



STATE OF NEW YORK
OFFICE OF THE ATTORNEY GENERAL

ERIC T. SCHNEIDERMAN
ATTORNEY GENERAL

DIVISION OF SOCIAL JUSTICE
LABOR BUREAU

April 10, 2014

Gap Inc.
Two Folsom Street
San Francisco, CA 94105
Attn: Michelle Banks, Executive Vice President, Global Sustainability, General Counsel,
Corporate Secretary & Chief Compliance Officer

Re: Request for Information Regarding “on call shifts”

Dear Ms. Banks,

Unpredictable work schedules take a toll on all employees, especially those in low-wage sectors. 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 their education, and in general experience adverse financial and health effects, as well as overall stress and strain on family life. The requirement of being on call also interferes with such employees’ ability to obtain supplemental employment in order to ensure financial security for their families.

Our office has received reports that a growing number of employers, particularly in the retail industry, require their hourly workers to work what are sometimes known as “on call shifts” – that is, requiring their employees to call in to work just a few hours in advance, or the night before, to determine whether the worker needs to appear for work that day or the next. If the employee is told that his or her services are not needed, the employee will receive no pay for that day, despite being required to be available to appear on the job site the next day or even just a few hours later on the same day. For many workers, that is too little time to make arrangements for family needs, let alone to find an alternative source of income to compensate for the lost pay.

In addition to the concerns outlined above, 12 NYCRR 142-2.3 provides, “[a]n 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.”

We have been informed that a number of companies in New York State utilize on-call shifts and require employees to report in some manner, whether by phone, text message, or email, before the designated shift in order to learn whether their services are ultimately needed on-site that day. We are examining this practice, and because we have reason to believe that Gap Inc. along with its affiliates Gap, Banana Republic, Old Navy, Athleta, and Intermix 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 Gap Inc. provide the following information and documents.

Request for Information

1. What is the process by which Gap Inc. schedules employees for work? Does Gap Inc. use a computerized system such as Kronos or Workplace Systems for scheduling? If so, which system does Gap 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 Gap Inc. utilize “on call shifts” at any locations in 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 Gap 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 Gap 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. If Gap Inc. utilizes “on call shifts” in other states or foreign jurisdictions, how are Gap Inc.’s “on call shift” practices in New York consistent with or different than its practices in other states and jurisdictions? Why?

Request for Documents

1. Please provide any and all policies, handbooks, documents, postings, or other written materials provided to any employee employed by Gap Inc. in New York State 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 Gap Inc. prior to physically presenting himself or herself in the workplace for work on a given day.

2. For each calendar quarter in 2013 and 2014, please provide three to four samples of schedules which include on-call shifts.
3. To the extent that any computerized system used by Gap Inc. enables Gap Inc. to produce a report showing the number of instances of on-call shifts assigned, please provide such reports for all Gap Inc. employees employed within New York State during 2013 and 2014.
4. Please provide any and all time and payroll records showing dates on which any employee performed work for Gap Inc. within New York State and was paid for a time period of fewer than four 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 Gap Inc. schedules shifts in stores located in New York State.
6. Please provide any and all documents related to any study or analysis referred to in Request for Information #3 above.

Please provide your responses to my attention no later than May 4, 2015. If you have any questions, I can be reached at (212) 416-6132 or by email at Terri.Gerstein@ag.ny.gov.

Thank you in advance for your prompt attention,

Sincerely,

A handwritten signature in black ink, appearing to read "Terri Gerstein", with a long horizontal flourish extending to the right.

Terri Gerstein
Labor Bureau Chief



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DIVISION OF SOCIAL JUSTICE
LABOR BUREAU

April 10, 2014

Abercrombie & Fitch
6301 Fitch Path
New Albany, OH 43054
Attn: Charlotte Buck Garcia, Associate Legal Counsel

Re: Request for Information Regarding “on call shifts”

Dear Ms. Garcia,

Unpredictable work schedules take a toll on all employees, especially those in low-wage sectors. 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 their education, and in general experience adverse financial and health effects, as well as overall stress and strain on family life. The requirement of being on call also interferes with such employees’ ability to obtain supplemental employment in order to ensure financial security for their families.

Our office has received reports that a growing number of employers, particularly in the retail industry, require their hourly workers to work what are sometimes known as “on call shifts” – that is, requiring their employees to call in to work just a few hours in advance, or the night before, to determine whether the worker needs to appear for work that day or the next. If the employee is told that his or her services are not needed, the employee will receive no pay for that day, despite being required to be available to appear on the job site the next day or even just a few hours later on the same day. For many workers, that is too little time to make arrangements for family needs, let alone to find an alternative source of income to compensate for the lost pay.

In addition to the concerns outlined above, 12 NYCRR 142-2.3 provides, “[a]n 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.”

We have been informed that a number of companies in New York State utilize on-call shifts and require employees to report in some manner, whether by phone, text

message, or email, before the designated shift in order to learn whether their services are ultimately needed on-site that day. We are examining this practice, and because we have reason to believe that Abercrombie & Fitch along with its affiliates Abercrombie & Fitch, Hollister Co., and Abercrombie Kids 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 Abercrombie & Fitch provide the following information and documents.

