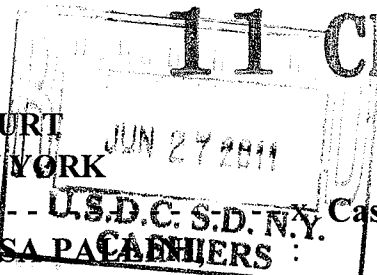


JUDGE PAULEY

11 CIV 4351

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK



TAMMY WEINSTEIN, MELISSA PALLINI
individually and on behalf of all others similarly
situated who were employed by JENNY CRAIG
OPERATIONS, INC.,

Plaintiffs,

vs.

JENNY CRAIG OPERATIONS, INC.,
Defendant.

Case No. _____
Case Removed from Supreme
Court of the State of New
York, New York County, No.
105520/11

DEFENDANT'S NOTICE
OF REMOVAL

PLEASE TAKE NOTICE that, pursuant to 28 U.S.C. §§ 1332, 1441, 1446, and 1453, as well as Local Civil Rule 81.1, Defendant Jenny Craig Operations, Inc. ("Jenny Craig") hereby removes this action, Index No. 105520/11, pending in the Supreme Court of the State of New York, New York County, to the United States District Court for the Southern District of New York. As set forth below, this Court has original jurisdiction over this action pursuant to the Class Action Fairness Act ("CAFA"), 28 U.S.C. § 1332(d), because this matter is a civil action in which the amount in controversy exceeds the sum of \$5,000,000, exclusive of costs and interest, is between citizens of different states, and Jenny Craig has timely filed this Notice of Removal. In further support, Jenny Craig respectfully states:

PROCEDURAL HISTORY AND TIMELINESS OF REMOVAL

1. On May 10, 2011, Plaintiffs Tammy Weinstein and Melissa Pallini ("Plaintiffs") filed a putative class action in the Supreme Court of the State of New York, New York County, captioned *Tammy Weinstein, Melissa Pallini, individually and on behalf of all others similarly*

situated who were employed by JENNY CRAIG OPERATIONS, INC. v. Jenny Craig Operations, Inc., No. 105520/11 (the “State Court Action”).

2. Plaintiffs served their Summons and Complaint on the New York State Secretary of State on or about May 11, 2011. The Secretary of State mailed the Summons and Complaint by certified mail to Jenny Craig on May 24, 2011. Jenny Craig received the Summons and Complaint sent by the Secretary of State on May 27, 2011. This Notice of Removal is timely filed because it is being filed within 30 days “after the receipt by the defendant, through service or otherwise, of a copy of the initial pleading setting forth the claim for relief upon which such action or proceeding is based.” 28 U.S.C. § 1446(b); *see also Cotter v. Milly LLC*, No. 09 Civ. 4639 (PGG), 2010 WL 286614, at *4 (S.D.N.Y. Jan. 22, 2010) (“Although New York law may treat service as ‘complete’ when a summons and complaint are served on the Secretary of State, federal courts in this district typically require actual receipt of the initial pleadings by a defendant to start the 30-day removal clock.”).

3. Removal to this Court is proper because it is “the district and division embracing the place where such action is pending.” 28 U.S.C. § 1441(a); *see also id.* § 112(b).

4. Pursuant to 28 U.S.C. § 1446(a) and local procedure, true and correct copies of all process, pleadings, and orders served upon Jenny Craig in the State Court Action are attached hereto as Exhibit 1.

5. By filing this Notice of Removal, Jenny Craig does not intend to waive, and hereby reserves, any applicable defense. Jenny Craig reserves the right to supplement and amend this Notice of Removal.

6. If any question arises as to the propriety of the removal of this action, Jenny Craig requests the opportunity to present evidence and argument in support of its position that this action is properly removed.

NO JOINDER NECESSARY

7. Because there are no other known defendants in this action, no consent to removal is necessary.

BASES FOR REMOVAL

8. CAFA creates federal jurisdiction over lawsuits in which “the matter in controversy exceeds the sum or value of \$5,000,000, exclusive of interest and costs, and is a class action in which...any member of a class of plaintiffs is a citizen of a State different from any defendant,” and involves a putative class that consists of more than 100 members. 28 U.S.C. §§ 1332(d)(2)(A) and (d)(5). Each of these three requirements is met.

