stable work environment for their workforces, these companies also agreed to provide employees with their work schedules at least one week prior to the start of the workweek.

The results of this inquiry to date strongly indicate "on call shifts" are not a business necessity, given that operations can be, and successfully have been, structured to address unexpected absences and unanticipated fluctuations in business volume in other ways.

Because we have reason to believe that PacSun may be using this methodology for scheduling, we would like to know about your use of "on call shifts." In connection with our review, we request that PacSun provide the following information and documents.

### **Request for Information**

1. What is the process by which PacSun schedules employees for work? Does PacSun use a computerized system for scheduling? If so, which system does PacSun use and how does it function? How centralized is the scheduling process? How much autonomy do store managers have in the scheduling process? Are scheduling procedures the same for all stores or do they vary by location?
2. Does PacSun utilize "on call shifts" at any locations in California, Connecticut, the District of Columbia, Illinois, Maryland, Massachusetts, Minnesota, New York, or Rhode Island? If so, specify the location(s) and, for each such location, provide the total number of employees, the number of employees at the location subject to "on call shift" requirements, the date on which "on call shifts" were instituted, and the specific policies and practices employees are required to follow in being available for work and determining the availability of work on a given day, including the categories of employees subject (and not subject) to "on call shift" requirements and the penalties to which employees are subject for failure to follow PacSun's policies in this area as well as the number of employees who have been disciplined or terminated for failure to follow these policies.
3. Has PacSun studied or analyzed the efficiencies or cost savings believed to be associated with the use of "on call shifts" or the potential or actual effect of "on call shifts" on the productivity or well-being of its employees? If so, describe the results of any such study or analysis.
4. Has PacSun studied or analyzed alternative methods for addressing unscheduled absences or unanticipated shifts in business volume, other than use of on-call shifts?

## **Request for Documents**

1. Please provide any and all policies, handbooks, documents, postings, or other written materials provided to any employee employed by PacSun in California, Connecticut, the District of Columbia, Illinois, Maryland, Massachusetts, Minnesota, New York, and/or Rhode Island regarding any and all requirements that such employee (a) must be available for work without having work time guaranteed, and/or (b) must call, send a text message, email, or otherwise contact his or her supervisor or any other agent or representative of PacSun prior to physically presenting himself or herself in the workplace for work on a given day.
2. For each calendar quarter in 2014 and 2015, please provide three to four samples of schedules which include on-call shifts.
3. To the extent that any computerized system used by PacSun enables PacSun to produce a report showing the number of instances of on-call shifts assigned, please provide such reports for all PacSun employees employed within California, Connecticut, the District of Columbia, Illinois, Maryland, Massachusetts, Minnesota, New York, and/or Rhode Island during 2014 and 2015.
4. Please provide any and all time and payroll records showing dates on which any employee performed work for PacSun within California, Connecticut, the District of Columbia or New York, and was paid for a time period of fewer than four hours on any given day, or within Massachusetts or Rhode Island and was paid for a time period of fewer than three hours on any given day.
5. Please provide any and all documents, including IT guides, computer user manuals, manager guides or handbooks, or other materials explaining the process by which PacSun schedules shifts in stores located in California, Connecticut, the District of Columbia, Illinois, Maryland, Massachusetts, Minnesota, New York, and/or Rhode Island.
6. Please provide any and all documents related to any study or analysis referred to in Requests for Information #3 and #4, above.

Please provide your responses electronically, no later than April 25, 2016, to the attention of [Oncall.Inquiry@ag.ny.gov](mailto:Oncall.Inquiry@ag.ny.gov).

If you are unable to provide responses electronically, please provide hard copies of responses to Terri Gerstein at the New York State Attorney General's Office, 120 Broadway, New York, NY 10271 no later than April 25, 2016.



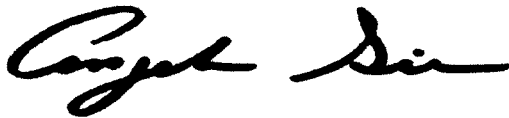
Thank you in advance for your prompt attention,

Sincerely,



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Terri Gerstein  
Labor Bureau Chief  
New York State Attorney General's Office  
120 Broadway  
New York, NY 10271  
(212) 416-6132



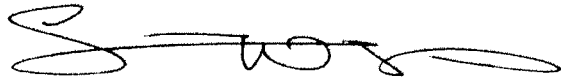
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Angela Sierra  
Senior Assistant Attorney General  
Civil Rights Enforcement Section  
California Department of Justice  
Office of the Attorney General  
300 S. Spring St., Ste. 1702  
Los Angeles, CA 90013  
(213) 620-6312



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Robert W. Clark  
Special Counsel to the Attorney General  
Office of the Connecticut Attorney General  
55 Elm Street  
Hartford, CT 06106  
(860) 808-5322



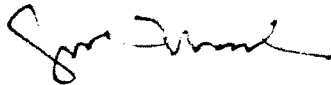
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Elizabeth Wilkins  
Senior Counsel to the Attorney General\*  
Office of the Attorney General for the District of Columbia  
441 4th Street N.W. Suite 1100S  
Washington, D.C. 20001  
(202) 724-5568

\*Admitted to practice only in Maryland. Practicing in the District of Columbia under the direct supervision of Natalie O. Ludaway, a member of the D.C. Bar pursuant to D.C. Court of Appeals Rule 49(c).



