

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK

MALLORY MUSALLAM, individually and on behalf of other persons similarly situated who were employed by CBS BROADCASTING, INC., CBS CORPORATION, and WORLDWIDE PANTS INCORPORATED or any other entities affiliated with or controlled by CBS BROADCASTING, INC. and WORLDWIDE PANTS INCORPORATED,

Plaintiffs,

-against -

CBS BROADCASTING, INC., CBS CORPORATION, and WORLDWIDE PANTS, INC. or any other entities affiliated with or controlled by CBS BROADCASTING, INC., CBS CORPORATION, and WORLDWIDE PANTS INCORPORATED,

Defendants.

Index No.:

Plaintiffs designate the County of New York as the place of trial.

Venue is based on the place where the work was performed.

**SUMMONS**

TO THE ABOVE NAMED DEFENDANTS:

You are hereby summoned to serve upon Plaintiffs' attorneys an answer to the Complaint in this action within 30 days after service of this summons. In case of your failure to answer, judgment will be taken against you by default for the relief demanded in the complaint.

Dated: New York, New York  
September 4, 2014

s/ Lloyd R. Ambinder

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*Attorneys for Plaintiff and Putative Class*

TO: CBS Broadcasting, Inc.  
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New York, NY 10019

CBS Corporation  
51 W. 52<sup>nd</sup> Street (19-13)  
New York, NY 10019

Worldwide Pants Incorporated  
10960 Wilshire Blvd., 5<sup>th</sup> Floor  
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Defendants.

**Index No.:**

**CLASS ACTION  
COMPLAINT**

**Jury Demand**

The Named Plaintiff MALLORY MUSALLAM (“Named Plaintiff”), by her attorneys Virginia & Ambinder, LLP and Leeds Brown Law, P.C., alleges upon knowledge to herself and upon information and belief as to all other matters as follows:

**PRELIMINARY STATEMENT**

1. This action is brought pursuant to New York Labor Law Article 19 §§ 650 *et seq.*, and § 663, New York Labor Law Article 6 §§ 190 *et seq.* (“NYLL”), 12 New York Codes, Rules and Regulations (“NYCRR”) §§ 142-2.1 and 142-2.2, to recover unpaid minimum wages and overtime compensation owed to Named Plaintiff and all similarly situated persons who are presently or were formerly employed to work on The Late Show with David Letterman by CBS BROADCASTING, INC., CBS CORPORATION, and WORLDWIDE PANTS INCORPORATED or any other entities affiliated with or controlled by CBS BROADCASTING, INC., CBS CORPORATION, and WORLDWIDE PANTS INCORPORATED (hereinafter collectively as “Defendants”).

2. Beginning in approximately September 2008 and, upon information and belief, continuing through the present, Defendants have maintained a policy and practice of wrongfully classifying Named Plaintiff and others similarly situated that worked on The Late Show with David Letterman as exempt from minimum wages and overtime compensation.

3. Beginning in approximately September 2008 and, upon information and belief, continuing through the present, Defendants have maintained a policy and practice of failing to provide compensation at the statutory minimum wage rate for all hours worked to the Named Plaintiff and members of the putative class.

4. Beginning in approximately September 2008 and, upon information and belief, continuing through the present, Defendants have maintained a policy and practice of failing to provide overtime compensation to the Named Plaintiff and members of the putative class for all hours worked over forty (40) in any given week.

5. Named Plaintiff has initiated this action seeking for herself, and on behalf of all similarly situated employees that also worked on The Late Show with David Letterman, all compensation, including minimum wages and overtime compensation, which they were deprived of, plus interest, attorneys' fees, and costs.

#### **THE PARTIES**

6. The Named Plaintiff, MALLORY MUSALLAM, is an individual who is currently a resident of Oklahoma City, Oklahoma.

7. Named Plaintiff Musallam was employed by Defendants to work on The Late Show with David Letterman from approximately September 2008 through December of 2008 at Defendants' office in New York City.