The Putative Class Consists Of Over 100 Members

9. Plaintiffs seek to represent a class consisting of “each and every other person who worked for the Defendants as weight loss consultants, receptions [*sic*], stock persons, program directors, and any other employee working in any capacity in the ‘Weight Loss Centers.’” Compl. ¶ 11 (Ex. 1). Plaintiff alleges that the size of the class is “in excess of 500 individuals.” *Id.* ¶ 12. In actuality, Jenny Craig has employed at least 1,001 persons in its various New York locations from May 2005 until the present.

Sufficient Diversity Of Citizenship Exists To Give Rise To Federal Jurisdiction Over This Class Action

10. As alleged in the Complaint, Plaintiffs are now, and were at the time they commenced this action, citizens of New York. *See* Compl. ¶¶ 5, 6.

11. Jenny Craig is now, and was at the time Plaintiffs commenced this action, a corporation organized under the laws of the State of California with its principal place of business in California. *See id.* ¶ 7. For the purposes of determining diversity therefore Jenny Craig is a citizen of California and is not (and was not at any relevant time) a citizen of New York. 28 U.S.C. § 1332(c)(1).

12. Therefore, this is a dispute between citizens of different States, satisfying the minimal diversity requirements of 28 U.S.C. § 1332(d)(2).

13. Furthermore, as the Defendant is not a New York resident, there is no basis for this Court to decline to exercise federal subject-matter jurisdiction over this class action under the CAFA discretionary factors set forth in 28 U.S.C. § 1332(d)(3) and (4).

**The Class Action Fairness Act
Amount In Controversy Threshold Is Satisfied**

14. CAFA provides for federal subject-matter jurisdiction over class actions where the aggregate value of all claims of the individual class members exceeds \$5,000,000, exclusive of interest and costs. 28 U.S.C. § 1332(d)(6). The removing party's burden is to show to a "reasonable probability that there is the necessary minimal diversity and that the amount in controversy exceeds \$5 million." *Blockbuster, Inc. v. Galeno*, 472 F.3d 53, 59 (2d Cir. 2006).

15. Jenny Craig's burden upon removal is to demonstrate to a reasonable probability that Plaintiffs' claims demand an amount in excess of \$5,000,000. "The demonstration concerns what the plaintiff is claiming (and thus the amount in controversy between the parties), not whether plaintiff is likely to win or be awarded everything he seeks." *Brill v. Countrywide Home Loans, Inc.*, 427 F.3d 446, 449 (7th Cir. 2005); *see also Morgan v. Gay*, 471 F.3d 469, 474 (3d Cir. 2006), *cert. denied*, S.Ct. No. 06-1471, 2007 WL 1339833 (Oct. 1, 2007) (*citing Brill*, 427 F.3d at 449) ("[T]he removing party must 'show not only what the stakes of the litigation could

be, but also what they are given the plaintiff's actual demands.'"); *Brill*, 427 F.3d at 449 ("The question is not what damages the plaintiff will recover, but what amount is 'in controversy' between the parties. That the plaintiff may fail in its proof, and the judgment be less than the threshold (indeed, a good chance that the plaintiff will fail and the judgment will be zero) does not prevent removal.").

16. Jenny Craig disputes that it has any liability to Plaintiffs or any putative class member under New York Labor Law ("N.Y.L.L."). Among other defects with Plaintiffs' claim against Jenny Craig, Jenny Craig has never had any policy or practice of deducting 1/2 (one-half) an hour from each employee's paycheck for every shift worked on any given day for "break time," irrespective if a break was actually taken.

17. The Complaint does not allege a specific damages amount, nor does it allege that total damages are less than \$5 million. But based on the allegations, Jenny Craig can show to a reasonable probability that the amount in controversy is in excess of \$5 million. The \$5 million dollar minimum can be reached because the relevant liability period is from the beginning of the statutory period through the likely date of a trial.

18. In a complaint seeking unpaid wages, "courts have used the wages the plaintiff stands to recover by the time the case concludes in calculating the amount in controversy." *White v. Loomis Armored US, Inc.*, 729 F. Supp. 2d 897, 902 (E.D. Mich. 2010) (collecting cases); see *Chabal v. Reagan*, 822 F.2d 349, 356 (3d Cir. 1987) (where "a continuing right to employment is claimed, the amount in controversy cannot be considered only the amount of back of pay accrued at the time of filing"); *Shaw v. Gwatney*, 795 F.2d 1351, 1355 (8th Cir. 1986) ("the amount of a claim against the United States for back pay [is] not the amount of back pay accrued at the time of filing but the total amount of back pay the plaintiff stands ultimately to