Request for Information

1. What is the process by which Abercrombie & Fitch schedules employees for work? Does Abercrombie & Fitch use a computerized system such as Kronos or Workplace Systems for scheduling? If so, which system does Abercrombie & Fitch 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 Abercrombie & Fitch utilize “on call shifts” at any locations in 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 Abercrombie & Fitch’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 Abercrombie & Fitch 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. If Abercrombie & Fitch utilizes “on call shifts” in other states or foreign jurisdictions, how are Abercrombie & Fitch’s “on call shift” practices in New York consistent with or different than its practices in other states and jurisdictions? Why?

Request for Documents

1. Please provide any and all policies, handbooks, documents, postings, or other written materials provided to any employee employed by Abercrombie & Fitch in New York State 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 Abercrombie & Fitch prior to physically presenting himself or herself in the workplace for work on a given day.

2. For each calendar quarter in 2013 and 2014, please provide three to four samples of schedules which include on-call shifts.
3. To the extent that any computerized system used by Abercrombie & Fitch enables Abercrombie & Fitch to produce a report showing the number of instances of on-call shifts assigned, please provide such reports for all Abercrombie & Fitch employees employed within New York State during 2013 and 2014.
4. Please provide any and all time and payroll records showing dates on which any employee performed work for Abercrombie & Fitch within New York State and was paid for a time period of fewer than four 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 Abercrombie & Fitch schedules shifts in stores located in New York State.
6. Please provide any and all documents related to any study or analysis referred to in Request for Information #3 above.

Please provide your responses to my attention no later than May 4, 2015. If you have any questions, I can be reached at (212) 416-6132 or by email at Terri.Gerstein@ag.ny.gov.

Thank you in advance for your prompt attention,

Sincerely,

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Terri Gerstein
Labor Bureau Chief



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DIVISION OF SOCIAL JUSTICE
LABOR BUREAU

April 10, 2014

J.Crew Group Inc.
770 Broadway
New York, NY 10003
Attn: Maria F. Di Lorenzo, Senior Vice President, General Counsel, and Corporate Secretary

Re: Request for Information Regarding “on call shifts”

Dear Ms. Di Lorenzo,

Unpredictable work schedules take a toll on all employees, especially those in low-wage sectors. 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 their education, and in general experience adverse financial and health effects, as well as overall stress and strain on family life. The requirement of being on call also interferes with such employees’ ability to obtain supplemental employment in order to ensure financial security for their families.

Our office has received reports that a growing number of employers, particularly in the retail industry, require their hourly workers to work what are sometimes known as “on call shifts” – that is, requiring their employees to call in to work just a few hours in advance, or the night before, to determine whether the worker needs to appear for work that day or the next. If the employee is told that his or her services are not needed, the employee will receive no pay for that day, despite being required to be available to appear on the job site the next day or even just a few hours later on the same day. For many workers, that is too little time to make arrangements for family needs, let alone to find an alternative source of income to compensate for the lost pay.

In addition to the concerns outlined above, 12 NYCRR 142-2.3 provides, “[a]n 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.”

We have been informed that a number of companies in New York State utilize on-call shifts and require employees to report in some manner, whether by phone, text message, or email, before the designated shift in order to learn whether their services are ultimately needed on-site that day. We are examining this practice, and because we have reason to believe that J.Crew Group Inc. along with its affiliates J.Crew and Madewell 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 J.Crew Group Inc. provide the following information and documents.

Request for Information

1. What is the process by which J.Crew Group Inc. schedules employees for work? Does J.Crew Group Inc. use a computerized system such as Kronos or Workplace Systems for scheduling? If so, which system does J.Crew 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 J.Crew Group Inc. utilize “on call shifts” at any locations in 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 J.Crew 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 J.Crew 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. If J.Crew Group Inc. utilizes “on call shifts” in other states or foreign jurisdictions, how are J.Crew Group Inc.’s “on call shift” practices in New York consistent with or different than its practices in other states and jurisdictions? Why?

Request for Documents

1. Please provide any and all policies, handbooks, documents, postings, or other written materials provided to any employee employed by J.Crew Group Inc. in New York State 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 J.Crew Group Inc. prior to physically presenting himself or herself in the workplace for work on a given day.

2. For each calendar quarter in 2013 and 2014, please provide three to four samples of schedules which include on-call shifts.
3. To the extent that any computerized system used by J.Crew Group Inc. enables J.Crew Group Inc. to produce a report showing the number of instances of on-call shifts assigned, please provide such reports for all J.Crew Group Inc. employees employed within New York State during 2013 and 2014.
4. Please provide any and all time and payroll records showing dates on which any employee performed work for J.Crew Group Inc. within New York State and was paid for a time period of fewer than four 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 J.Crew Group Inc. schedules shifts in stores located in New York State.
6. Please provide any and all documents related to any study or analysis referred to in Request for Information #3 above.

Please provide your responses to my attention no later than May 4, 2015. If you have any questions, I can be reached at (212) 416-6132 or by email at Terri.Gerstein@ag.ny.gov.

Thank you in advance for your prompt attention,

Sincerely,

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Terri Gerstein
Labor Bureau Chief



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DIVISION OF SOCIAL JUSTICE
LABOR BUREAU

April 10, 2014

L. Brands
Three Limited Parkway
Columbus, OH 43230
Attn: Denise Slazyk

Re: Request for Information Regarding “on call shifts”

Dear Ms. Slazyk,

Unpredictable work schedules take a toll on all employees, especially those in low-wage sectors. 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 their education, and in general experience adverse financial and health effects, as well as overall stress and strain on family life. The requirement of being on call also interferes with such employees’ ability to obtain supplemental employment in order to ensure financial security for their families.

