

UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA

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Teresa Stroud, Alfred Laicer, and Andrea  
Bess on behalf of themselves and all  
others similarly situated,

Plaintiffs,

-v-

Target Corporation,

Defendant.

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Court File No. \_\_\_\_\_

**COLLECTIVE ACTION  
COMPLAINT  
AND  
JURY DEMAND**

Teresa Stroud, Alfred Laicer, and Andrea Bess (“Plaintiffs”), on behalf of themselves and all others similarly situated, bring this action against Target Corporation. (“Defendant” or “Target”). Based upon personal knowledge, information and belief, and the investigation and research of his counsel, Plaintiffs alleges:

**I. INTRODUCTION**

1. Plaintiffs bring this action under the Fair Labor Standards Act (“FLSA”), 29 U.S.C. § 201, *et seq.*

**II. NATURE OF THE ACTION**

2. Plaintiffs bring this collective action lawsuit on behalf of themselves and all others who are or have been employed as a Group Leader (“GL”) by Target, or its subsidiaries or affiliates in the United States during the period April, 2007 to the present for claims under the federal FLSA (the “Federal Collective Group”).

3. During the Collective Action Period, Plaintiffs allege that Defendant instituted a plan in which it:

a. Required Plaintiffs and members of the Federal Collective Group to carry a workload that could not be completed without working substantial amounts of overtime;

b. Required Plaintiffs and members of the Federal Collective Group to perform non-managerial duties; and

c. Failed to pay overtime compensation to Plaintiffs and members of the Federal Collective Group in violation of the FLSA.

4. Plaintiffs seeks damages for the Federal Collective Group to remedy Target's refusal and failure to pay overtime compensation in violation of the federal FLSA. Plaintiffs also seeks equitable remedies in the form of declaratory relief, injunctive relief, and for an accounting.

5. The Collective Action Period is designated April, 2007 through the present, based upon information and belief that the violations of the wage and hour laws as described more fully hereinafter have occurred and are continuing. Plaintiffs herein reserve the right to amend this Complaint for damages to reflect a different Collective Action Period as discovery in this matter proceeds.

### **III. JURISDICTION AND VENUE**

6. This Court has jurisdiction pursuant to 29 U.S.C. §216(b) and 28 U.S.C. § 1332.

7. Venue is proper in this Court pursuant to 28 U.S.C. § 1391(b)(1) as Target maintains an office in the District of Minnesota, conducts business in the District of Minnesota, and the causes of action arose, in part, in the District of Minnesota.

### **IV. THE PARTIES**

8. Plaintiff Laicer resides in, and is a citizen of Van Zandt County, Texas. Plaintiff Laicer was employed by Target as a GL in its Tyler Distribution Center. Plaintiff Laicer began his employment with Target in approximately May, 2006 and left the company in April, 2010. Plaintiff Laicer consistently worked over 48-50 hours per week as a GL for Target; Target failed to compensate Plaintiff Laicer for any of the time he worked in excess of 40 hours per week. Most of Plaintiff Laicer's time as a GL was spent loading and unloading trailers, merchandise onto racks, leading tasks by example, and using a company-provided checklist to ensure the necessary steps were being taken to perform his job.

9. Plaintiff Stroud resides in, and is a citizen of Midlothian, Texas. Plaintiff Stroud was employed by Target as a GL in its Tyler Distribution Center. Plaintiff Stroud began her employment with Target in approximately October, 2008 and left the company in July 2009. Plaintiff Stroud consistently worked over 48 hours per week as a GL for

Target; Target failed to compensate Plaintiff Stroud for any of the time she worked in excess of 40 hours per week. Most of Plaintiff Stroud's time as a GL was spent loading and unloading trailers, merchandise onto racks, leading tasks by example, and using a company-provided checklist to ensure the necessary steps were being taken to perform her job.

10. Plaintiff Bess resides in, and is a citizen of Houston, Texas. Plaintiff Bess was employed by Target as a GL in its at its Tyler Distribution Center, and then transferred to the Midlothian Distribution Center in April, 2008. Plaintiff Bess began her employment with Target in approximately July, 2006 and left the company in December, 2008. Plaintiff Bess consistently worked over 48 hours per week as a GL for Target; Target failed to compensate Plaintiff Bess for any of the time she worked in excess of 40 hours per week. Most of Plaintiff Bess's time as a GL was spent loading and unloading trailers, merchandise onto racks, leading tasks by example, and using a company-provided checklist to ensure the necessary steps were being taken to perform her job.