8. Upon information and belief, Defendant CBS BROADCASTING, INC. is a business corporation organized and existing under the laws of New York with a principal executive office located at 51 W. 52<sup>nd</sup> Street, New York, NY 10019, and is engaged in the entertainment industry.

9. Upon information and belief, CBS BROADCASTING, INC. is a subsidiary of Defendant CBS CORPORATION.

10. Upon information and belief, CBS BROADCASTING, INC. is the distributor of The Late Show with David Letterman.

11. Upon information and belief, Defendant CBS CORPORATION is a foreign business corporation organized and existing under the laws of Delaware and authorized to do business within the State of New York with a principal executive office located at 51 W. 52<sup>nd</sup> Street, New York, NY 10019, and is engaged in the entertainment industry.

12. Upon information and belief, Defendant WORLDWIDE PANTS INCORPORATED is a business corporation organized and existing under the laws of New York with a principal executive office located at 10960 Wilshire Blvd., 5<sup>th</sup> Floor, Los Angeles, California, 90024, and is engaged in the entertainment industry.

13. Upon information and belief, WORLDWIDE PANTS INCORPORATED produces The Late Show with David Letterman.

#### **CLASS ALLEGATIONS**

14. This action is properly maintainable as a class action pursuant to Article 9 of the New York Civil Practice Law and Rules.

15. This action is brought on behalf of the Named Plaintiff and a class consisting of each and every other person who worked for Defendants as interns on The Late Show with

David Letterman, and were misclassified as exempt from minimum wage and overtime requirements.

16. Named Plaintiff and putative class members are all victims of Defendants' common policy and/or plan to violate New York wage and hour statutes by (1) misclassifying Named Plaintiff and members of the putative class as exempt from minimum wage compensation and overtime compensation; and (2) failing to provide minimum wages and overtime compensation for work performed.

17. Defendants uniformly applied the same employment practices, policies and procedures to all interns who work for Defendants in the State of New York.

18. The putative class is so numerous that joinder of all members is impracticable. The size of the putative class is believed to be in excess of 100 individuals. In addition, the names of all potential members of the putative class are not known.

19. The questions of law and fact common to the putative class predominate over any questions affecting only individual members. These questions of law and fact include, but are not limited to: (1) whether Defendants failed to pay Named Plaintiff and members of the putative class all earned wages; (2) whether Defendants misclassified Named Plaintiff and members of the putative class as exempt from minimum wages and overtime compensation; and (3) whether Defendants required the Named Plaintiff and members of the putative class to perform work on its behalf and for its benefit for which they were not compensated.

20. The claims of the Named Plaintiff are typical of the claims of the putative class. The Named Plaintiff and putative class members were all subject to Defendants' policies and willful practices of failing to pay interns all earned minimum wages. The Named Plaintiff and putative class members thus have sustained similar injuries as a result of the Defendants' actions.

21. The Named Plaintiff and her counsel will fairly and adequately protect the interests of the putative class.

22. The Named Plaintiff has retained counsel experienced in complex wage and hour class action litigation.

23. A class action is superior to other available methods for the fair and efficient adjudication of this controversy. The individual Named Plaintiff and putative class members lack the financial resources to adequately prosecute separate lawsuits against Defendants. Furthermore, the damages for each individual are small compared to the expense and burden of individual prosecution of this litigation. Finally, a class action will also prevent unduly duplicative litigation resulting from inconsistent judgments pertaining to Defendants' policies.

24. Prosecuting and defending multiple actions would be impracticable.

25. Managing a class action will not result in undue difficulties.

#### **FACTS**

26. Upon information and belief, beginning in or around September 2008 and continuing through December 2008, Defendants employed Named Plaintiff as an intern on The Late Show with David Letterman.

27. Named Plaintiff performed various tasks, including, but not limited to, research for interview material, deliver film clips from libraries, running errands, faxing, scanning, operating the switchboard, and other similar duties.

28. During her employment with Defendants, Named Plaintiff typically worked five days per week from approximately 9:00 a.m. to 6:00 p.m. on four days per week and 9:00 a.m. to 8:00 p.m. one day per week.

