

SUPERIOR COURT - MARTINEZ
COUNTY OF CONTRA COSTA
MARTINEZ, CA 94553

SCHAKOW VS LERNER NEW YORK

MSC08-01145

NOTICE OF ASSIGNMENT TO DEPARTMENT SIX FOR CASE
MANAGEMENT DETERMINATION

THIS FORM, A COPY OF THE NOTICE TO PLAINTIFFS, THE ADR INFORMATION SHEET, AND A BLANK CASE MANAGEMENT STATEMENT ARE TO BE SERVED UPON ALL OPPOSING PARTIES, ALL PARTIES SERVED WITH SUMMONS AND COMPLAINT/CROSS-COMPLAINT.

1. This matter has been assigned to Department 6, Judge D. Flinn presiding, for all purposes, Department 6 is designated as the complex litigation department of the Court and as such (a) hears all cases wherein a designation of complex case has been made and (b) conducts hearings, in cases that this court determines, on a preliminary basis may be complex, to determine whether the case should remain in the complex litigation program.
2. All counsel are required to appear in Dept. 6 on 07/08/08 at 8:30am.
 - (a) If the case has been designated as complex, and no counter-designation has been filed, the Court will hold its first case management conference at that time.
 - (b) If the case has been assigned to Department 6 on a preliminary basis the Court will hold a hearing to determine if the matter is, or is not, complex. If the matter is determined to be complex, the Court will then proceed with the first case management conference.
3. Each party shall file and serve a Case Management Conference Statement five (5) days before this hearing and be prepared to participate effectively in the Conference, including being thoroughly familiar with the case and able to discuss the suitability of the case for private mediation, arbitration or the use of a special master or referee.
4. Prior to the conference counsel for plaintiff shall meet and confer with counsel for each other party in an effort to precisely define the the issues in the case, discuss the possibility of early mediation, the identities of possible other parties, and their respective plans for discovery.
5. Until the time of the conference the following INTERIM ORDERS shall be in effect:
 - A. Plaintiff shall diligently proceed in locating and serving each and every defendant. It is the Court's intention that each party be served in sufficient time to have entered an appearance within the time allowed by law and to attend the first conference.
 - B. All discovery shall be stayed excepting as all parties to the action might otherwise stipulate or the Court otherwise order.
 - C. No party shall destroy any writing or other evidence in its possession or under its control which bears in any way upon the matters which are the subject of this litigation.

- D. Within the time for any party to file an answer or demurrer such party may alternatively file a notice of general appearance. In such event the time for filing of an answer or demurrer shall be extended to twenty (20) days following the first conference unless the Court shall, at that time, set a different schedule.
- E. Counsel for each party shall do a conflict check to determine whether such counsel might have a possible conflict of interest as to any present or contemplated future party.

BY ORDER OF THE COURT

**SUMMONS
(CITACION JUDICIAL)**

SUM-100

NOTICE TO DEFENDANT:

(AVISO AL DEMANDADO):

LERNER NEW YORK, INC., dba NEW YORK & COMPANY; NEW YORK & COMPANY, INC., dba NEW YORK & COMPANY, and

FOR COURT USE ONLY
(SOLO PARA USO DE LA CORTE)

FILED

2008 APR 29 P 12:20

K. TORRE, CLERK OF THE SUPERIOR COURT
COUNTY OF CONTRA COSTA, CALIF.

BY: C. Green, Deputy Clerk

Does 1 -
10, inclusive

YOU ARE BEING SUED BY PLAINTIFF:

(LO ESTÁ DEMANDANDO EL DEMANDANTE):

JANNIKA SCHAKOW, on behalf of herself, and all others similarly situated

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site (www.lawhelpcalifornia.org), the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), or by contacting your local court or county bar association.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California (www.courtinfo.ca.gov/selfhelp/espanol/), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, (www.lawhelpcalifornia.org), en el Centro de Ayuda de las Cortes de California, (www.courtinfo.ca.gov/selfhelp/espanol/) o poniéndose en contacto con la corte o el colegio de abogados locales.

The name and address of the court is:
(El nombre y dirección de la corte es):
Contra Costa County Superior Court
725 Court Street
P.O. Box 911
Martinez, California 94553

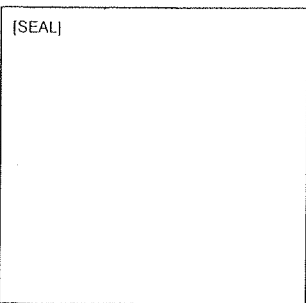
CASE NUMBER
(Número del Caso) **08-01145**

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:
(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):
Aaron Kaufmann 148580/David Pogrel 203787 925.932.6006 925.932.3412
Hinton Alfert & Sumner
1646 N. California Blvd., Suite 600
Walnut Creek, California 94596

CLERK OF THE
SUPERIOR COURT Clerk, by C. Green, Deputy
(Secretario) (Adjunto)

DATE: APR 29 2008
(Fecha)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)
(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010).)