recover in the suit”); *White v. American Education Services*, No. 10-cv-0010, 2010 WL 2428261, at *3 (W.D. La. June 10, 2010) (“Courts routinely consider future damages such as medical expenses, lost wages, pain and suffering, and (when appropriate) attorneys’ fees that may be reasonably predicted based on the facts that exist at the time of removal.”); *DeWolff v. Hexacomb Corp.*, No. 1:09-cv-548, 2009 WL 2370723 (W.D. Mich. July 30, 2009) (amount controversy is determined by calculating backpay wages through anticipated trial because “if DeWolff prevails, he may be entitled to that \$3,750-per-month in backpay for the period from the filing of the complaint until entry of judgment in this case. As Hexacomb points out, in 2008 the median time period in this district from filing of a complaint through completion of trial is 27 months.”).

19. In *Faltaous v. Johnson and Johnson*, No. 07-1572 (JLL), 2007 WL 3256833 (D.N.J. Nov. 5, 2007), the defendant removed a “putative class action for overtime benefits” under CAFA. *Id.* at *1. The court denied a motion to remand because “the damages sought include the right to overtime payments since the filing of the complaint and in the future.” *Id.* at *10. “This is the norm in employment cases in which backpay and frontpay are routinely awarded.” *Id.* “Since the right to collect damages accruing after the filing of the complaint will necessarily be adjudicated in this case, these damages are properly counted against the amount in controversy.” *Id.* “[D]efendant utilizes a liability period of four years, which includes two years prior to suit measured by the statute of limitations and two years from the date of the filing of the complaint. The use of a four year liability period is appropriate.” *Id.* at *10. “In the District of New Jersey the median time from filing to trial for a civil case was thirty-three (33) months in 2006.” *Id.*

20. Here, Plaintiffs allege that Jenny Craig's unlawful deduction from wages is an ongoing violation. The Complaint alleges that since May 2005 and "continuing through the present, Defendant have [*sic*] engaged in a policy and practice of deducting 1/2 (one-half) an hour from each employee's paycheck for every shift worked on any given day for 'break time,' despite the fact that Plaintiffs worked for that 1/2 (one-half) hour, and did not receive any 'break time.'" Compl. ¶ 3. *See also id.*, ¶ 25 (Jenny Craig deducted 30 minutes of pay "for every shift" worked); *id.*, ¶ 26 ("Plaintiffs' wages regularly did not correctly reflect the total amount of hours worked in any given pay period.").

21. Therefore, because Plaintiffs allege and seek to recover for a continuing violation, Plaintiffs seek unpaid wages from May 10, 2005 – six years prior to the filing of the Complaint – until the date of a trial. *See* N.Y.L.L. § 198(3) (the statute of limitations for a wage claim under New York law is 6 years).

22. In the Southern District of New York, in 2009 (the most recent data available), the median time for a case to go to trial after filing was 31.4 months. *See* Administrative Office of the United States Courts, Judicial Caseload Profile, <http://www.uscourts.gov/cgi-bin/cmsd2009.pl>. This case was filed on May 10, 2011. A trial accordingly will likely not take place until at least December 11, 2013, and almost certainly longer since the statistic includes all civil cases and this is a class action.

23. If trial is completed on December 1, 2013, the minimum amount of controversy is satisfied. Plaintiffs' Complaint alleges ongoing violations of New York Labor Law, Article 6, N.Y.L.L. § 190 *et seq.*, and Article 19, N.Y.L.L. § 650 *et seq.* Article 6 governs the payment of wages by an employer to an employee, while Article 19 mandates that an employer will pay an employee a wage not less than the statutory minimum wage. Violations of these provisions of

the New York Labor Law allow an employee to recover in a civil action against her employer the full amount of any wage underpayment, plus liquidated damages. N.Y.L.L. §§ 198 and 663. An employee may recover liquidated damages equal to 25% of the total wages found to be due for violations occurring prior to April 9, 2011. *See Dong v. Ng*, No. 08 Civ. 917 (JGK) (MHD), 2011 WL 2150544, at *4 (S.D.N.Y. Mar. 8, 2011). For violations occurring on or after April 9, 2011, an employee may recover liquidated damages equal to 100% of the total wages found to be due. *See Wicaksono v. XYZ 48 Corp.*, No. 10 Civ. 3635 (LAK) (JCF), 2011 WL 2022644, at *6 n.2 (S.D.N.Y. May 2, 2011).