Our office has received reports that a growing number of employers, particularly in the retail industry, require their hourly workers to work what are sometimes known as “on call shifts” – that is, requiring their employees to call in to work just a few hours in advance, or the night before, to determine whether the worker needs to appear for work that day or the next. If the employee is told that his or her services are not needed, the employee will receive no pay for that day, despite being required to be available to appear on the job site the next day or even just a few hours later on the same day. For many workers, that is too little time to make arrangements for family needs, let alone to find an alternative source of income to compensate for the lost pay.

In addition to the concerns outlined above, 12 NYCRR 142-2.3 provides, “[a]n 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.”

We have been informed that a number of companies in New York State utilize on-call shifts and require employees to report in some manner, whether by phone, text

message, or email, before the designated shift in order to learn whether their services are ultimately needed on-site that day. We are examining this practice, and because we have reason to believe that L. Brands along with its affiliates Victoria's Secret and Bath & Body Works 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 L. Brands provide the following information and documents.

Request for Information

1. What is the process by which L. Brands schedules employees for work? Does L. Brands use a computerized system such as Kronos or Workplace Systems for scheduling? If so, which system does L. Brands 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 L. Brands utilize “on call shifts” at any locations in 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 L. Brands’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 L. Brands 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. If L. Brands utilizes “on call shifts” in other states or foreign jurisdictions, how are L. Brands’s “on call shift” practices in New York consistent with or different than its practices in other states and jurisdictions? Why?

Request for Documents

1. Please provide any and all policies, handbooks, documents, postings, or other written materials provided to any employee employed by L. Brands in New York State 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 L. Brands prior to physically presenting himself or herself in the workplace for work on a given day.

2. For each calendar quarter in 2013 and 2014, please provide three to four samples of schedules which include on-call shifts.
3. To the extent that any computerized system used by L. Brands enables L. Brands to produce a report showing the number of instances of on-call shifts assigned, please provide such reports for all L. Brands employees employed within New York State during 2013 and 2014.
4. Please provide any and all time and payroll records showing dates on which any employee performed work for L. Brands within New York State and was paid for a time period of fewer than four 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 L. Brands schedules shifts in stores located in New York State.
6. Please provide any and all documents related to any study or analysis referred to in Request for Information #3 above.

Please provide your responses to my attention no later than May 4, 2015. If you have any questions, I can be reached at (212) 416-6132 or by email at Terri.Gerstein@ag.ny.gov.

Thank you in advance for your prompt attention,

Sincerely,

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Terri Gerstein
Labor Bureau Chief



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ATTORNEY GENERAL

DIVISION OF SOCIAL JUSTICE
LABOR BUREAU

April 10, 2014

Burlington Coat Factory
1830 Route 130 North
Burlington, NJ 08016
Attn: Tabitha R. Jenkins, Vice President & Assistant General Counsel

Re: Request for Information Regarding “on call shifts”

Dear Ms. Jenkins,

Unpredictable work schedules take a toll on all employees, especially those in low-wage sectors. 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 their education, and in general experience adverse financial and health effects, as well as overall stress and strain on family life. The requirement of being on call also interferes with such employees’ ability to obtain supplemental employment in order to ensure financial security for their families.

Our office has received reports that a growing number of employers, particularly in the retail industry, require their hourly workers to work what are sometimes known as “on call shifts” – that is, requiring their employees to call in to work just a few hours in advance, or the night before, to determine whether the worker needs to appear for work that day or the next. If the employee is told that his or her services are not needed, the employee will receive no pay for that day, despite being required to be available to appear on the job site the next day or even just a few hours later on the same day. For many workers, that is too little time to make arrangements for family needs, let alone to find an alternative source of income to compensate for the lost pay.

In addition to the concerns outlined above, 12 NYCRR 142-2.3 provides, “[a]n 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.”

We have been informed that a number of companies in New York State utilize on-call shifts and require employees to report in some manner, whether by phone, text

message, or email, before the designated shift in order to learn whether their services are ultimately needed on-site that day. We are examining this practice, and because we have reason to believe that Burlington Coat Factory along with its affiliates Burlington Coat Factory 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 Burlington Coat Factory provide the following information and documents.

Request for Information

1. What is the process by which Burlington Coat Factory schedules employees for work? Does Burlington Coat Factory use a computerized system such as Kronos or Workplace Systems for scheduling? If so, which system does Burlington Coat Factory 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 Burlington Coat Factory utilize “on call shifts” at any locations in 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 Burlington Coat Factory’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 Burlington Coat Factory 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. If Burlington Coat Factory utilizes “on call shifts” in other states or foreign jurisdictions, how are Burlington Coat Factory’s “on call shift” practices in New York consistent with or different than its practices in other states and jurisdictions? Why?

Request for Documents

1. Please provide any and all policies, handbooks, documents, postings, or other written materials provided to any employee employed by Burlington Coat Factory in New York State 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 Burlington Coat Factory prior to physically presenting himself or herself in the workplace for work on a given day.

2. For each calendar quarter in 2013 and 2014, please provide three to four samples of schedules which include on-call shifts.
3. To the extent that any computerized system used by Burlington Coat Factory enables Burlington Coat Factory to produce a report showing the number of instances of on-call shifts assigned, please provide such reports for all Burlington Coat Factory employees employed within New York State during 2013 and 2014.
4. Please provide any and all time and payroll records showing dates on which any employee performed work for Burlington Coat Factory within New York State and was paid for a time period of fewer than four 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 Burlington Coat Factory schedules shifts in stores located in New York State.
6. Please provide any and all documents related to any study or analysis referred to in Request for Information #3 above.

