

STATE OF CONNECTICUT

RETURN DATE: March 22, 2011	:	SUPERIOR COURT
	:	
Edward B. Roach, in his individual capacity and on behalf of a all similarly situated employees	:	JUDICIAL DISTRICT OF MIDDLESEX
	:	
PLAINTIFFS	:	
	:	
V.	:	
	:	
Moran Foods, Inc.,	:	March 9, 2011
	:	
DEFENDANT	:	

CLASS ACTION COMPLAINT

1. Defendant, Moran Foods, Inc., is a corporation organized and existing under the laws of the state of Michigan. It is registered to do business in the state of Connecticut.
2. Defendant is a wholly owned subsidiary of Supervalu, Inc., a Delaware corporation.
3. Defendant is in the business of owning and operating grocery stores. It sells “commodities” as that term is defined in Connecticut’s wage orders 7A and 7B, and accordingly, is involved in the “mercantile trade.”
4. On or about October 2010, Plaintiff began working for Defendant as a Store Manager Trainee in Defendant’s Hartford, Connecticut store.
5. During the hiring process, he was told that he would be paid a weekly salary and that in addition he would be paid “chinese overtime.” The details of this compensation formula were not provided to Plaintiff at that time.

6. In January 2011, Plaintiff became an Assistant Store Manager.
7. During his employment, Plaintiff was required to work at least forty (40) hours in a week. In fact, he has been threatened with reprimand if he does not work at least forty (40) hours per week.
8. When he worked forty (40) hours, his pay was \$865.38. His pay stubs referred to these hours as "regular."
9. Plaintiff was never assigned a "regular hourly rate" of pay as that term is defined in § 31-62-D4 of the Connecticut Regulations, although his weekly pay divided by 40 hours (his mandatory weekly hours) results in an hourly rate of \$21.63 per hour.
10. When Plaintiff worked over forty (40) hours per week, he was paid additional pay, and this pay appeared on his paystubs and was entitled "overtime coefficient."
11. Plaintiff's "overtime coefficient" did not pay him "at a rate not less than one and one-half times the regular rate at which he is employed" as required by Conn. Gen. Stat. § 31-76c.
12. Defendant never advised Plaintiff, or other Store Manager Trainees or other Assistant Manager in writing at the time of their hiring, or via a posted notice, of the rate of remuneration, hours of employment, and wage payment schedules as required by Conn. Gen. Stat. § 31-71f.
13. Plaintiff should have been paid one and one-half times his regular hourly rate, calculated by dividing his weekly pay of \$865.38 by 40 hours, or \$32.45 per hour, for his overtime hours.
14. For example, during the pay period Sunday December 12, 2010 through Saturday

December 18, 2010, Plaintiff worked 59.50 hours.

15. For that week, he should have been paid \$632.77 for those 19.50 hours.

16. Instead, Plaintiff was paid \$141.81 or \$7.27 per hour.

17. Defendant calculates overtime premiums by dividing the employee's base salary by the number of hours that employee worked on a week by week basis, then paying $\frac{1}{2}$ of that hourly rate for all hours over 40.

18. For example, overtime for the Plaintiff for pay period ending December 18, 2010 was calculated by dividing Plaintiff's base salary of \$865.38 by 59 hours, which results in an "hourly" rate that week of \$14.54. Defendant then paid overtime premiums of one half this "hourly" rate, or \$7.27. When this "overtime coefficient" of \$7.27 was multiplied by the 19.5 hours of overtime Plaintiff worked that week, he was paid only \$141.80.

19. This method of payment underpaid Plaintiff by \$490.97 for his overtime work that week.

20. Defendant pays all of its Store Manager Trainees and Assistant Store Managers in Connecticut in this fashion and in violation of Connecticut law.

21. Plaintiff brings this action on behalf of himself and all other individuals who have worked for defendant as either Training Store Managers or Assistant Store Managers in all stores in Connecticut between February 24, 2009 and the date of final judgment in this matter.