11. The practices and polices described in this Complaint were enforced throughout the United States.

12. Upon information and belief, Target is a corporation organized under the laws of the State of Minnesota, with its principal place of business in Minnesota. At all times relevant hereto, Target operated general merchandise stores with an assortment of general merchandise and food items, as well as SuperTarget stores with a line of food and general merchandise items. Target currently operates businesses in approximately 300

locations in the central and eastern United States, including approximately 1,700 stores throughout the United States, including over 70 stores in the State of Minnesota. Target supplies its retail stores with merchandise that is routed through at least one of 27 distribution centers.

## V. FACTUAL ALLEGATIONS

13. Target is a nationwide mass retailer headquartered in Minneapolis, Minnesota. Target is the second largest mass retailer behind Walmart, and the company is ranked 28 on the Fortune 500 as of 2009.

14. Target describes its work environment as “fast, fun and friendly.” The company tells employees that “[g]oals are clear, challenging and met through teamwork.”

15. GLs are third-level managers in that they report to at least two levels of higher management within the Distribution Center.

16. Each Target Distribution Center is managed by one General Manager (GM) and one Human Resources manager.

17. The second-level of management at a Target Distribution Center consists of approximately five or six Senior Group Leaders (SGL). Each SGL reports directly to the GM. Each SGL oversees a team of approximately 8 GLs.

18. The third-level of management consists of approximately 40 GLs per Distribution Center. The GLs report to a SGL, who oversees their job performance. There are two GLs per department; both share job duties.

19. Significantly more than fifty percent (50%) of a GL's time during each work shift is spent performing tasks identical to those of non-salaried Team Members.

20. Most job duties that would generally be recognized as managerial require virtually no independent judgment on the part of GLs. For example, staff scheduling is done Team Members themselves on a rotational basis using a workload assignment best practice guide issued by headquarters.

21. Although Target considers GLs managers, GLs do not have the authority to assign tasks to employees based upon their skill or proficiency level.

22. GLs are not authorized to hire employees. Interviews are conducted by an "interview team". Plaintiff was not permitted to recommend interviewees for positions and was directed by management to follow the HR Manager's recommendations.

23. GLs are not authorized to discharge an employee from employment, and their recommendations regarding the same were not given any particular weight.

24. Plaintiffs' decisions regarding employee performance were given no particular weight, and frequently completely disregarded by management.

25. Many GLs describe themselves as salaried Team Members because their work duties more closely resemble the job description of a Team Member as opposed to the GL job description supplied by Target. Target classifies Team Members as non-exempt under the FLSA.

26. Target classifies GLs as exempt under the FLSA, and pays GLs a salary.

27. Target requires GLs to request approval for vacation time or personal time, and deducts vacation hours by the hour.

28. Upon information and belief, the all GLs work 48 or more hours per week, including nights and weekends.

29. Target takes the position that GLs are exempt from legal requirements to pay them overtime because they are managers or executives.

30. Plaintiffs allege that Target GLs are not really managers or executives at all, but regular employees who are covered by mandatory overtime requirements. At all times relevant hereto, Federal law required payment of overtime wages equal to one and one-half times an employee's regular rate of pay for all hours worked over forty hours in a work week.

31. Plaintiffs allege that Target, in order to generate millions of dollars of net profits, has intentionally and improperly designated Target GLs, including Plaintiffs and members of the Federal Collective Group, as "exempt" employees in order to avoid payment of overtime wages in violation of Federal law.

## **VI. COLLECTIVE ACTION ALLEGATIONS**

32. Plaintiffs bring this action pursuant to 29 U.S.C. § 216(b) and seek to represent a collective group of:

All persons who are currently or were during the Collective Action Period employed as Group Leaders at a Target Distribution Center by Defendant Target Corp., who have worked overtime while in the employment of Target Corp.,

and who were not compensated according to the law (“Federal Collective Group”).