Jane R. Flanagan  
Chief, Workplace Rights Bureau  
Office of the Illinois Attorney General  
100 W. Randolph Street, 11th floor  
Chicago, IL 60601  
(312) 814-4720



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Cynthia Mark  
Chief, Fair Labor Division  
Office of Massachusetts Attorney General Maura Healey  
One Ashburton Place  
Boston, MA 02108  
(617) 963-2626



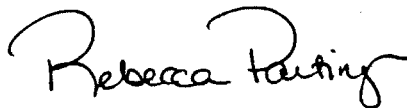
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Joshua N. Auerbach  
Special Assistant & Senior Litigation Counsel  
Maryland Office of the Attorney General  
200 St. Paul Place  
Baltimore, MD 21202  
(410) 576-6311



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Alethea M. Huyser  
Assistant Solicitor General  
Manager, Solicitor General Division  
Minnesota Attorney General's Office  
Bremer Tower, Suite 1100  
445 Minnesota Street  
St. Paul, MN 55101-2128  
(651) 757-1243



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Rebecca T. Partington  
Assistant Attorney General  
Chief, Civil Division  
Rhode Island Attorney General's Office  
150 South Main Street  
Providence, RI 02903  
(401)274-4400, ext. 2303



STATE OF NEW YORK  
OFFICE OF THE ATTORNEY GENERAL

ERIC T. SCHNEIDERMAN  
ATTORNEY GENERAL

DIVISION OF SOCIAL JUSTICE  
LABOR BUREAU

April 12, 2016

Payless ShoeSource, Inc.  
3231 Southeast Sixth Ave  
Topeka, KS 77707-2207

Attn: Robert Donohoo

Re: Request for Information Regarding "on call shifts"

Dear Mr. Donohoo,

Our offices together write to you regarding "on call shifts," which we believe that Payless ShoeSource, Inc. ("Payless") may be using. Employees assigned to on-call shifts are typically required to contact their employer an hour or two before a scheduled shift to learn whether they must work the shift. If a worker learns that his or her services are not required, the worker is paid no compensation for the day, even though the employee was required to be available to work, to forgo other job and educational opportunities, and to make arrangements for child care or other personal responsibilities.

Such unpredictable work schedules take a toll on employees. Without the security of a definite work schedule, workers who must be "on call" have difficulty making reliable childcare and elder-care arrangements, encounter obstacles in pursuing an education, and in general experience higher incidences of adverse health effects, overall stress, and strain on family life than workers who enjoy the stability of knowing their schedules reasonably in advance. "On-call shifts" also interfere with workers' ability to obtain supplemental employment to ensure financial security for themselves and their families.

Our letter today is prompted by the concerns outlined above and by our shared interest in the well-being of workers nationwide. Payless has store locations in many of our jurisdictions. In addition, certain of the signatory states have reporting pay or call-in pay laws which are applicable within those jurisdictions.

As you may know, in 2015, the New York State Attorney General's office sent letters to fourteen major retailers seeking information about their use of "on-call shifts." These letters sought to address the public policy concerns described above and to ensure compliance with New York's "call in pay" regulation, which provides, "An employee who by request or permission of the employer reports for work on any day shall be paid for at least four hours, or the number of hours in the regularly scheduled shift, whichever is less, at the basic minimum hourly wage." 12 NYCRR 142-2.3. Several recipients of the letter responded that they were not using such shifts and the office independently confirmed these representations. The other retailers, after conversations with the New York State Attorney General's office, agreed to stop using "on call shifts," typically nationwide. In order to provide a more predictable and stable work environment for their workforces, these companies also agreed to provide employees with their work schedules at least one week prior to the start of the workweek.

The results of this inquiry to date strongly indicate "on call shifts" are not a business necessity, given that operations can be, and successfully have been, structured to address unexpected absences and unanticipated fluctuations in business volume in other ways.

Because we have reason to believe that Payless may be using this methodology for scheduling, we would like to know about your use of "on call shifts." In connection with our review, we request that Payless provide the following information and documents.

### **Request for Information**

1. What is the process by which Payless schedules employees for work? Does Payless use a computerized system for scheduling? If so, which system does Payless use and how does it function? How centralized is the scheduling process? How much autonomy do store managers have in the scheduling process? Are scheduling procedures the same for all stores or do they vary by location?
2. Does Payless utilize "on call shifts" at any locations in Connecticut, the District of Columbia, Illinois, Maryland, Massachusetts, Minnesota, New York, or Rhode Island? If so, specify the location(s) and, for each such location, provide the total number of employees, the number of employees at the location subject to "on call shift" requirements, the date on which "on call shifts" were instituted, and the specific policies and practices employees are required to follow in being available for work and determining the availability of work on a given day, including the categories of employees subject (and not subject) to "on call shift" requirements and the penalties to which employees are subject for failure to follow Payless's policies in this area as well as the number of employees who have been disciplined or terminated for failure to follow these policies.
3. Has Payless studied or analyzed the efficiencies or cost savings believed to be associated with the use of "on call shifts" or the potential or actual effect of "on call shifts" on the productivity or well-being of its employees? If so, describe the results of any such study or analysis.

4. Has Payless studied or analyzed alternative methods for addressing unscheduled absences or unanticipated shifts in business volume, other than use of on-call shifts?