29. Named Plaintiff typically worked in excess of forty (40) hours per week.

30. Defendants did not provide minimum wage or overtime compensation to the Named Plaintiff for the hours she worked.

31. Upon information and belief, like the Named Plaintiff, members of the putative class furnished labor to Defendants, for Defendants' benefit, without receiving minimum wages or overtime compensation.

32. Upon information and belief, Defendants have derived a significant benefit from the work performed by the Named Plaintiff and putative class members performed.

33. Upon information and belief, Defendants would have hired additional employees or required existing staff to work additional hours had the Named Plaintiff and the putative class members not performed work for Defendants.

34. Upon information and belief, Defendants did not provide academic or vocational training to the Named Plaintiff or putative class members.

35. Defendants' unlawful conduct had been pursuant to a corporate policy or practice of minimizing labor costs by denying Named Plaintiff and the putative class minimum wages and overtime compensation in violation of the NYLL and its implementing regulations.

36. Defendants' unlawful conduct, as set forth in this Complaint, has been intentional, willful, and in bad faith, and has caused significant damages to the Named Plaintiff and the putative class.

37. Named Plaintiff and members of the putative class were not paid any wages, and



thus was not compensated at a rate in compliance with the statutory minimum wage rate.

**FIRST CAUSE OF ACTION AGAINST DEFENDANTS:  
NEW YORK MINIMUM WAGE COMPENSATION**

38. Named Plaintiff repeats and re-alleges the allegations set forth in paragraphs 1 through 37 hereof.

39. Title 12 NYCRR § 142-2.1 states that, “(a) [t]he basic minimum hourly rate shall be: (1) \$7.15 per hour on and after January 1, 2007; (2) \$7.25 per hour on and after July 24, 2009; (3) \$8.00 per hour on and after December 31, 2013; (4) \$8.75 per hour on and after December 31, 2014 . . . .”

40. New York Labor Law § 663, provides that, “[i]f any employee is paid by his employer less than the wage to which he is entitled under the provisions of this article, he may recover in a civil action the amount of any such underpayments, together with costs and such reasonable attorney’s fees.”

41. Pursuant to Labor Law § 651, the term “employee” means “any individual employed or permitted to work by an employer in any occupation.”

42. As persons employed for hire by Defendants, Named Plaintiff and members of the putative class are “employees,” as understood in Labor Law § 651.

43. Pursuant to Labor Law § 651, the term “employer” includes “any individual, partnership, association, corporation, limited liability company, business trust, legal representative, or any organized group of persons acting as employer.”

44. Pursuant to New York Labor Law §§ 190, *et seq.*, 650, *et seq.*, and the cases interpreting same, Defendants are “employers.”

45. The minimum wage provisions of Article 19 of the NYLL and the supporting New York State Department of Labor regulations apply to Defendants and protect the Named

Plaintiff and members of the putative class.

46. Defendants failed to pay the Named Plaintiff and other members of the putative class minimum wages for all hours works, in violation of Title 12 NYCRR § 142-2.1 and Labor Law § 663.

47. Upon information and belief, Defendants' failure to pay Named Plaintiff and members of the putative class minimum wages was willful.

48. By the foregoing reasons, Defendants have violated Title 12 NYCRR § 142-2.1 and Labor Law § 663, and are liable to Named Plaintiff and members of the putative class in an amount to be determined at trial, interest, and attorneys' fees and costs.

**SECOND CAUSE OF ACTION AGAINST DEFENDANTS:  
NEW YORK OVERTIME COMPENSATION**

49. Named Plaintiff repeats and re-alleges the allegations set forth in paragraphs 1 through 48 hereof.

50. 12 NYCRR § 142-2.2 requires that “[a]n employer shall pay an employee for overtime at a wage rate of one and one-half times the employee’s regular rate....”

51. New York Labor Law Article 19 § 663, provides that “[i]f any employee is paid by his employer less than the wage to which he is entitled under the provisions of this article, he may recover in a civil action the amount of any such underpayments, together with costs and such reasonable attorney’s fees.”