Please provide your responses to my attention no later than May 4, 2015. If you have any questions, I can be reached at (212) 416-6132 or by email at Terri.Gerstein@ag.ny.gov.

Thank you in advance for your prompt attention,

Sincerely,

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LABOR BUREAU

April 10, 2014

TJX Companies
770 Cochituate Road
Framingham, MA 01701
Attn: Ann McCauley, Executive Vice President and General Counsel

Re: Request for Information Regarding “on call shifts”

Dear Ms. McCauley,

Unpredictable work schedules take a toll on all employees, especially those in low-wage sectors. 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 their education, and in general experience adverse financial and health effects, as well as overall stress and strain on family life. The requirement of being on call also interferes with such employees’ ability to obtain supplemental employment in order to ensure financial security for their families.

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We have been informed that a number of companies in New York State utilize on-call shifts and require employees to report in some manner, whether by phone, text

message, or email, before the designated shift in order to learn whether their services are ultimately needed on-site that day. We are examining this practice, and because we have reason to believe that TJX Companies along with its affiliates T.J. Maxx, Marshalls, and Homegoods 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 TJX Companies provide the following information and documents.

Request for Information

1. What is the process by which TJX Companies schedules employees for work? Does TJX Companies use a computerized system such as Kronos or Workplace Systems for scheduling? If so, which system does TJX Companies 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 TJX Companies utilize “on call shifts” at any locations in 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 TJX Companies’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 TJX Companies 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. If TJX Companies utilizes “on call shifts” in other states or foreign jurisdictions, how are TJX Companies’s “on call shift” practices in New York consistent with or different than its practices in other states and jurisdictions? Why?

Request for Documents

1. Please provide any and all policies, handbooks, documents, postings, or other written materials provided to any employee employed by TJX Companies in New York State 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 TJX Companies prior to physically presenting himself or herself in the workplace for work on a given day.

2. For each calendar quarter in 2013 and 2014, please provide three to four samples of schedules which include on-call shifts.
3. To the extent that any computerized system used by TJX Companies enables TJX Companies to produce a report showing the number of instances of on-call shifts assigned, please provide such reports for all TJX Companies employees employed within New York State during 2013 and 2014.
4. Please provide any and all time and payroll records showing dates on which any employee performed work for TJX Companies within New York State and was paid for a time period of fewer than four 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 TJX Companies schedules shifts in stores located in New York State.
6. Please provide any and all documents related to any study or analysis referred to in Request for Information #3 above.

Please provide your responses to my attention no later than May 4, 2015. If you have any questions, I can be reached at (212) 416-6132 or by email at Terri.Gerstein@ag.ny.gov.

Thank you in advance for your prompt attention,

Sincerely,

A handwritten signature in black ink, appearing to read "Terri Gerstein", with a long horizontal flourish extending to the right.

Terri Gerstein
Labor Bureau Chief



STATE OF NEW YORK
OFFICE OF THE ATTORNEY GENERAL

ERIC T. SCHNEIDERMAN
ATTORNEY GENERAL

DIVISION OF SOCIAL JUSTICE
LABOR BUREAU

April 10, 2014

Urban Outfitters
5000 South Broad Street
Philadelphia, PA 19112
Attn: Glen A. Bodzy, General Counsel and Secretary

Re: Request for Information Regarding “on call shifts”

Dear Mr. Bodzy,

Unpredictable work schedules take a toll on all employees, especially those in low-wage sectors. 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 their education, and in general experience adverse financial and health effects, as well as overall stress and strain on family life. The requirement of being on call also interferes with such employees’ ability to obtain supplemental employment in order to ensure financial security for their families.

Our office has received reports that a growing number of employers, particularly in the retail industry, require their hourly workers to work what are sometimes known as “on call shifts” – that is, requiring their employees to call in to work just a few hours in advance, or the night before, to determine whether the worker needs to appear for work that day or the next. If the employee is told that his or her services are not needed, the employee will receive no pay for that day, despite being required to be available to appear on the job site the next day or even just a few hours later on the same day. For many workers, that is too little time to make arrangements for family needs, let alone to find an alternative source of income to compensate for the lost pay.

In addition to the concerns outlined above, 12 NYCRR 142-2.3 provides, “[a]n 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.”

We have been informed that a number of companies in New York State utilize on-call shifts and require employees to report in some manner, whether by phone, text

message, or email, before the designated shift in order to learn whether their services are ultimately needed on-site that day. We are examining this practice, and because we have reason to believe that Urban Outfitters 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 Urban Outfitters provide the following information and documents.

Request for Information

1. What is the process by which Urban Outfitters schedules employees for work? Does Urban Outfitters use a computerized system such as Kronos or Workplace Systems for scheduling? If so, which system does Urban Outfitters 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 Urban Outfitters utilize “on call shifts” at any locations in 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 Urban Outfitters’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 Urban Outfitters 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. If Urban Outfitters utilizes “on call shifts” in other states or foreign jurisdictions, how are Urban Outfitters’s “on call shift” practices in New York consistent with or different than its practices in other states and jurisdictions? Why?

Request for Documents

1. Please provide any and all policies, handbooks, documents, postings, or other written materials provided to any employee employed by Urban Outfitters in New York State 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 Urban Outfitters prior to

physically presenting himself or herself in the workplace for work on a given day.