### **Request for Documents**

1. Please provide any and all policies, handbooks, documents, postings, or other written materials provided to any employee employed by Payless in Connecticut, the District of Columbia, Illinois, Maryland, Massachusetts, Minnesota, New York, and/or Rhode Island regarding any and all requirements that such employee (a) must be available for work without having work time guaranteed, and/or (b) must call, send a text message, email, or otherwise contact his or her supervisor or any other agent or representative of Payless prior to physically presenting himself or herself in the workplace for work on a given day.
2. For each calendar quarter in 2014 and 2015, please provide three to four samples of schedules which include on-call shifts.
3. To the extent that any computerized system used by Payless enables Payless to produce a report showing the number of instances of on-call shifts assigned, please provide such reports for all Payless employees employed within Connecticut, the District of Columbia, Illinois, Maryland, Massachusetts, Minnesota, New York, and/or Rhode Island during 2014 and 2015.
4. Please provide any and all time and payroll records showing dates on which any employee performed work for Payless within Connecticut, the District of Columbia or New York, and was paid for a time period of fewer than four hours on any given day, or within Massachusetts or Rhode Island and was paid for a time period of fewer than three hours on any given day.
5. Please provide any and all documents, including IT guides, computer user manuals, manager guides or handbooks, or other materials explaining the process by which Payless schedules shifts in stores located in Connecticut, the District of Columbia, Illinois, Maryland, Massachusetts, Minnesota, New York, and/or Rhode Island.
6. Please provide any and all documents related to any study or analysis referred to in Requests for Information #3 and #4, above.

Please provide your responses electronically, no later than April 25, 2016, to the attention of [Oncall.Inquiry@ag.ny.gov](mailto:Oncall.Inquiry@ag.ny.gov).

If you are unable to provide responses electronically, please provide hard copies of responses to Terri Gerstein at the New York State Attorney General's Office, 120 Broadway, New York, NY 10271 no later than April 25, 2016.


Thank you in advance for your prompt attention,

Sincerely,



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Terri Gerstein  
Labor Bureau Chief  
New York State Attorney General's Office  
120 Broadway  
New York, NY 10271  
(212) 416-6132



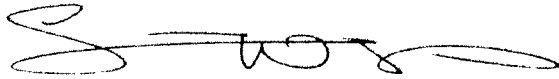
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Angela Sierra  
Senior Assistant Attorney General  
Civil Rights Enforcement Section  
California Department of Justice  
Office of the Attorney General  
300 S. Spring St., Ste. 1702  
Los Angeles, CA 90013  
(213) 620-6312



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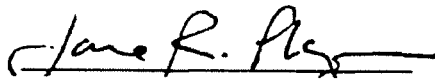
Robert W. Clark  
Special Counsel to the Attorney General  
Office of the Connecticut Attorney General  
55 Elm Street  
Hartford, CT 06106  
(860) 808-5322



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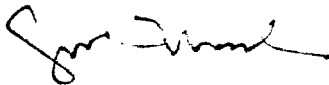
Elizabeth Wilkins  
Senior Counsel to the Attorney General\*  
Office of the Attorney General for the District of Columbia  
441 4th Street N.W. Suite 1100S  
Washington, D.C. 20001  
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\*Admitted to practice only in Maryland. Practicing in the District of Columbia under the direct supervision of Natalie O. Ludaway, a member of the D.C. Bar pursuant to D.C. Court of Appeals Rule 49(c).



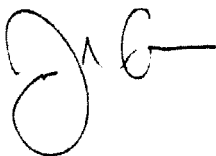
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Jane R. Flanagan  
Chief, Workplace Rights Bureau  
Office of the Illinois Attorney General  
100 W. Randolph Street, 11th floor  
Chicago, IL 60601  
(312) 814-4720



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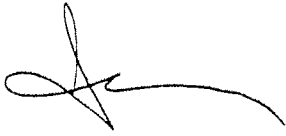
Cynthia Mark  
Chief, Fair Labor Division  
Office of Massachusetts Attorney General Maura Healey  
One Ashburton Place  
Boston, MA 02108  
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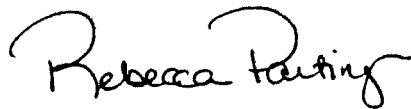
Joshua N. Auerbach  
Special Assistant & Senior Litigation Counsel  
Maryland Office of the Attorney General  
200 St. Paul Place  
Baltimore, MD 21202  
(410) 576-6311





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Alethea M. Huyser  
Assistant Solicitor General  
Manager, Solicitor General Division  
Minnesota Attorney General's Office  
Bremer Tower, Suite 1100  
445 Minnesota Street  
St. Paul, MN 55101-2128  
(651) 757-1243



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Rebecca T. Partington  
Assistant Attorney General  
Chief, Civil Division  
Rhode Island Attorney General's Office  
150 South Main Street  
Providence, RI 02903  
(401)274-4400, ext. 2303



STATE OF NEW YORK  
OFFICE OF THE ATTORNEY GENERAL

ERIC T. SCHNEIDERMAN  
ATTORNEY GENERAL

DIVISION OF SOCIAL JUSTICE  
LABOR BUREAU

April 12, 2016

Tilly's, Inc.  
10 Whatney  
Irvine, CA 92618  
Attn: Christopher M. Lal

Re: Request for Information Regarding "on call shifts"

Dear Mr. Lal,

Our offices together write to you regarding "on call shifts," which we believe that Tilly's, Inc. may be using. Employees assigned to on-call shifts are typically required to contact their employer an hour or two before a scheduled shift to learn whether they must work the shift. If a worker learns that his or her services are not required, the worker is paid no compensation for the day, even though the employee was required to be available to work, to forgo other job and educational opportunities, and to make arrangements for child care or other personal responsibilities.

Such unpredictable work schedules take a toll on employees. Without the security of a definite work schedule, workers who must be "on call" have difficulty making reliable childcare and elder-care arrangements, encounter obstacles in pursuing an education, and in general experience higher incidences of adverse health effects, overall stress, and strain on family life than workers who enjoy the stability of knowing their schedules reasonably in advance. "On-call shifts" also interfere with workers' ability to obtain supplemental employment to ensure financial security for themselves and their families.