24. According to Jenny Craig's records, approximately 1,001 employees have worked at its New York locations in positions that fall within the putative class during the period of May 2005 to the present. Plaintiffs seek payment for one-half hour of work paid at a regular wage for every shift worked from May 2005 until trial. Assuming that Jenny Craig's New York employees had one-half hour of work deducted from every shift they worked from May 2005 until December 2013 (which they did not and will not), and assuming the Plaintiffs and the putative class members are entitled to relief (which they are not), then the unpaid wages sought total approximately \$2.703 million. When the appropriate penalties are added (25% for wages owed before April 9, 2011, and 100% for wages owed on or after April 9, 2011), this amount increases to \$4.054 million.

25. Plaintiffs also seek attorneys' fees in the Complaint. Compl. ¶¶ 4, 40. "[A]ttorneys' fees may be considered as part of the amount in controversy only when those fees are recoverable as a matter of right." *Chiropractic Neurodiagnostic, PC v. Allstate Ins. Co.*, No. 08-cv-2319 (SJF) (AKT), 2009 WL 210866, at *6 (E.D.N.Y. Jan. 26, 2009) (internal quotation and citation omitted). An employee who prevails in an unpaid wage claim is entitled to

reasonable attorneys' fees. N.Y.L.L. § 198(1)(a). Therefore, Plaintiffs and the class they seek to represent are making a demand for attorneys' fees that are recoverable as a matter of right, and are factored into the amount in controversy.

26. In class actions, "[d]istrict courts in the Second Circuit routinely award attorneys' fees that are 30 percent or greater." *Velez v. Novartis Pharmaceuticals Corp.*, No. 04 Civ. 9194 (CM), 2010 WL 4877852, at *21 (S.D.N.Y. Nov. 30, 2010) (citing cases). Plaintiffs' likely demand for attorneys' fees in this case therefore will be at least \$1.216 million (30% of \$4.054 million).

27. Thus, it is reasonably probable that the amount in controversy as alleged by Plaintiffs in the Complaint is \$5.27 million, exceeding CAFA's \$5 million amount in controversy threshold. *See* 28 U.S.C. § 1332(d)(6).

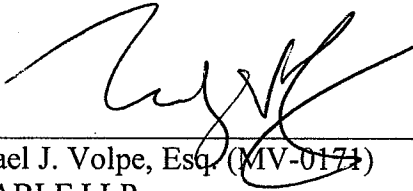
CONCLUSION

28. WHEREFORE, Defendant Jenny Craig Operations, Inc. respectfully removes this action from the Supreme Court of the State of New York, New York County, to this Court pursuant to 28 U.S.C. §§ 1332, 1441, 1446, and 1453, as well as Local Civil Rule 81.1.

NOTICE TO STATE COURT AND ADVERSE PARTY

29. Counsel for Jenny Craig certifies that pursuant to 28 U.S.C. § 1446(d), copies of this Notice of Removal will be filed with the Clerk of the Supreme Court of the State of New York, New York County, as an exhibit to a Notice of Filing of Notice of Removal, and served upon counsel for Plaintiffs. A copy of the Notice of Filing of Notice of Removal to the Supreme Court is attached hereto as Exhibit 2.

Dated: New York, New York
June 27, 2011



Michael J. Volpe, Esq. (MV-0171)
VENABLE LLP
Rockefeller Center

1270 Avenue of the Americas
New York, New York 10020
Tel: 212.307.5500
Fax: 212.307.5598
MJVolpe@venable.com

*Attorneys for Defendant Jenny Craig Operations,
Inc.*

TO: Clerk of Court
United States District Court
Southern District of New York
Daniel Patrick Moynihan
United States Courthouse
500 Pearl Street
New York, New York 10007-1312

LEEDS, MORELLI & BROWN, P.C.
Jeffrey K. Brown
1 Old Country Road
Carle Place, New York 11514
Tel. 516-873-9550

Attorneys for Plaintiffs

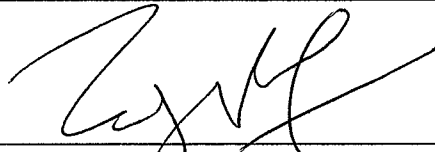
VIRGINIA & AMBINDER, LLP
Lloyd R. Ambinder
Trinity Center
111 Broadway, 14th Floor
New York, New York 10006
Tel. 212-943-9080