2. For each calendar quarter in 2013 and 2014, please provide three to four samples of schedules which include on-call shifts.
3. To the extent that any computerized system used by Urban Outfitters enables Urban Outfitters to produce a report showing the number of instances of on-call shifts assigned, please provide such reports for all Urban Outfitters employees employed within New York State during 2013 and 2014.
4. Please provide any and all time and payroll records showing dates on which any employee performed work for Urban Outfitters within New York State and was paid for a time period of fewer than four 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 Urban Outfitters schedules shifts in stores located in New York State.
6. Please provide any and all documents related to any study or analysis referred to in Request for Information #3 above.

Please provide your responses to my attention no later than May 4, 2015. If you have any questions, I can be reached at (212) 416-6132 or by email at Terri.Gerstein@ag.ny.gov.

Thank you in advance for your prompt attention,

Sincerely,

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Terri Gerstein
Labor Bureau Chief



STATE OF NEW YORK
OFFICE OF THE ATTORNEY GENERAL

ERIC T. SCHNEIDERMAN
ATTORNEY GENERAL

DIVISION OF SOCIAL JUSTICE
LABOR BUREAU

April 10, 2014

Target Corporation
1000 Nicollett Mall
Minneapolis, MN 55402
Attn: Timothy R. Baer, Executive Vice President and Chief Legal Officer and Corporate Secretary

Re: Request for Information Regarding “on call shifts”

Dear Mr. Baer,

Unpredictable work schedules take a toll on all employees, especially those in low-wage sectors. 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 their education, and in general experience adverse financial and health effects, as well as overall stress and strain on family life. The requirement of being on call also interferes with such employees’ ability to obtain supplemental employment in order to ensure financial security for their families.

Our office has received reports that a growing number of employers, particularly in the retail industry, require their hourly workers to work what are sometimes known as “on call shifts” – that is, requiring their employees to call in to work just a few hours in advance, or the night before, to determine whether the worker needs to appear for work that day or the next. If the employee is told that his or her services are not needed, the employee will receive no pay for that day, despite being required to be available to appear on the job site the next day or even just a few hours later on the same day. For many workers, that is too little time to make arrangements for family needs, let alone to find an alternative source of income to compensate for the lost pay.

In addition to the concerns outlined above, 12 NYCRR 142-2.3 provides, “[a]n 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.”

We have been informed that a number of companies in New York State utilize on-call shifts and require employees to report in some manner, whether by phone, text message, or email, before the designated shift in order to learn whether their services are ultimately needed on-site that day. We are examining this practice, and because we have reason to believe that Target Corporation 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 Target Corporation provide the following information and documents.

Request for Information

1. What is the process by which Target Corporation schedules employees for work? Does Target Corporation use a computerized system such as Kronos or Workplace Systems for scheduling? If so, which system does Target Corporation 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 Target Corporation utilize “on call shifts” at any locations in 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 Target Corporation’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 Target Corporation 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. If Target Corporation utilizes “on call shifts” in other states or foreign jurisdictions, how are Target Corporation’s “on call shift” practices in New York consistent with or different than its practices in other states and jurisdictions? Why?

Request for Documents

1. Please provide any and all policies, handbooks, documents, postings, or other written materials provided to any employee employed by Target Corporation in New York State 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 Target Corporation prior to physically presenting himself or herself in the workplace for work on a given day.

2. For each calendar quarter in 2013 and 2014, please provide three to four samples of schedules which include on-call shifts.
3. To the extent that any computerized system used by Target Corporation enables Target Corporation to produce a report showing the number of instances of on-call shifts assigned, please provide such reports for all Target Corporation employees employed within New York State during 2013 and 2014.
4. Please provide any and all time and payroll records showing dates on which any employee performed work for Target Corporation within New York State and was paid for a time period of fewer than four 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 Target Corporation schedules shifts in stores located in New York State.
6. Please provide any and all documents related to any study or analysis referred to in Request for Information #3 above.

Please provide your responses to my attention no later than May 4, 2015. If you have any questions, I can be reached at (212) 416-6132 or by email at Terri.Gerstein@ag.ny.gov.

Thank you in advance for your prompt attention,

Sincerely,

A handwritten signature in black ink, appearing to read "Terri Gerstein", with a long horizontal flourish extending to the right.

Terri Gerstein
Labor Bureau Chief



STATE OF NEW YORK
OFFICE OF THE ATTORNEY GENERAL

ERIC T. SCHNEIDERMAN
ATTORNEY GENERAL

DIVISION OF SOCIAL JUSTICE
LABOR BUREAU

April 10, 2014

Sears Holdings Corporation
3333 Beverly Road
Hoffman Estates, IL 60179
Attn: Kristin M. Coleman, Senior Vice President, General Counsel, and Corporate Secretary

Re: Request for Information Regarding “on call shifts”

Dear Ms. Coleman,

Unpredictable work schedules take a toll on all employees, especially those in low-wage sectors. 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 their education, and in general experience adverse financial and health effects, as well as overall stress and strain on family life. The requirement of being on call also interferes with such employees’ ability to obtain supplemental employment in order to ensure financial security for their families.

Our office has received reports that a growing number of employers, particularly in the retail industry, require their hourly workers to work what are sometimes known as “on call shifts” – that is, requiring their employees to call in to work just a few hours in advance, or the night before, to determine whether the worker needs to appear for work that day or the next. If the employee is told that his or her services are not needed, the employee will receive no pay for that day, despite being required to be available to appear on the job site the next day or even just a few hours later on the same day. For many workers, that is too little time to make arrangements for family needs, let alone to find an alternative source of income to compensate for the lost pay.