Our letter today is prompted by the concerns outlined above and by our shared interest in the well-being of workers nationwide. Tilly's, Inc. has store locations in many of our jurisdictions. In addition, certain of the signatory states have reporting pay or call-in pay laws which are applicable within those jurisdictions.

As you may know, in 2015, the New York State Attorney General's office sent letters to fourteen major retailers seeking information about their use of "on-call shifts." These letters sought to address the public policy concerns described above and to ensure compliance with New York's "call in pay" regulation, which provides, "An employee who by request or permission of the employer reports for work on any day shall be paid for at least four hours, or the number of hours in the regularly scheduled shift, whichever is less, at the basic minimum hourly wage." 12 NYCRR 142-2.3. Several recipients of the letter responded that they were not using such shifts and the office independently confirmed these representations. The other retailers, after conversations with the New York State Attorney General's office, agreed to stop using "on call shifts," typically nationwide. In order to provide a more predictable and stable work environment for their workforces, these companies also agreed to provide employees with their work schedules at least one week prior to the start of the workweek.

The results of this inquiry to date strongly indicate "on call shifts" are not a business necessity, given that operations can be, and successfully have been, structured to address unexpected absences and unanticipated fluctuations in business volume in other ways.

Because we have reason to believe that Tilly's, Inc. may be using this methodology for scheduling, we would like to know about your use of "on call shifts." In connection with our review, we request that Tilly's, Inc. provide the following information and documents.

### **Request for Information**

1. What is the process by which Tilly's, Inc. schedules employees for work? Does Tilly's, Inc. use a computerized system for scheduling? If so, which system does Tilly's, Inc. use and how does it function? How centralized is the scheduling process? How much autonomy do store managers have in the scheduling process? Are scheduling procedures the same for all stores or do they vary by location?
2. Does Tilly's, Inc. utilize "on call shifts" at any locations in the California, District of Columbia, Illinois, Maryland, Massachusetts, Minnesota, or New York? If so, specify the location(s) and, for each such location, provide the total number of employees, the number of employees at the location subject to "on call shift" requirements, the date on which "on call shifts" were instituted, and the specific policies and practices employees are required to follow in being available for work and determining the availability of work on a given day, including the categories of employees subject (and not subject) to "on call shift" requirements and the penalties to which employees are subject for failure to follow Tilly's, Inc.'s policies in this area as well as the number of employees who have been disciplined or terminated for failure to follow these policies.
3. Has Tilly's, Inc. studied or analyzed the efficiencies or cost savings believed to be associated with the use of "on call shifts" or the potential or actual effect of "on call shifts" on the productivity or well-being of its employees? If so, describe the results of any such study or analysis.

4. Has Tilly's, Inc. studied or analyzed alternative methods for addressing unscheduled absences or unanticipated shifts in business volume, other than use of on-call shifts?

### **Request for Documents**

1. Please provide any and all policies, handbooks, documents, postings, or other written materials provided to any employee employed by Tilly's, Inc. in California, the District of Columbia, Illinois, Maryland, Massachusetts, Minnesota, and/or New York regarding any and all requirements that such employee (a) must be available for work without having work time guaranteed, and/or (b) must call, send a text message, email, or otherwise contact his or her supervisor or any other agent or representative of Tilly's, Inc. prior to physically presenting himself or herself in the workplace for work on a given day.
2. For each calendar quarter in 2014 and 2015, please provide three to four samples of schedules which include on-call shifts.
3. To the extent that any computerized system used by Tilly's, Inc. enables Tilly's, Inc. to produce a report showing the number of instances of on-call shifts assigned, please provide such reports for all Tilly's, Inc. employees employed within California, the District of Columbia, Illinois, Maryland, Massachusetts, Minnesota, and/or New York during 2014 and 2015.
4. Please provide any and all time and payroll records showing dates on which any employee performed work for Tilly's, Inc. within California, the District of Columbia or New York, and was paid for a time period of fewer than four hours on any given day, or within Massachusetts and was paid for a time period of fewer than three hours on any given day.
5. Please provide any and all documents, including IT guides, computer user manuals, manager guides or handbooks, or other materials explaining the process by which Tilly's, Inc. schedules shifts in stores located in California, the District of Columbia, Illinois, Maryland, Massachusetts, Minnesota, and/or New York.
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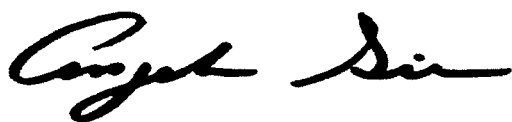
Thank you in advance for your prompt attention,

Sincerely,



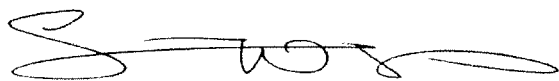
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Terri Gerstein  
Labor Bureau Chief  
New York State Attorney General's Office  
120 Broadway  
New York, NY 10271  
(212) 416-6132



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Angela Sierra  
Senior Assistant Attorney General  
Civil Rights Enforcement Section  
California Department of Justice  
Office of the Attorney General  
300 S. Spring St., Ste. 1702  
Los Angeles, CA 90013  
(213) 620-6312



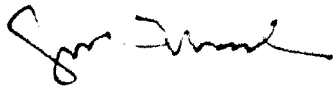
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Elizabeth Wilkins  
Senior Counsel to the Attorney General\*  
Office of the Attorney General for the District of Columbia  
441 4th Street N.W. Suite 1100S  
Washington, D.C. 20001  
(202) 724-5568

\*Admitted to practice only in Maryland. Practicing in the District of Columbia under the direct supervision of Natalie O. Ludaway, a member of the D.C. Bar pursuant to D.C. Court of Appeals Rule 49(c).