Attorneys for Plaintiffs

CERTIFICATE OF SERVICE

I hereby certify that on this 27th day of June, 2011, a copy of the foregoing was served by first class mail, postage prepaid, on the following attorneys of record:

Jeffrey K. Brown, Esq. Leeds, Morelli & Brown, P.C. 1 Old Country Road Carle Place, New York 11514 Tel. 516-873-9550	Lloyd R. Ambinder, Esq. Virginia & Ambinder, LLP Trinity Center 111 Broadway, 14th Floor New York, New York 10006 Tel. 212-943-9080
--	--



Michael J. Volpe, Esq. (MV-0171)

EXHIBIT 1

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

TAMMY WEINSTEIN, MELISSA PALLINI,
individually and on behalf of all others similarly situated
who were employed by JENNY CRAIG OPERATIONS,
INC.,

Plaintiffs,

v.

JENNY CRAIG OPERATIONS, INC.

Defendant.

Index:

SUMMONS

11105520

Plaintiffs designate New York County
as the place of trial.

The basis of venue is defendant Jenny
Craig Operations Inc.'s place of business.

TO THE ABOVE NAMED DEFENDANTS:

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

Dated: New York, New York
May 10, 2011

VIRGINIA & AMBINDER, LLP



By: Lloyd R. Ambinder, Esq.
Trinity Centre
111 Broadway, 14th Floor
New York, New York 10006
(212) 943-9080

and

LEEDS, MORELLI & BROWN, P.C.
Jeffrey K. Brown, Esq.
1 Old Country Road
Carle Place NY 11514
(516) 873-9550

Attorneys for Plaintiffs and the putative class

FILED

MAY 10 2011

**NEW YORK
COUNTY CLERK'S OFFICE**

TO: Jenny Craig Operations, Inc.
C/O CT Corporation System
111 Eighth Avenue
New York, New York 10011

SUPREME COURT OF NEW YORK
NEW YORK COUNTY

TAMMY WEINSTEIN, MELISSA PALLINI,
individually and on behalf of all others similarly
situated who were employed by JENNY CRAIG
OPERATIONS, INC.,

Plaintiffs,

v.

JENNY CRAIG OPERATIONS, INC.

Defendant.

Index No.:

**CLASS ACTION
COMPLAINT**

Plaintiffs, by their attorneys, Virginia & Ambinder, LLP, and Leeds, Morelli & Brown, P.C., allege upon knowledge to themselves and upon information and belief as to all other matters as follows:

PRELIMINARY STATEMENT

1. This action is brought pursuant to the New York Labor Law §§ 652 and 663; New York Labor Law § 190 et seq. to recover improperly withheld wages owed to Plaintiffs and all similarly situated persons who are presently or were formerly employed by JENNY CRAIG OPERATIONS, INC., (hereinafter referred to as "Defendant") in the State of New York.

2. Defendant operate a business engaged in the sales of weight loss products and services related to weight loss at numerous locations throughout the State of New York, including but not limited to 1 Hicksville Road, Massapequa, New York, and 655 E. Main St., East Patchogue, New York.

3. Beginning in approximately May of 2005 and, upon information and belief, continuing through the present, Defendant have engaged in a policy and practice of deducting ½ (one-half) an hour from each employee's paycheck for every shift worked on any given day for "break time," despite the fact that Plaintiffs worked for that ½ (one-half) an hour, and did not receive any "break time."

4. Plaintiffs have initiated this action seeking for themselves, and on behalf of all similarly situated employees, all compensation that they were deprived of, plus interest, damages, attorneys' fees and costs.

THE PARTIES

5. Plaintiff TAMMY WEINSTEIN is an individual who is currently a resident of the State of New York and was employed by Defendants as a Program Director and Weight Loss Consultant from November 2002 until the present at the Valley Stream and Massapequa locations.

6. Plaintiff MELISSA PALLINI is an individual who is currently a resident of the State of New York and was employed by Defendant as a Weight Loss Consultant, Program Director, part time Receptionist, and stocker from June 2008 until June 2011 at the East Patchogue.

7. Upon information and belief, Defendant JENNY CRAIG OPERATIONS, INC., is a foreign business corporation organized and existing under the laws of California and authorized to do business in New York, with a principal place of Business at 5770 Fleet Street, Carlsbad, California 92008.