In addition to the concerns outlined above, 12 NYCRR 142-2.3 provides, “[a]n 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.”

We have been informed that a number of companies in New York State utilize on-call shifts and require employees to report in some manner, whether by phone, text message, or email, before the designated shift in order to learn whether their services are ultimately needed on-site that day. We are examining this practice, and because we have reason to believe that Sears Holdings Corporation along with its affiliates Sears & Kmart 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 Sears Holdings Corporation provide the following information and documents.

Request for Information

1. What is the process by which Sears Holdings Corporation schedules employees for work? Does Sears Holdings Corporation use a computerized system such as Kronos or Workplace Systems for scheduling? If so, which system does Sears Holdings Corporation 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 Sears Holdings Corporation utilize “on call shifts” at any locations in 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 Sears Holdings Corporation’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 Sears Holdings Corporation 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. If Sears Holdings Corporation utilizes “on call shifts” in other states or foreign jurisdictions, how are Sears Holdings Corporation’s “on call shift” practices in New York consistent with or different than its practices in other states and jurisdictions? Why?

Request for Documents

1. Please provide any and all policies, handbooks, documents, postings, or other written materials provided to any employee employed by Sears Holdings Corporation in New York State 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 Sears Holdings Corporation prior to physically presenting himself or herself in the workplace for work on a given day.

2. For each calendar quarter in 2013 and 2014, please provide three to four samples of schedules which include on-call shifts.
3. To the extent that any computerized system used by Sears Holdings Corporation enables Sears Holdings Corporation to produce a report showing the number of instances of on-call shifts assigned, please provide such reports for all Sears Holdings Corporation employees employed within New York State during 2013 and 2014.
4. Please provide any and all time and payroll records showing dates on which any employee performed work for Sears Holdings Corporation within New York State and was paid for a time period of fewer than four 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 Sears Holdings Corporation schedules shifts in stores located in New York State.
6. Please provide any and all documents related to any study or analysis referred to in Request for Information #3 above.

Please provide your responses to my attention no later than May 4, 2015. If you have any questions, I can be reached at (212) 416-6132 or by email at Terri.Gerstein@ag.ny.gov.

Thank you in advance for your prompt attention,

Sincerely,

A handwritten signature in black ink, appearing to read "Terri Gerstein", with a long horizontal flourish extending to the right.

Terri Gerstein
Labor Bureau Chief



STATE OF NEW YORK
OFFICE OF THE ATTORNEY GENERAL

ERIC T. SCHNEIDERMAN
ATTORNEY GENERAL

DIVISION OF SOCIAL JUSTICE
LABOR BUREAU

April 10, 2014

Williams-Sonoma, Inc.
3250 Van Ness Avenue
San Francisco, CA 94109
Attn: David King, Senior Vice President and General Counsel

Re: Request for Information Regarding “on call shifts”

Dear Mr. King,

Unpredictable work schedules take a toll on all employees, especially those in low-wage sectors. 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 their education, and in general experience adverse financial and health effects, as well as overall stress and strain on family life. The requirement of being on call also interferes with such employees’ ability to obtain supplemental employment in order to ensure financial security for their families.

Our office has received reports that a growing number of employers, particularly in the retail industry, require their hourly workers to work what are sometimes known as “on call shifts” – that is, requiring their employees to call in to work just a few hours in advance, or the night before, to determine whether the worker needs to appear for work that day or the next. If the employee is told that his or her services are not needed, the employee will receive no pay for that day, despite being required to be available to appear on the job site the next day or even just a few hours later on the same day. For many workers, that is too little time to make arrangements for family needs, let alone to find an alternative source of income to compensate for the lost pay.

In addition to the concerns outlined above, 12 NYCRR 142-2.3 provides, “[a]n 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.”

We have been informed that a number of companies in New York State utilize on-call shifts and require employees to report in some manner, whether by phone, text

message, or email, before the designated shift in order to learn whether their services are ultimately needed on-site that day. We are examining this practice, and because we have reason to believe that Williams-Sonoma, Inc. along with its affiliates Williams-Sonoma, Inc., Pottery Barn, and West Elm 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 Williams-Sonoma, Inc. provide the following information and documents.

Request for Information

1. What is the process by which Williams-Sonoma, Inc. schedules employees for work? Does Williams-Sonoma, Inc. use a computerized system such as Kronos or Workplace Systems for scheduling? If so, which system does Williams-Sonoma, 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 Williams-Sonoma, Inc. utilize “on call shifts” at any locations in 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 Williams-Sonoma, 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 Williams-Sonoma, 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. If Williams-Sonoma, Inc. utilizes “on call shifts” in other states or foreign jurisdictions, how are Williams-Sonoma, Inc.’s “on call shift” practices in New York consistent with or different than its practices in other states and jurisdictions? Why?

Request for Documents

1. Please provide any and all policies, handbooks, documents, postings, or other written materials provided to any employee employed by Williams-Sonoma, Inc. in New York State 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 Williams-Sonoma, Inc. prior to physically presenting himself or herself in the workplace for work on a given day.