Jane R. Flanagan  
Chief, Workplace Rights Bureau  
Office of the Illinois Attorney General  
100 W. Randolph Street, 11th floor  
Chicago, IL 60601  
(312) 814-4720



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Cynthia Mark  
Chief, Fair Labor Division  
Office of Massachusetts Attorney General Maura Healey  
One Ashburton Place  
Boston, MA 02108  
(617) 963-2626



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Joshua N. Auerbach  
Special Assistant & Senior Litigation Counsel  
Maryland Office of the Attorney General  
200 St. Paul Place  
Baltimore, MD 21202  
(410) 576-6311



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Alethea M. Huyser  
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Manager, Solicitor General Division  
Minnesota Attorney General's Office  
Bremer Tower, Suite 1100  
445 Minnesota Street  
St. Paul, MN 55101-2128  
(651) 757-1243



STATE OF NEW YORK  
OFFICE OF THE ATTORNEY GENERAL

ERIC T. SCHNEIDERMAN  
ATTORNEY GENERAL

DIVISION OF SOCIAL JUSTICE  
LABOR BUREAU

April 12, 2016

Uniqlo Co. Ltd. / Fast Retailing Co. Ltd.  
60 Wall Street  
New York NY 10005  
Tadashi Yanai

Re: Request for Information Regarding "on call shifts"

Dear Mr. Yanai,

Our offices together write to you regarding "on call shifts," which we believe that Uniqlo Co. Ltd. / Fast Retailing Co. Ltd. ("Uniglo") may be using. Employees assigned to on-call shifts are typically required to contact their employer an hour or two before a scheduled shift to learn whether they must work the shift. If a worker learns that his or her services are not required, the worker is paid no compensation for the day, even though the employee was required to be available to work, to forgo other job and educational opportunities, and to make arrangements for child care or other personal responsibilities.

Such unpredictable work schedules take a toll on employees. Without the security of a definite work schedule, workers who must be "on call" have difficulty making reliable childcare and elder-care arrangements, encounter obstacles in pursuing an education, and in general experience higher incidences of adverse health effects, overall stress, and strain on family life than workers who enjoy the stability of knowing their schedules reasonably in advance. "On-call shifts" also interfere with workers' ability to obtain supplemental employment to ensure financial security for themselves and their families.

Our letter today is prompted by the concerns outlined above and by our shared interest in the well-being of workers nationwide. Uniqlo has store locations in many of our jurisdictions. In addition, certain of the signatory states have reporting pay or call-in pay laws which are applicable within those jurisdictions.

As you may know, in 2015, the New York State Attorney General's office sent letters to fourteen major retailers seeking information about their use of "on-call shifts." These letters

sought to address the public policy concerns described above and to ensure compliance with New York's "call in pay" regulation, which provides, "An employee who by request or permission of the employer reports for work on any day shall be paid for at least four hours, or the number of hours in the regularly scheduled shift, whichever is less, at the basic minimum hourly wage." 12 NYCRR 142-2.3. Several recipients of the letter responded that they were not using such shifts and the office independently confirmed these representations. The other retailers, after conversations with the New York State Attorney General's office, agreed to stop using "on call shifts," typically nationwide. In order to provide a more predictable and stable work environment for their workforces, these companies also agreed to provide employees with their work schedules at least one week prior to the start of the workweek.

The results of this inquiry to date strongly indicate "on call shifts" are not a business necessity, given that operations can be, and successfully have been, structured to address unexpected absences and unanticipated fluctuations in business volume in other ways.

Because we have reason to believe that Uniqlo may be using this methodology for scheduling, we would like to know about your use of "on call shifts." In connection with our review, we request that Uniqlo provide the following information and documents.

### **Request for Information**

1. What is the process by which Uniqlo schedules employees for work? Does Uniqlo use a computerized system for scheduling? If so, which system does Uniqlo use and how does it function? How centralized is the scheduling process? How much autonomy do store managers have in the scheduling process? Are scheduling procedures the same for all stores or do they vary by location?
2. Does Uniqlo utilize "on call shifts" at any locations in California, Connecticut, Illinois, Massachusetts, or New York? If so, specify the location(s) and, for each such location, provide the total number of employees, the number of employees at the location subject to "on call shift" requirements, the date on which "on call shifts" were instituted, and the specific policies and practices employees are required to follow in being available for work and determining the availability of work on a given day, including the categories of employees subject (and not subject) to "on call shift" requirements and the penalties to which employees are subject for failure to follow Uniqlo / Fast Retailing's policies in this area as well as the number of employees who have been disciplined or terminated for failure to follow these policies.
3. Has Uniqlo studied or analyzed the efficiencies or cost savings believed to be associated with the use of "on call shifts" or the potential or actual effect of "on call shifts" on the productivity or well-being of its employees? If so, describe the results of any such study or analysis.



4. Has Uniqlo studied or analyzed alternative methods for addressing unscheduled absences or unanticipated shifts in business volume, other than use of on-call shifts?