8. Upon information and belief, Defendants operate multiple weight-loss related facilities in New York, *including but not limited to* Valley Stream, Garden City, Massapequa, East Patchogue, Farmingdale, Hicksville, New York, Great Neck, Brooklyn (86th Street), Brooklyn (Ralph Avenue), Hartsdale, Centereach, Clifton Park, Commack, Eastchester, Fayetville, Forest Hills, Freeport, Huntington Station, Latham, Liverpool, Middletown, Nanuet, New York (Sixth Avenue), New York (476 Third Avenue), New York (1400 Third Avenue), New York (72nd Street), Orchard Park, Rochester (Penfield Road), Rochester (West Henrietta Road), Staten Island, Valley Stream, Vestal, Wappinger's Falls, and Williamsville.

CLASS ALLEGATIONS

9. Plaintiffs repeat and re-allege the allegations set forth in paragraphs 1 through 8 hereof.

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

11. This action is brought on behalf of the Plaintiffs and a class consisting of each and every other person who worked for the Defendants as weight loss consultants, receptions, stock persons, program directors, and any other employee working in any capacity in the "Weight Loss Centers."

12. The putative class is so numerous that joinder of all members is impracticable. The size of the putative class is believed to be in excess of 500 individuals. In addition, the names of all potential members of the putative class are not known.

13. The questions of law and fact common to the putative class predominate over any questions affecting only individual members.

14. The claims of the Plaintiffs are typical of the claims of the putative class.

15. The Plaintiffs and their counsel will fairly and adequately protect the interests of the putative class.

16. A class action is superior to other available methods for the fair and efficient adjudication of this controversy.

17. Prosecuting and defending multiple actions would be impracticable.

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

FACTS

19. Plaintiffs allege on behalf of themselves and other similarly situated current and former employees of Defendant, that they are entitled to: (1) payment of all earned wages for all hours worked in accordance with New York Labor Law § 663 et seq. and § 198; (2) recovery of all wages improperly deducted in violation of New York Labor Law § 193; and (3) all damages authorized by New York Labor Law § 198.

20. Upon information and belief, beginning in or about May of 2005 until the present, Defendants employed the Plaintiffs and other members of the putative class in furtherance of their weight loss program operations.

21. Upon information and belief, during the period from May of 2005 through the present, more than 500 similarly situated persons who worked for the Defendant in a similar capacity and thus fall into the putative class.

22. Upon information and belief, Defendant exercise extensive or exclusive control over the means by which its employees perform their job.

23. Upon information and belief, Plaintiffs and other similarly situated persons were paid a regular wage, while regularly working approximately 15-35 hours per week.

24. Upon information and belief, while working for Defendants, the Plaintiff and other members of the putative class were typically required to work shifts of five (5) to eight (8) hours on one (1) to five (5) days per week.

25. Upon information and belief, while working for Defendants, Plaintiffs and other members of the putative class had 30 minutes (1/2 an hour) of pay deducted from the paychecks for every shift they worked for "break time," despite the fact that the Plaintiffs performed work during that 30 minutes each day and did not receive any "break time" off.

26. Upon information and belief, while working for Defendant, Plaintiffs' wages regularly did not correctly reflect the total amount of hours worked in any given pay period.

**FIRST CAUSE OF ACTION:
NEW YORK FAILURE TO PAY WAGES**

27. Plaintiffs repeat and re-allege the allegations set forth in paragraphs 1 through 26 hereof.

28. Pursuant to Article Six of the New York Labor Law, workers, such as Plaintiffs and other members of the putative class action, are protected for wage underpayments and improper employment practices.

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

30. As persons employed for hire by Defendants, Plaintiffs and other members of the putative class action are "employees," as understood in Labor Law § 190.

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

32. As an entity that hired the Plaintiffs and other members of the putative class, JENNY CRAIG OPERATIONS, INC., is an "employer."

33. The Plaintiffs and other members of the putative class agreed upon wage rate and/or overtime compensation rate constitutes "wages" within the meaning of New York Labor Law §§ 190, 191.

34. Pursuant to New York Labor Law § 191 and the cases interpreting the same, workers such as Plaintiffs and other members of the putative class action are entitled to be paid all their weekly wages "not later than seven calendar days after the end of the week in which the wages are earned."

35. Pursuant to New York Labor Law § 652 and the cases interpreting same, "Every employer shall pay to each of its employees for each hour worked a wage of not less than" the statutory minimum wage.