2. For each calendar quarter in 2013 and 2014, please provide three to four samples of schedules which include on-call shifts.
3. To the extent that any computerized system used by Williams-Sonoma, Inc. enables Williams-Sonoma, Inc. to produce a report showing the number of instances of on-call shifts assigned, please provide such reports for all Williams-Sonoma, Inc. employees employed within New York State during 2013 and 2014.
4. Please provide any and all time and payroll records showing dates on which any employee performed work for Williams-Sonoma, Inc. within New York State and was paid for a time period of fewer than four 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 Williams-Sonoma, Inc. schedules shifts in stores located in New York State.
6. Please provide any and all documents related to any study or analysis referred to in Request for Information #3 above.

Please provide your responses to my attention no later than May 4, 2015. If you have any questions, I can be reached at (212) 416-6132 or by email at Terri.Gerstein@ag.ny.gov.

Thank you in advance for your prompt attention,

Sincerely,

A handwritten signature in black ink, appearing to read "Terri Gerstein", with a long horizontal flourish extending to the right.

Terri Gerstein
Labor Bureau Chief



STATE OF NEW YORK
OFFICE OF THE ATTORNEY GENERAL

ERIC T. SCHNEIDERMAN
ATTORNEY GENERAL

DIVISION OF SOCIAL JUSTICE
LABOR BUREAU

April 10, 2014

Cross
7477 East Dry Creek Parkway
Niwot, CO 80503
Attn: Dan Hart, Chief Legal and Administrative Officer

Re: Request for Information Regarding “on call shifts”

Dear Mr. Hart,

Unpredictable work schedules take a toll on all employees, especially those in low-wage sectors. 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 their education, and in general experience adverse financial and health effects, as well as overall stress and strain on family life. The requirement of being on call also interferes with such employees’ ability to obtain supplemental employment in order to ensure financial security for their families.

Our office has received reports that a growing number of employers, particularly in the retail industry, require their hourly workers to work what are sometimes known as “on call shifts” – that is, requiring their employees to call in to work just a few hours in advance, or the night before, to determine whether the worker needs to appear for work that day or the next. If the employee is told that his or her services are not needed, the employee will receive no pay for that day, despite being required to be available to appear on the job site the next day or even just a few hours later on the same day. For many workers, that is too little time to make arrangements for family needs, let alone to find an alternative source of income to compensate for the lost pay.

In addition to the concerns outlined above, 12 NYCRR 142-2.3 provides, “[a]n 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.”

We have been informed that a number of companies in New York State utilize on-call shifts and require employees to report in some manner, whether by phone, text

message, or email, before the designated shift in order to learn whether their services are ultimately needed on-site that day. We are examining this practice, and because we have reason to believe that Crocs 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 Crocs provide the following information and documents.

Request for Information

1. What is the process by which Crocs schedules employees for work? Does Crocs use a computerized system such as Kronos or Workplace Systems for scheduling? If so, which system does Crocs 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 Crocs utilize “on call shifts” at any locations in 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 Crocs’ 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 Crocs 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. If Crocs utilizes “on call shifts” in other states or foreign jurisdictions, how are Crocs’ “on call shift” practices in New York consistent with or different than its practices in other states and jurisdictions? Why?

Request for Documents

1. Please provide any and all policies, handbooks, documents, postings, or other written materials provided to any employee employed by Crocs in New York State 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 Crocs prior to physically presenting himself or herself in the workplace for work on a given day.

2. For each calendar quarter in 2013 and 2014, please provide three to four samples of schedules which include on-call shifts.
3. To the extent that any computerized system used by Crocs enables Crocs to produce a report showing the number of instances of on-call shifts assigned, please provide such reports for all Crocs employees employed within New York State during 2013 and 2014.
4. Please provide any and all time and payroll records showing dates on which any employee performed work for Crocs within New York State and was paid for a time period of fewer than four 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 Crocs schedules shifts in stores located in New York State.
6. Please provide any and all documents related to any study or analysis referred to in Request for Information #3 above.

Please provide your responses to my attention no later than May 4, 2015. If you have any questions, I can be reached at (212) 416-6132 or by email at Terri.Gerstein@ag.ny.gov.

Thank you in advance for your prompt attention,

Sincerely,

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Terri Gerstein
Labor Bureau Chief



STATE OF NEW YORK
OFFICE OF THE ATTORNEY GENERAL

ERIC T. SCHNEIDERMAN
ATTORNEY GENERAL

DIVISION OF SOCIAL JUSTICE
LABOR BUREAU

April 10, 2014

Ann Inc.
7 Times Square
New York, NY 10036
Attn: Michael P. Schept, Asst. General Counsel - Employment & Compliance

Re: Request for Information Regarding “on call shifts”

Dear Mr. Schept,

Unpredictable work schedules take a toll on all employees, especially those in low-wage sectors. 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 their education, and in general experience adverse financial and health effects, as well as overall stress and strain on family life. The requirement of being on call also interferes with such employees’ ability to obtain supplemental employment in order to ensure financial security for their families.

Our office has received reports that a growing number of employers, particularly in the retail industry, require their hourly workers to work what are sometimes known as “on call shifts” – that is, requiring their employees to call in to work just a few hours in advance, or the night before, to determine whether the worker needs to appear for work that day or the next. If the employee is told that his or her services are not needed, the employee will receive no pay for that day, despite being required to be available to appear on the job site the next day or even just a few hours later on the same day. For many workers, that is too little time to make arrangements for family needs, let alone to find an alternative source of income to compensate for the lost pay.

In addition to the concerns outlined above, 12 NYCRR 142-2.3 provides, “[a]n 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.”