### **Request for Documents**

1. Please provide any and all policies, handbooks, documents, postings, or other written materials provided to any employee employed by Uniqlo in California, Connecticut, Illinois, Massachusetts, and/or New York regarding any and all requirements that such employee (a) must be available for work without having work time guaranteed, and/or (b) must call, send a text message, email, or otherwise contact his or her supervisor or any other agent or representative of Uniqlo / Fast Retailing prior to physically presenting himself or herself in the workplace for work on a given day.
2. For each calendar quarter in 2014 and 2015, please provide three to four samples of schedules which include on-call shifts.
3. To the extent that any computerized system used by Uniqlo enables Uniqlo to produce a report showing the number of instances of on-call shifts assigned, please provide such reports for all Uniqlo employees employed within California, Connecticut, Illinois, Massachusetts, and/or New York during 2014 and 2015.
4. Please provide any and all time and payroll records showing dates on which any employee performed work for Uniqlo within California, Connecticut or New York, and was paid for a time period of fewer than four hours on any given day, or within Massachusetts and was paid for a time period of fewer than three hours on any given day.
5. Please provide any and all documents, including IT guides, computer user manuals, manager guides or handbooks, or other materials explaining the process by which Uniqlo schedules shifts in stores located in California, Connecticut, Illinois, Massachusetts, and/or New York.
6. Please provide any and all documents related to any study or analysis referred to in Requests for Information #3 and #4, above.

Please provide your responses electronically, no later than April 25, 2016, to the attention of [Oncall.Inquiry@ag.ny.gov](mailto:Oncall.Inquiry@ag.ny.gov).

If you are unable to provide responses electronically, please provide hard copies of responses to Terri Gerstein at the New York State Attorney General's Office, 120 Broadway, New York, NY 10271 no later than April 25, 2016.

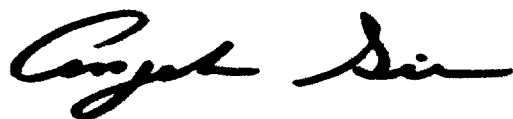
Thank you in advance for your prompt attention,

Sincerely,



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Terri Gerstein  
Labor Bureau Chief  
New York State Attorney General's Office  
120 Broadway  
New York, NY 10271  
(212) 416-6132



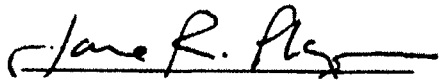
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Angela Sierra  
Senior Assistant Attorney General  
Civil Rights Enforcement Section  
California Department of Justice  
Office of the Attorney General  
300 S. Spring St., Ste. 1702  
Los Angeles, CA 90013  
(213) 620-6312

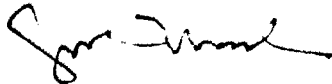


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Robert W. Clark  
Special Counsel to the Attorney General  
Office of the Connecticut Attorney General  
55 Elm Street  
Hartford, CT 06106  
(860) 808-5322



Jane R. Flanagan  
Chief, Workplace Rights Bureau  
Office of the Illinois Attorney General  
100 W. Randolph Street, 11th floor  
Chicago, IL 60601  
(312) 814-4720



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Cynthia Mark  
Chief, Fair Labor Division  
Office of Massachusetts Attorney General Maura Healey  
One Ashburton Place  
Boston, MA 02108  
(617) 963-2626



STATE OF NEW YORK  
OFFICE OF THE ATTORNEY GENERAL

ERIC T. SCHNEIDERMAN  
ATTORNEY GENERAL

DIVISION OF SOCIAL JUSTICE  
LABOR BUREAU

April 12, 2016

Vans/VF Corporation  
6550 Katella Ave  
Cypress, CA 90630 (Vans)

Vans/VF Corporation  
105 Corporate Center Blvd  
Greensboro, NC 27408 (VF Corporation)

Attn: Laura Meagher

Re: Request for Information Regarding "on call shifts"

Dear Ms. Meagher,

Our offices together write to you regarding "on call shifts," which we believe that Vans/VF Corporation ("Vans/VF Corp") may be using. Employees assigned to on-call shifts are typically required to contact their employer an hour or two before a scheduled shift to learn whether they must work the shift. If a worker learns that his or her services are not required, the worker is paid no compensation for the day, even though the employee was required to be available to work, to forgo other job and educational opportunities, and to make arrangements for child care or other personal responsibilities.

Such unpredictable work schedules take a toll on employees. Without the security of a definite work schedule, workers who must be "on call" have difficulty making reliable childcare and elder-care arrangements, encounter obstacles in pursuing an education, and in general experience higher incidences of adverse health effects, overall stress, and strain on family life than workers who enjoy the stability of knowing their schedules reasonably in advance. "On-call shifts" also interfere with workers' ability to obtain supplemental employment to ensure financial security for themselves and their families.

Our letter today is prompted by the concerns outlined above and by our shared interest in the well-being of workers nationwide. Vans/VF Corp has store locations in many of our jurisdictions. In addition, certain of the signatory states have reporting pay or call-in pay laws which are applicable within those jurisdictions.

As you may know, in 2015, the New York State Attorney General's office sent letters to fourteen major retailers seeking information about their use of "on-call shifts." These letters sought to address the public policy concerns described above and to ensure compliance with New York's "call in pay" regulation, which provides, "An employee who by request or permission of the employer reports for work on any day shall be paid for at least four hours, or the number of hours in the regularly scheduled shift, whichever is less, at the basic minimum hourly wage." 12 NYCRR 142-2.3. Several recipients of the letter responded that they were not using such shifts and the office independently confirmed these representations. The other retailers, after conversations with the New York State Attorney General's office, agreed to stop using "on call shifts," typically nationwide. In order to provide a more predictable and stable work environment for their workforces, these companies also agreed to provide employees with their work schedules at least one week prior to the start of the workweek.