22. Class certification for these claims is appropriate under Sections 9-7 and 9-8 of the Connecticut Practice Book because all the requirements of the Rules are met, including:

9-7(1). The class is so numerous that joinder of all members is impracticable. Upon information and belief, there are over 40 Training Store Managers and Assistant Store Managers who have worked for defendant in

Connecticut. While the exact number and identities of class members are unknown at this time, and can only be ascertained through appropriate discovery, Plaintiff is informed and believes that hundreds of putative class members have worked for the defendant without appropriate overtime pay;

- 9-7(2). There are questions of law and fact common to the class, including whether or not the putative class members worked overtime but were not paid overtime premiums correctly in violation of Connecticut law.
- 9-7(3). The named plaintiff's claims are typical of those of the class members. Plaintiff's claims encompass the challenged practices and course of conduct of defendant. Furthermore, plaintiff's legal claims are based on the same legal theories as the claims of the putative class members.
- 9-7(4). The named plaintiff will fairly and adequately protect the interests of the class. The plaintiff's claims are not antagonistic to those of the putative class and he has hired counsel skilled in the prosecution of class actions.
- 9-8(3). Common questions of law and fact predominate over questions affecting only individuals, and a class action is superior to other available methods for the fair and efficient adjudication of this controversy. To conduct this action as a class action under Connecticut Practice Books Section 9-7 and 9-8 presents few management difficulties, conserves the resources of the parties and the court system, protects the rights of each class member and maximizes recovery to them.

23. As to plaintiff's claims for injunctive relief, pursuant to Conn. Gen. Stat. § 31-58 *et seq.*, plaintiff sues on behalf of himself and all other members of the above-defined class. Class certification for these state law claims is appropriate under Section 9-7 for the reasons set forth in Paragraph 12 above. Class certification for these state law claims also is appropriate under Rule 9-8(2) because all the requirements of the rule are met, in that defendant has acted on grounds generally applicable to the class, including that it subjects all individuals in the positions of Training Store Manager and Assistant Store Manager to the same incorrect overtime calculation, so that it is appropriate to issue final injunctive relief to the class as a whole.

24. Defendant's conduct in failing to pay Plaintiff "at a rate not less than one and one-half times the regular rate at which he is employed" is a violation of Conn. Gen. Stat. § 31-76c and has caused Plaintiff damages in the form of lost income, consequential damages, costs and attorneys fees.

25. Defendant's conduct was arbitrary, unreasonable or in bad faith and therefore entitles him to an award of twice the full amount of the overtime wages due, with costs and such reasonable attorney's fees as may be allowed by the court.

PRAYER FOR RELIEF,

Wherefore, Plaintiff claims the following damages,

1. Compensatory damages, including backpay;
2. Liquidated damages under Conn. Gen. Stat. § 31-68;
3. An order enjoining Defendant from violating Connecticut law as to its employees, and specifically instructing it to assign a regular rate of pay to its employees and to pay them "at a rate not less than one and one-half times the regular rate at which he is employed" as required by Conn. Gen. Stat. § 31-76c.
4. An order certifying this case as a class action under Connecticut Practice Book Sections 9-7 and 9-8.
5. Attorneys fees,
6. Costs,
7. Any and all other relief as the court seems just and proper.

Plaintiff, Edward R. Roach, *et al.*

By: 

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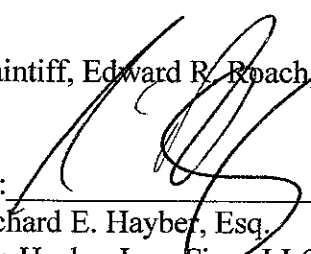
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STATEMENT OF AMOUNT IN DEMAND

WHEREFORE, the Plaintiff claims a cause of action seeking damages not less than \$15,000, exclusive of interest and costs, which cause is within the jurisdiction of the Superior Court.

Plaintiff, Edward B. Roach, *et al*

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