NOTICE TO THE PERSON SERVED: You are served

- as an individual defendant.
- as the person sued under the fictitious name of (specify):
- on behalf of (specify):
under: CCP 416.10 (corporation) CCP 416.60 (minor)
 CCP 416.20 (defunct corporation) CCP 416.70 (conservatee)
 CCP 416.40 (association or partnership) CCP 416.90 (authorized person)
 other (specify):
- by personal delivery on (date):

1 **HUNTER PYLE, SBN 191125**
2 **PAMELA KONG, SBN 220912**
3 **SUNDEEN SALINAS & PYLE**
4 1330 Broadway, Suite 1830
Oakland, California 94612
Telephone: (510) 663-9240
Facsimile: (510) 663-9241

5 **AARON KAUFMANN, SBN 148580**
6 **DAVID POGREL, SBN 203787**
7 **HINTON, ALFERT & SUMNER**
1646 N. California Blvd., Suite #600
Walnut Creek, California 94596
Telephone: (925) 932-6006
Facsimile: (925) 932-3412

9 Attorneys for Plaintiff
10 JANNIKA SCHAKOW
and the Putative Class

11 **IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA**
12 **FOR THE COUNTY OF CONTRA COSTA**

13 JANNIKA SCHAKOW, on behalf of herself, and
14 all others similarly situated,

15 Plaintiffs,

16 v.

17 LERNER NEW YORK, INC. dba NEW YORK
18 & COMPANY; NEW YORK & COMPANY,
INC., dba NEW YORK & COMPANY; and
19 DOES 1-10, inclusive,

20 Defendants.

Case No. **C 08 - 01145** *

CLASS ACTION

COMPLAINT FOR DAMAGES

- (1) **FAILURE TO PROVIDE OFF-DUTY MEAL PERIODS (Labor Code §§226.7, 512);**
- (2) **FAILURE TO AUTHORIZE AND PERMIT REST PERIODS (Labor Code §226.7);**
- (3) **WAITING TIME PENALTIES (Labor Code §§201-203);**
- (4) **FAILURE TO PROVIDE ACCURATE ITEMIZED STATEMENTS (Labor Code § 226, 226.3); and**
- (5) **VIOLATIONS OF UCL (Business and Professions Code §17200 et seq.)**

DEMAND FOR JURY TRIAL

FILED

2008 APR 29 P 12:20

K. TIMBLE, CLERK OF THE SUPERIOR COURT
COUNTY OF CONTRA COSTA, CALIF.

BY: _____ C. Green, Deputy Clerk

1 within this Court's jurisdiction for purposes of service of process. The unlawful acts alleged herein
2 have a direct effect on Plaintiff and those similarly situated within the State of California and
3 within Contra Costa. Defendant operates numerous stores in Contra Costa County as well as in
4 other counties within the State of California and employ numerous Class Members in Contra Costa
5 County. Moreover, Plaintiff was employed by Defendants in Contra Costa County during the
6 Class Period.

7 13. Plaintiff asserts no claims under federal law. The total amount in controversy for
8 Plaintiff is less than seventy-five thousand dollars (\$75,000) exclusive of interest, fees and costs.
9 Plaintiff's individual claims do not unite or enforce a single title or right to which the Plaintiff and
10 the Class have a common and undivided interest. Rather, they arise from NY&CO's systematic
11 wage abuses against hourly employees in California.

12 **III. PARTIES**

13 **A. PLAINTIFF**

14 14. JANNIKA SCHAKOW worked at NY&CO as a Sales Associate in Riverside,
15 California, from approximately May 2005 to approximately July 22, 2005. She also worked at
16 NY&CO as an hourly Assistant Sales Leader in Concord, California, from October 14, 2007, to
17 February 4, 2008.

18 **B. DEFENDANTS**

19 15. LERNER NEW YORK, INC. is a Delaware corporation with its headquarters in
20 New York, New York. LERNER NEW YORK, INC. maintains stores and/or other offices and
21 transacts business throughout the state of California, including in Contra Costa County. LERNER
22 NEW YORK, INC. operates numerous stores in Contra Costa County as well as in other counties
23 within the State of California.

24 16. NEW YORK & COMPANY, INC. is a Delaware corporation with its headquarters
25 located in New York, New York. NEW YORK & COMPANY, INC. maintains stores and/or other
26 offices and transacts business throughout the state of California, including in Contra Costa County.
27 NEW YORK & COMPANY, INC. operates numerous stores in Contra Costa County as well as in
28 other counties within the State of California.