33. The requirements for certification of a collective action are satisfied, as follows.

34. Plaintiffs are informed and believe, and on that basis allege, that during the Collective Action Period, well over 1,000 persons are or have been employed by Target as GLs. As such, the members of the Federal Collective Group are so numerous that joinder of all members in one proceeding would be impracticable.

35. There are common questions of law and fact common to the Federal Collective Group, including without limitation:

- a. Whether Defendant unlawfully failed to pay overtime compensation to the members of the Federal Collective Group in violation of the federal FLSA;
- b. Whether Target’s policy and practice of failing to pay overtime to the members of the Federal Collective Group was knowing and willful;
- c. Whether the members of the Federal Collective Group were required by Target to carry a workload that could not be completed without working overtime; and
- d. Whether the members of the Federal Collective Group sustained damages, and, if so, the proper measure of such damages for unpaid overtime.

36. The claims of Plaintiffs are typical of the claims of the members of the Federal Collective Group, who, like other members of the Federal Collective Group



currently or formerly working for Target, were subjected to Defendant's policy and practice of requiring GLs to carry a workload which could not be completed without working substantial amounts of overtime, including a policy requiring all GLs to work at least 48 hours per week. Plaintiffs' job duties and legal claims were and are typical of those of other group members who currently or formerly worked for Target as GLs. Plaintiffs and the members of the Federal Collective Group have actually worked overtime while in the employment of Target.

37. Plaintiffs will fairly and adequately represent the members of the Federal Collective Group, and has retained counsel who is competent and experienced in class action and complex litigation.

38. The questions of law common to the members of the Federal Collective Group predominate over any questions affecting only individual members.

39. A collective action is superior to other methods for the fair and efficient adjudication of this controversy. Furthermore, as the damages suffered by many individual members of the Federal Collective Group may be relatively small in relation to the costs of litigation, the expense and burden of individual litigation make it difficult, if not impossible, for members of the Federal Collective Group to redress the wrongs done to them individually. Many of the members of the Federal Collective Group may be unaware that claims exist against the Defendant.

40. Plaintiffs knows of no difficulty that will be encountered in the management of this litigation that would preclude its maintenance as a collective action. The names and addresses of the members of the Federal Collective Group are available from Defendant Target. Notice will be provided to the members of the Federal Collective Group via first class mail and by the use of techniques and a form of notice similar to those customarily used in class or collective actions.

**FIRST CAUSE OF ACTION**

**FAILURE TO PAY OVERTIME COMPENSATION IN VIOLATION  
OF THE FLSA, 29 U.S.C. § 201 *ET SEQ.***

(Brought by all Plaintiffs on behalf of themselves and the Federal Collective Group)

41. Plaintiffs hereby incorporates by reference all preceding paragraphs as if fully set forth herein.

42. Upon information and belief, Target employs and has employed Plaintiffs and members of the Federal Collective Group throughout the United States. From a presently unknown date in the past, until the present time, Defendant engaged in a regular practice of requiring Plaintiffs and members of the Federal Collective Group to work hours considerably in excess of 40 hours per week.

43. Upon information and belief, Plaintiffs allege that Target had and continues to have a regular practice of requiring Plaintiffs and members of the Federal Collective Group to work a minimum of 50 hours in any given work week.

44. Any workweek in which Plaintiffs and members of the Federal Collective Group worked at least 40 hours, Target's failure to pay Plaintiffs and members of the

Federal Collective Group at one and one half times their regular rate of pay, for all hours in excess of 40, violated the Fair Labor Standards Act, 29 U.S.C. §§ 206, 207, 215, 216. As a result of such violations, Plaintiffs and members of the Federal Collective Group are entitled to the damages, fees and expenses as set out in the Fair Labor Standards Act, 29 U.S.C. § 216.

45. Target has knowingly and willfully failed and continues to fail and refuse to pay Plaintiffs and members of the Federal Collective Group overtime compensation owed to Plaintiffs and members of the Federal Collective Group for overtime hours worked as required by federal wage and hour laws.

46. As a result of the actions of Target in failing and refusing to pay overtime compensation, Plaintiffs and members of the Federal Collective Group were damaged by not receiving overtime compensation that they should have received, but did not receive. Plaintiffs and members of the Federal Collective Group are entitled to compensation for unpaid overtime together with pre-judgment interest, and liquidated damages.