52. Upon information and belief, Named Plaintiff and other members of the putative class worked more than forty hours a week while working for Defendants.

53. Upon information and belief, Named Plaintiff and other members of the putative class did not receive overtime compensation for all hours worked in excess of forty (40) hours in

any given week.

54. Consequently, by failing to pay Named Plaintiff and other members of the putative class overtime compensation, Defendants violated New York Labor Law Article 19 § 663 and 12 NYCRR § 142-2.2.

55. Upon information and belief, Defendants' failure to pay overtime compensation to the Named Plaintiff and members of the putative class was willful.

56. By the foregoing reasons, Defendants have violated New York Labor Law Article 19 § 663 and 12 NYCRR § 142-2.2 and are liable to Named Plaintiff and members of the putative class action in an amount to be determined at trial, plus interest, attorneys' fees, and costs.

**THIRD CAUSE OF ACTION AGAINST DEFENDANTS:  
FAILURE TO PAY WAGES**

57. Named Plaintiff repeats and re-alleges the allegations set forth in paragraphs 1 through 56 hereof.

58. Pursuant to Article Six of the New York Labor Law, workers, such as the Named Plaintiff and members of the putative class, are protected from wage underpayments and improper employment practices.

59. Pursuant to New York Labor Law § 652, "Every employer shall pay to each of its employees for each hour worked a wage of not less than... (1) \$7.15 per hour on and after January 1, 2007; (2) \$7.25 per hour on and after July 24, 2009; (3) \$8.00 per hour on and after December 31, 2013; (4) \$8.75 per hour on and after December 31, 2014 . . . ."

60. Pursuant to Labor Law § 190, the term "employee" means "any person employed for hire by an employer in any employment."

61. As persons employed for hire by Defendants, Named Plaintiff is an “employee,” as understood in Labor Law § 190.

62. Pursuant to Labor Law § 190, the term “employer” includes any “person, corporation, limited liability company, or association employing any individual in any occupation, industry, trade, business or service.”

63. Pursuant to New York Labor Law §§ 190, *et seq.*, 650, *et seq.*, and the cases interpreting same, Defendants are “employers” of Named Plaintiff and members of the putative class.

64. Named Plaintiff’s agreed upon wage rate and/or minimum wage rate was within the meaning of New York Labor Law §§ 190, 191, and 652.

65. Pursuant to Labor Law § 191 and the cases interpreting same, workers such as the Named Plaintiff and members of the putative class are entitled to be paid all their weekly wages “not later than seven calendar days after the end of the week in which the wages are earned.”

66. In failing to pay the Named Plaintiff and members of the putative class minimum wages and overtime compensation for time worked, Defendants violated Labor Law § 191.

67. Pursuant to Labor Law § 193, “No employer shall make any deduction from the wages of an employee,” such as the Named Plaintiff and members of the putative class, that is not otherwise authorized by law or by the employee.

68. By withholding minimum wages and overtime compensation from the Named Plaintiff and members of the putative class, pursuant to New York Labor law § 193 and the cases interpreting same, Defendants made unlawful deductions.

69. Upon information and belief, Defendants failure to pay Named Plaintiff and members of the putative class minimum wages and overtime compensation were willful.

70. By the foregoing reasons, Defendants have violated New York Labor Law § 198 and are liable to the Named Plaintiff and members of the putative class in an amount to be determined at trial, plus interest, attorneys' fees and costs.

**WHEREFORE**, the Named Plaintiff, individually and on behalf of all other persons similarly situated who were employed by Defendants, seeks the following relief:

(1) on the first cause of action, against Defendants in an amount to be determined at trial, plus interest, attorneys' fees, and costs,

(2) on the second cause of action against Defendants in an amount to be determined at trial, plus interest, attorneys' fees, and costs;

(3) on the third cause of action against Defendants in an amount to be determined at trial, plus interest, attorneys' fees and costs;

(4) together with such other and further relief the Court may deem appropriate.

Dated: New York, New York  
September 4, 2014

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