The results of this inquiry to date strongly indicate "on call shifts" are not a business necessity, given that operations can be, and successfully have been, structured to address unexpected absences and unanticipated fluctuations in business volume in other ways.

Because we have reason to believe that Vans/VF Corp may be using this methodology for scheduling, we would like to know about your use of "on call shifts." In connection with our review, we request that Vans/VF Corp provide the following information and documents.

### **Request for Information**

1. What is the process by which Vans/VF Corp schedules employees for work? Does Vans/VF Corp use a computerized system for scheduling? If so, which system does Vans/VF Corp use and how does it function? How centralized is the scheduling process? How much autonomy do store managers have in the scheduling process? Are scheduling procedures the same for all stores or do they vary by location?
2. Does Vans/VF Corp utilize "on call shifts" at any locations in California, Connecticut, the District of Columbia, Illinois, Maryland, Massachusetts, Minnesota, New York, or Rhode Island? If so, specify the location(s) and, for each such location, provide the total number of employees, the number of employees at the location subject to "on call shift" requirements, the date on which "on call shifts" were instituted, and the specific policies and practices employees are required to follow in being available for work and determining the availability of work on a given day, including the categories

of employees subject (and not subject) to “on call shift” requirements and the penalties to which employees are subject for failure to follow Vans/VF Corp’s policies in this area as well as the number of employees who have been disciplined or terminated for failure to follow these policies.

3. Has Vans/VF Corp studied or analyzed the efficiencies or cost savings believed to be associated with the use of “on call shifts” or the potential or actual effect of “on call shifts” on the productivity or well-being of its employees? If so, describe the results of any such study or analysis.
4. Has Vans/VF Corp studied or analyzed alternative methods for addressing unscheduled absences or unanticipated shifts in business volume, other than use of on-call shifts?

### **Request for Documents**

1. Please provide any and all policies, handbooks, documents, postings, or other written materials provided to any employee employed by Vans/VF Corp in California, Connecticut, the District of Columbia, Illinois, Maryland, Massachusetts, Minnesota, New York, and/or Rhode Island regarding any and all requirements that such employee (a) must be available for work without having work time guaranteed, and/or (b) must call, send a text message, email, or otherwise contact his or her supervisor or any other agent or representative of Vans/VF Corp prior to physically presenting himself or herself in the workplace for work on a given day.
2. For each calendar quarter in 2014 and 2015, please provide three to four samples of schedules which include on-call shifts.
3. To the extent that any computerized system used by Vans/VF Corp enables Vans/VF Corp to produce a report showing the number of instances of on-call shifts assigned, please provide such reports for all Vans/VF Corp employees employed within California, Connecticut, the District of Columbia, Illinois, Maryland, Massachusetts, Minnesota, New York, and/or Rhode Island during 2014 and 2015.
4. Please provide any and all time and payroll records showing dates on which any employee performed work for Vans/VF Corp within California, Connecticut, the District of Columbia or New York, and was paid for a time period of fewer than four hours on any given day, or within Massachusetts or Rhode Island and was paid for a time period of fewer than three hours on any given day.
5. Please provide any and all documents, including IT guides, computer user manuals, manager guides or handbooks, or other materials explaining the process by which Vans/VF Corp schedules shifts in stores located in

California, Connecticut, the District of Columbia, Illinois, Maryland, Massachusetts, Minnesota, New York, and/or Rhode Island.

6. Please provide any and all documents related to any study or analysis referred to in Requests for Information #3 and #4, above.

Please provide your responses electronically, no later than April 25, 2016, to the attention of [Oncall.Inquiry@ag.ny.gov](mailto:Oncall.Inquiry@ag.ny.gov).

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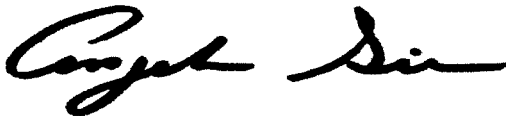
Thank you in advance for your prompt attention,

Sincerely,



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Terri Gerstein  
Labor Bureau Chief  
New York State Attorney General's Office  
120 Broadway  
New York, NY 10271  
(212) 416-6132



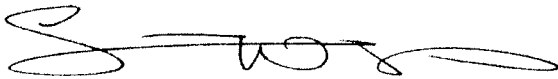
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Angela Sierra  
Senior Assistant Attorney General  
Civil Rights Enforcement Section  
California Department of Justice  
Office of the Attorney General  
300 S. Spring St., Ste. 1702  
Los Angeles, CA 90013  
(213) 620-6312



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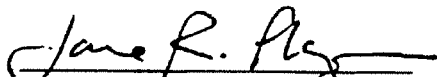
Robert W. Clark  
Special Counsel to the Attorney General  
Office of the Connecticut Attorney General  
55 Elm Street  
Hartford, CT 06106  
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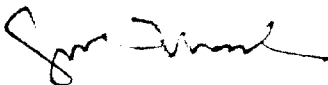
Elizabeth Wilkins  
Senior Counsel to the Attorney General\*  
Office of the Attorney General for the District of Columbia  
441 4th Street N.W. Suite 1100S  
Washington, D.C. 20001  
(202) 724-5568

\*Admitted to practice only in Maryland. Practicing in the District of Columbia under the direct supervision of Natalie O. Ludaway, a member of the D.C. Bar pursuant to D.C. Court of Appeals Rule 49(c).