**SECOND CAUSE OF ACTION**  
**DECLARATORY RELIEF**

(Brought by Plaintiffs on behalf of themselves and the Federal Collective Group)

47. Plaintiffs hereby incorporates by reference all preceding paragraphs as if fully set forth herein.

48. An actual controversy has arisen between the Plaintiffs and members of the Federal Collective Group, on the one hand, and Defendant on the other hand relating to the following matters:

a. Whether Defendant has unlawfully failed to pay overtime compensation in violation of Minnesota law to Plaintiffs and to members of the Federal Collective Group.

b. Whether Defendant has unlawfully failed to pay overtime compensation owing in a timely manner to Plaintiffs and members of the Federal Collective Group whose employment with Defendant ended, as required by the FLSA.

c. What amounts Plaintiffs and members of the Federal Collective Group are entitled to receive in overtime pay.

d. What amounts Plaintiffs and members of the Federal Collective Group are entitled to receive in interest on unpaid compensation due and owing.

e. What amounts Plaintiffs and members of the Federal Collective Group are entitled to receive from Defendant in liquidated damages and civil penalties.

49. Plaintiffs and members of the Federal Collective Group further seek entry of a declaratory judgment in their favor that declares Defendant's practices as previously alleged to be unlawful and that provides for recovery of all sums determined by this Court to be owed by Defendant to the Plaintiffs and members of the Federal Collective Group.

**THIRD CAUSE OF ACTION**

**ACCOUNTING**

(Brought by Plaintiffs on behalf of themselves and the Federal Collective Group)

50. Plaintiffs hereby incorporate by reference all preceding paragraphs as if fully set forth herein.

51. Plaintiffs and members of the Federal Collective Group are owed wages that equal the sum of overtime compensation not paid by Target to Plaintiffs and the members of the Federal Collective Group , statutory interest on all such compensation and waiting time penalties owed to Plaintiffs and members of the Federal Collective Group whose employment terminated.

52. The Plaintiffs and members of the Federal Collective Group do not know the precise amount of compensation due to the Plaintiffs and to each member of the Federal Collective Group. Upon information and belief, Defendant possesses books and records, from which the amount of compensation due and owing to Plaintiffs and to each member of the Federal Collective Group can be determined.

53. The amount of statutory interest and penalties owed to Plaintiffs and to each member of the Federal Collective Group is based on the amount of compensation owed to Plaintiffs and members of the Federal Collective Group by Target.

**VI. PRAYER FOR RELIEF**

WHEREFORE, Plaintiffs, on behalf of themselves and all similarly situated individuals in an FLSA Collective Action, pray for relief as follows:

A. Designation of this action as a collective action on behalf of Plaintiffs and all similarly situated individuals (asserting FLSA claims) and prompt issuance of notice pursuant to 29 U.S.C. § 216(b) to all similarly situated members of their opt-in rights, apprising them of the pendency of this action, and permitting them to assert timely FLSA claims in this action by filing individual Consent to Sue forms pursuant to 29 U.S.C. § 216(b);

B. Designation of Plaintiffs as Representatives of the FLSA Collective Action;

C. A declaratory judgment that the practices complained of herein are unlawful under the FLSA;

D. An award of damages, according to proof, including liquidated damages, to be paid by Defendant;

E. A declaratory judgment that the practices complained of herein are unlawful under Federal law;

F. An accounting of wages owed to Plaintiffs and members of the Federal Collective Group by Target;

G. Leave to add additional plaintiffs by the filing of written consent forms, or any other method approved by the Court;

H. Costs of action incurred herein, including expert fees;

- I. Attorneys' fees, including fees pursuant to 29 U.S.C. § 216;
  - J. Pre-Judgment and Post-Judgment interest, to the extent provided by law;
- and
- K. Such other legal and equitable relief as this Court deems necessary, just,
- and proper.

### **VII. JURY DEMAND**

Plaintiffs demand trial by jury on all counts where jury is available.

Respectfully Submitted,

Dated: April 15, 2010

HALUNEN & ASSOCIATES.

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