We have been informed that a number of companies in New York State utilize on-call shifts and require employees to report in some manner, whether by phone, text

message, or email, before the designated shift in order to learn whether their services are ultimately needed on-site that day. We are examining this practice, and because we have reason to believe that Ann Inc. along with its affiliates Ann Taylor and LOFT 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 Ann Inc. provide the following information and documents.

Request for Information

1. What is the process by which Ann Inc. schedules employees for work? Does Ann Inc. use a computerized system such as Kronos or Workplace Systems for scheduling? If so, which system does Ann 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 Ann Inc. utilize “on call shifts” at any locations in 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 Ann 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 Ann 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. If Ann Inc. utilizes “on call shifts” in other states or foreign jurisdictions, how are Ann Inc.’s “on call shift” practices in New York consistent with or different than its practices in other states and jurisdictions? Why?

Request for Documents

1. Please provide any and all policies, handbooks, documents, postings, or other written materials provided to any employee employed by Ann Inc. in New York State 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 Ann Inc. prior to physically presenting himself or herself in the workplace for work on a given day.

2. For each calendar quarter in 2013 and 2014, please provide three to four samples of schedules which include on-call shifts.
3. To the extent that any computerized system used by Ann Inc. enables Ann Inc. to produce a report showing the number of instances of on-call shifts assigned, please provide such reports for all Ann Inc. employees employed within New York State during 2013 and 2014.
4. Please provide any and all time and payroll records showing dates on which any employee performed work for Ann Inc. within New York State and was paid for a time period of fewer than four 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 Ann Inc. schedules shifts in stores located in New York State.
6. Please provide any and all documents related to any study or analysis referred to in Request for Information #3 above.

Please provide your responses to my attention no later than May 4, 2015. If you have any questions, I can be reached at (212) 416-6132 or by email at Terri.Gerstein@ag.ny.gov.

Thank you in advance for your prompt attention,

Sincerely,

A handwritten signature in black ink, appearing to read "Terri Gerstein", with a long horizontal flourish extending to the right.

Terri Gerstein
Labor Bureau Chief



STATE OF NEW YORK
OFFICE OF THE ATTORNEY GENERAL

ERIC T. SCHNEIDERMAN
ATTORNEY GENERAL

DIVISION OF SOCIAL JUSTICE
LABOR BUREAU

April 10, 2014

JCPenney Company, Inc.
6501 Legacy Drive
Plano, TX 75024
Attn: Myron E. Ullman, III, Chief Executive Officer

Re: Request for Information Regarding “on call shifts”

Dear Mr. UllmanJCPenney,

Unpredictable work schedules take a toll on all employees, especially those in low-wage sectors. 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 their education, and in general experience adverse financial and health effects, as well as overall stress and strain on family life. The requirement of being on call also interferes with such employees’ ability to obtain supplemental employment in order to ensure financial security for their families.

Our office has received reports that a growing number of employers, particularly in the retail industry, require their hourly workers to work what are sometimes known as “on call shifts” – that is, requiring their employees to call in to work just a few hours in advance, or the night before, to determine whether the worker needs to appear for work that day or the next. If the employee is told that his or her services are not needed, the employee will receive no pay for that day, despite being required to be available to appear on the job site the next day or even just a few hours later on the same day. For many workers, that is too little time to make arrangements for family needs, let alone to find an alternative source of income to compensate for the lost pay.

In addition to the concerns outlined above, 12 NYCRR 142-2.3 provides, “[a]n 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.”

We have been informed that a number of companies in New York State utilize on-call shifts and require employees to report in some manner, whether by phone, text

message, or email, before the designated shift in order to learn whether their services are ultimately needed on-site that day. We are examining this practice, and because we have reason to believe that JCPenney Company, Inc. along with its affiliates 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 JCPenney Company, Inc. provide the following information and documents.

Request for Information

1. What is the process by which JCPenney Company, Inc. schedules employees for work? Does JCPenney Company, Inc. use a computerized system such as Kronos or Workplace Systems for scheduling? If so, which system does JCPenney Company, 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 JCPenney Company, Inc. utilize “on call shifts” at any locations in 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 JCPenney Company, 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 JCPenney Company, 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. If JCPenney Company, Inc. utilizes “on call shifts” in other states or foreign jurisdictions, how are JCPenney Company, Inc.’s “on call shift” practices in New York consistent with or different than its practices in other states and jurisdictions? Why?

Request for Documents

1. Please provide any and all policies, handbooks, documents, postings, or other written materials provided to any employee employed by JCPenney Company, Inc. in New York State 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 JCPenney Company, Inc. prior to physically presenting himself or herself in the workplace for work on a given day.

2. For each calendar quarter in 2013 and 2014, please provide three to four samples of schedules which include on-call shifts.
3. To the extent that any computerized system used by JCPenney Company, Inc. enables JCPenney Company, Inc. to produce a report showing the number of instances of on-call shifts assigned, please provide such reports for all JCPenney Company, Inc. employees employed within New York State during 2013 and 2014.
4. Please provide any and all time and payroll records showing dates on which any employee performed work for JCPenney Company, Inc. within New York State and was paid for a time period of fewer than four 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 JCPenney Company, Inc. schedules shifts in stores located in New York State.
6. Please provide any and all documents related to any study or analysis referred to in Request for Information #3 above.

Please provide your responses to my attention no later than May 4, 2015. If you have any questions, I can be reached at (212) 416-6132 or by email at Terri.Gerstein@ag.ny.gov.

Thank you in advance for your prompt attention,

Sincerely,

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Terri Gerstein
Labor Bureau Chief