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Jane R. Flanagan  
Chief, Workplace Rights Bureau  
Office of the Illinois Attorney General  
100 W. Randolph Street, 11th floor  
Chicago, IL 60601  
(312) 814-4720



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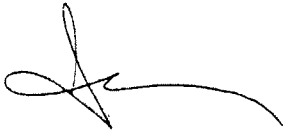
Cynthia Mark  
Chief, Fair Labor Division  
Office of Massachusetts Attorney General Maura Healey  
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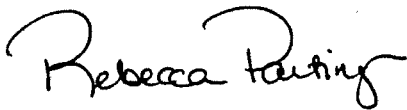
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Joshua N. Auerbach  
Special Assistant & Senior Litigation Counsel  
Maryland Office of the Attorney General  
200 St. Paul Place  
Baltimore, MD 21202  
(410) 576-6311



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Alethea M. Huyser  
Assistant Solicitor General  
Manager, Solicitor General Division  
Minnesota Attorney General's Office  
Bremer Tower, Suite 1100  
445 Minnesota Street  
St. Paul, MN 55101-2128  
(651) 757-1243



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Rebecca T. Partington  
Assistant Attorney General  
Chief, Civil Division  
Rhode Island Attorney General's Office  
150 South Main Street  
Providence, RI 02903  
(401)274-4400, ext. 2303



STATE OF NEW YORK  
OFFICE OF THE ATTORNEY GENERAL

ERIC T. SCHNEIDERMAN  
ATTORNEY GENERAL

DIVISION OF SOCIAL JUSTICE  
LABOR BUREAU

April 12, 2016

Zumiez, Inc.  
4001 204th Street SW  
Lynnwood, WA 98036

Attn: Chris K. Visser

Re: Request for Information Regarding "on call shifts"

Dear Mr. Visser,

Our offices together write to you regarding "on call shifts," which we believe that Zumiez, Inc. ("Zumiez") may be using. Employees assigned to on-call shifts are typically required to contact their employer an hour or two before a scheduled shift to learn whether they must work the shift. If a worker learns that his or her services are not required, the worker is paid no compensation for the day, even though the employee was required to be available to work, to forgo other job and educational opportunities, and to make arrangements for child care or other personal responsibilities.

Such unpredictable work schedules take a toll on employees. Without the security of a definite work schedule, workers who must be "on call" have difficulty making reliable childcare and elder-care arrangements, encounter obstacles in pursuing an education, and in general experience higher incidences of adverse health effects, overall stress, and strain on family life than workers who enjoy the stability of knowing their schedules reasonably in advance. "On-call shifts" also interfere with workers' ability to obtain supplemental employment to ensure financial security for themselves and their families.

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### **Request for Information**

1. What is the process by which Zumiez schedules employees for work? Does Zumiez use a computerized system for scheduling? If so, which system does Zumiez use and how does it function? How centralized is the scheduling process? How much autonomy do store managers have in the scheduling process? Are scheduling procedures the same for all stores or do they vary by location?
2. Does Zumiez utilize "on call shifts" at any locations in California, Connecticut, the District of Columbia, Illinois, Maryland, Massachusetts, Minnesota, New York, or Rhode Island? If so, specify the location(s) and, for each such location, provide the total number of employees, the number of employees at the location subject to "on call shift" requirements, the date on which "on call shifts" were instituted, and the specific policies and practices employees are required to follow in being available for work and determining the availability of work on a given day, including the categories of employees subject (and not subject) to "on call shift" requirements and the penalties to which employees are subject for failure to follow Zumiez's policies in this area as well as the number of employees who have been disciplined or terminated for failure to follow these policies.
3. Has Zumiez studied or analyzed the efficiencies or cost savings believed to be associated with the use of "on call shifts" or the potential or actual effect of "on call shifts" on the productivity or well-being of its employees? If so, describe the results of any such study or analysis.

4. Has Zumiez studied or analyzed alternative methods for addressing unscheduled absences or unanticipated shifts in business volume, other than use of on-call shifts?

### **Request for Documents**

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Thank you in advance for your prompt attention,

Sincerely,



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Terri Gerstein  
Labor Bureau Chief  
New York State Attorney General's Office  
120 Broadway  
New York, NY 10271  
(212) 416-6132



---

Angela Sierra  
Senior Assistant Attorney General  
Civil Rights Enforcement Section  
California Department of Justice  
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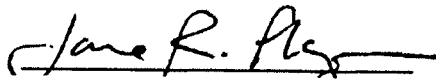
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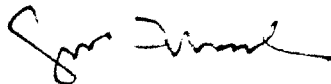
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Elizabeth Wilkins  
Senior Counsel to the Attorney General\*  
Office of the Attorney General for the District of Columbia  
441 4th Street N.W. Suite 1100S  
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\*Admitted to practice only in Maryland. Practicing in the District of Columbia under the direct supervision of Natalie O. Ludaway, a member of the D.C. Bar pursuant to D.C. Court of Appeals Rule 49(c).

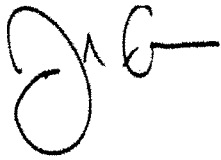


Jane R. Flanagan  
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Office of the Illinois Attorney General  
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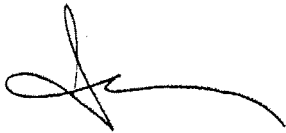
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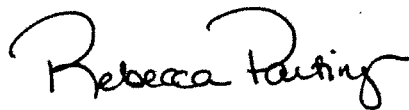
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Joshua N. Auerbach  
Special Assistant & Senior Litigation Counsel  
Maryland Office of the Attorney General  
200 St. Paul Place  
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Alethea M. Huyser  
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