

1 AMANDA C. SOMMERFELD (SBN: 185052)  
asommerfeld@winston.com

2 WINSTON & STRAWN LLP  
333 South Grand Avenue, Suite 3800  
3 Los Angeles, CA 90071-1543  
4 Telephone: (213) 615-1700  
Facsimile: (213) 615-1750

5 MARI OVERBECK (SBN: 261707)  
moverbeck@winston.com

6 WINSTON & STRAWN LLP  
101 California Street, Suite 3900  
7 San Francisco, CA 94111  
8 Telephone: 415-591-1000  
Facsimile: 415-591-1400

9 Attorneys for Defendant  
10 KMART CORPORATION  
(erroneously sued and served as "Sears Holding Management Corporation")

11 UNITED STATES DISTRICT COURT FOR THE  
12 NORTHERN DISTRICT OF CALIFORNIA  
13 SAN FRANCISCO DIVISION

Winston & Strawn LLP  
333 S. Grand Avenue  
Los Angeles, CA 90071-1543

15 LISA GARVEY, individually and on behalf of )  
16 all others similarly situated, )

17 Plaintiff, )

18 v. )

19 SEARS HOLDING MANAGEMENT )  
20 CORPORATION, and DOES 1-50 inclusive, )

21 Defendants. )  
22  
23  
24  
25  
26  
27  
28

Case No. 11-2575

The Honorable William H. Alsup  
ORDER APPROVING  
STIPULATION TO SUBSTITUTE  
DEFENDANT

Complaint Filed April 11, 2011

1 Plaintiff Lisa Garvey (“Plaintiff”) and Defendant Kmart Corporation, erroneously sued and  
2 served as Sears Holding Management Corporation, (“Defendant”) hereby agree and stipulate as  
3 follows:

4 **WHEREAS** Plaintiff filed the operative complaint on April 11, 2011, alleging one cause of  
5 action for violation of California Labor Code Private Attorneys General Act of 2004, California  
6 Labor Code §§ 2698 *et seq.* based on California Labor Code § 1198 and Wage Order 7-2001;

7 **WHEREAS** per the Court’s request on September 8, 2011, Defendant sent Plaintiff’s  
8 counsel a copy of Plaintiff’s 2010 W2 Tax Statement on September 12, 2011 demonstrating that  
9 Kmart Corporation was Plaintiff’s employer; based on Defendant’s understanding of the putative  
10 class Plaintiff seeks to represent, all of those individuals were similarly employed by Kmart  
11 Corporation, who is the proper Defendant;

12 **WHEREAS** Plaintiff has not yet conducted discovery related to additional employers, and  
13 thus Plaintiff may later seek to amend the Complaint to add additional employer(s) based on the  
14 evidence;

15 **NOW THEREFORE:** the parties jointly stipulate and request that the Court substitute  
16 Kmart Corporation in place and instead of Sears Holding Management Corporation as the proper  
17 Defendant in this matter.

18 ///

19 ///

20 ///

21 ///

22 ///

23 ///

24 ///

25 ///

26 ///

27 ///

28

Winston & Strawn LLP  
333 S. Grand Avenue  
Los Angeles, CA 90071-1543

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

Dated: September 16, 2011

RIGHETTI GLUGOSKI, P.C.

By: /s/Michael Righetti  
Michael Righetti  
Attorneys for Plaintiff

Dated: September 16, 2011

WINSTON & STRAWN LLP

By: /s/Amanda C. Sommerfeld  
Amanda C. Sommerfeld  
Attorneys for Defendant

**PURSUANT TO STIPULATION, IT IS SO ORDERED.**

Dated: September 28, 2011.

  
\_\_\_\_\_  
The Honorable William Alsup