36. In failing to pay the Plaintiffs and other members of the putative class proper wages for time worked in one week, Defendants violated New York Labor Law § 191, by failing to pay Plaintiffs and other members of the putative class all of their wages earned within the week such wages were due, and violated Labor Law § 652, by failing to pay Plaintiffs minimum wages for all hours worked.

37. Pursuant to New York Labor Law § 193, "No employer shall make any deduction from the wages of an employee," such as Plaintiffs and other members of the putative class, that is not otherwise authorized by law or by the employee.

38. By withholding wages for time worked in any given week from Plaintiffs and other members of the putative class, pursuant to New York Labor Law § 193 and the cases interpreting the same, Defendants made unlawful deductions in wages owed to Plaintiffs and other members of the putative class.

39. Upon information and belief, Defendants' failure to pay Plaintiffs and other members of the putative class wages was willful.

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

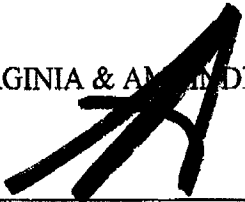
WHEREFORE, Plaintiffs, individually and on behalf of all other persons similarly situated who were employed by JENNY CRAIG OPERATIONS, INC., demand judgment:

(1) on their first cause of action against Defendants, in an amount to be determined at trial, interest, attorneys' fees and costs, pursuant to the cited New York Labor Law provisions; and

(2) such other and further relief as this Court may deem just and proper.

Dated: New York, New York
May 10, 2011

VIRGINIA & AMBINDER, LLP



By: Lloyd R. Ambinder, Esq.
Trinity Centre
111 Broadway, 14th Floor
New York, New York 10006
(212) 943-9080

and

LEEDS, MORELLI & BROWN, P.C.
Jeffrey K. Brown, Esq.
1 Old Country Road
Carle Place NY 11514
(516) 873-9550

Attorneys for Plaintiffs and the putative class

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

Index No.:

TAMMY WEINSTEIN, MELISSA PALLINI, individually and on behalf of all others similarly
situated who were employed by JENNY CRAIG OPERATIONS, INC.,

Plaintiffs,

v.

JENNY CRAIG OPERATIONS, INC.

11105520

Defendant.

SUMMONS AND COMPLAINT

Sir: PLEASE TAKE NOTICE

Notice of Entry

that the within is a certified / true copy of a _____ duly entered in the office of the
clerk of the within named court on the _____ day of _____, 2011

Notice of Settlement

that an order/judgment of which the within is a true copy will be presented for settlement to the
HON. one of the Judges of the within named Court, at _____ on the _____ day of
_____, 2011.

Dated: May 10, 2011

Yours, etc.

Virginia & Ambinder, LLP
Attorneys for Plaintiff
111 Broadway, 14th Floor
New York, New York 10006
(212) 943-9080

Leeds Morelli & Brown, P.C.
Attorneys for Plaintiff
One Old Country Road, Suite 347
Carle Place, NY 11514
(516) 873-9550

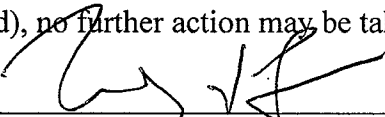
EXHIBIT 2

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

-----		x	No. 105520/11
TAMMY WEINSTEIN, MELISSA PALLINI,		:	
individually and on behalf of all others similarly		:	REMOVED TO THE
situated who were employed by JENNY CRAIG		:	UNITED STATES DISTRICT
OPERATIONS, INC.,		:	COURT FOR THE
		:	SOUTHERN DISTRICT OF
	Plaintiffs,	:	NEW YORK
		:	
	vs.	:	DEFENDANT'S NOTICE OF
		:	NOTICE OF REMOVAL
JENNY CRAIG OPERATIONS, INC.,		:	
	Defendant.	:	
-----		x	

Defendant Jenny Craig Operations, Inc. has removed this action from this Court to the United States District Court for the Southern District of New York, as reflected in the attached Notice of Removal. Pursuant to 28 U.S.C. § 1446(d), no further action may be taken herein.

Dated: New York, New York
June 27, 2011



Michael J. Volpe, Esq. (MV 0171)
 VENABLE LLP
 Rockefeller Center
 1270 Avenue of the Americas
 New York, New York 10020
 Tel: 212.307.5500
 Fax: 212.307.5598
 hlmaly@venable.com

Attorneys for Defendant Jenny Craig Operations, Inc.