

**STATE OF CONNECTICUT**

<b>RETURN DATE: November 1, 2011</b>	:	
	:	
<b>Michael COOK and Rebecca FEENEY,</b>	:	
<b>Individually and on behalf of all others</b>	:	<b>SUPERIOR COURT</b>
<b>Similarly situated,</b>	:	
<b>Plaintiffs</b>	:	<b>J.D. OF WATERBURY</b>
	:	
<b>v.</b>	:	
	:	<b>October 5, 2011</b>
<b>FAMILY DOLLAR STORES</b>	:	
<b>OF CONNECTICUT, INC.,</b>	:	
<b>Defendant</b>	:	

**CLASS ACTION COMPLAINT**

**THE PARTIES**

1. Defendant, Family Dollar Stores of Connecticut, Inc., is a corporation organized and existing under the laws of the state of Connecticut.
2. Defendant is a wholly-owned subsidiary of Family Dollar Stores, Inc., a Delaware corporation.
3. Defendant is in the business of operating general merchandise retail discount stores. This merchandise includes consumables, home products, apparel and accessories, seasonal merchandise, and electronics.
4. The above-listed merchandise are “commodities” as that term is defined in Connecticut’s wage orders 7A and 7B, and accordingly, Defendant is involved in the “mercantile trade.”
5. In or around November, 2007, Plaintiff Michael Cook was hired by Defendant as a store manager. He worked in this position until about April, 2009. During this time, Mr. Cook worked in the Meriden, Wallingford, and West Haven, Connecticut Family Dollar stores.

6. Plaintiff Rebecca Feeney was hired as an assistant manager by Defendant in or around August, 2007. In or around October, 2007, Ms. Feeney was promoted to the role of store manager. She worked in this job until she left her employment in December 2008. During this time, Ms. Feeney worked in the Winsted, Connecticut Family Dollar Stores.

### **FACTUAL ALLEGATIONS**

7. Plaintiffs Cook and Feeney regularly worked more than 40 hours per week but were never paid overtime premium pay for the hours that they worked beyond 40 per week.

8. Family Dollar Managers in Connecticut share a common job title and description with Plaintiffs Cook and Feeney. They report directly to a District Manager who has the real management authority for the store.

9. Family Dollar's corporate office issues store operations manuals with operating policies that apply uniformly to all stores nationwide.

10. While Plaintiffs and the class have been given the title of store manager, in fact, based on their duties, their real and primary function is to perform non-exempt functions, including stocking and organizing shelves, running the cash registers, unloading trucks, cleaning the floors including sweeping and mopping, cleaning and mopping the bathrooms, removing trash and sweeping the sidewalks in front of the store, emptying trash bins, unpacking boxes of merchandise, wiping down counters, cleaning and wiping down shelves, performing recovery, checking product expirations, breaking down empty cartons, arranging store aisles in accordance with pre-determined corporate issued "planograms," "schematics" and "end caps," unloading trucks, cutting grass and

trimming hedges in front of the store, and performing other non-managerial duties.

11. The work performed by store managers required little skill and no capital investment. Their duties did not include managerial responsibilities or the exercise of independent judgment. Rather, their work involved many menial duties and duties identical to crew members and other non-exempt positions.

12. Defendant does not pay any of its store managers in Connecticut overtime premium pay.

13. In 2006, a judgment was entered against Defendant's parent corporation, Family Dollar Stores, Inc., on behalf of approximately 1,200 store managers from around the country whose job description and duties were the same as Plaintiffs Cook and Feeney and the instant putative class. That case, entitled *Morgan, et al. v. Family Dollar Stores, Inc.*, 2006 WL 1388201 (N.D. Ala. March 31, 2006), claimed that those store managers were misclassified as "executives" under the Fair Labor Standards Act, 29 U.S.C. Section 201, *et seq.*, and claimed that they had thus been denied overtime wages.

14. In December 2008, the Eleventh Circuit Court of Appeals affirmed this judgment. *Morgan v. Family Dollar Stores, Inc.*, 551 F.3d. 1233 (11<sup>th</sup> Cir. 2008).

15. Despite this ruling, and the similarity between the executive exemption under the FLSA and the executive exemption under the CMWA, Defendant refused to reclassify the position of Store Manager in Connecticut as non-exempt, or to modify the position to include more exempt duties.

16. In this respect, Defendant's conduct in refusing to pay overtime wages to store managers, including those in Connecticut, was willful, unreasonable, arbitrary and in bad faith.

17. A class action complaint was filed on January 15, 2010 against Defendant on behalf of Store Managers who worked in Connecticut stores during the two years preceding the filing of that complaint. That case was filed in the United States District Court for the District of Connecticut and was entitled, *Friedman v. Family Dollar Stores, Inc. and Family Dollar Stores of Connecticut, Inc.*, Case No. 3:10-cv-000074-JCH. That case was dismissed on September 26, 2011.

18. The limitations period for all members of the putative class in the Friedman action, including Plaintiffs Cook and Feeney, was tolled during the pendency of that action, i.e., from January 15, 2010 until September 26, 2011, in accordance with the rule of *Grimes v. Housing Authority of the City of New Haven*, 242 Conn. 236 (1997).

#### CLASS ALLEGATIONS

19. Plaintiffs bring this action individually and on behalf of all other Store Managers who are presently citizens of this state and who worked at Family Dollar Stores of Connecticut, Inc. in the State of Connecticut between January 15, 2008 and the present.

20. 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 but fewer than 100 Store Managers who have worked for defendant in Connecticut during the class period. 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 there are between 40 and 100 putative class members who 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. Plaintiffs' claims encompass the challenged practices and course of conduct of defendant. Furthermore, plaintiffs' legal claims are based on the same legal theories as the claims of the putative class members.

9-7(4). The named plaintiffs will fairly and adequately protect the interests of the class. The plaintiffs' claims are not antagonistic to those of the putative class and they have 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.

21. Defendant's conduct in failing to pay Plaintiffs and the class one and one-half times their hourly rate of pay for all hours over 40 per week violates the Connecticut Minimum Wage Act, Conn. Gen. Stat. Section 31-58, *et seq.*, as set forth above.

22. Defendant's conduct was arbitrary, unreasonable or in bad faith and therefore entitles plaintiffs to an award in the amount of overtime wages due, plus an amount of liquidated damages equivalent to the amount of overtime wages due, with costs and such reasonable attorney's fees as may be allowed by the court.

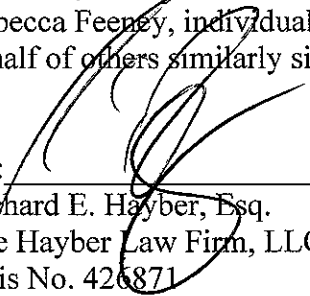
23. As a direct and proximate result of Defendant's conduct as described, the plaintiffs and the class have suffered damages in including unpaid overtime, consequential damages, attorneys' fees and costs.

## PRAYER FOR RELIEF

Wherefore, Plaintiffs claim the following remedies:

1. Certification of this action as a class action pursuant to Sections 9-7 and 9-8 of the Connecticut Practice Book on behalf of the members of the class of Connecticut Store Managers and the appointment of Plaintiffs Cook and Feeney and their counsel to represent the class;
2. Unpaid overtime wages under the Connecticut Minimum Wage Act, C.G.S. Section 31-68;
3. Penalty damages under the Connecticut Minimum Wage Act, C.G.S. Section 31-68;
4. Interest and costs;
5. Attorneys' fees under the Connecticut Minimum Wage Act, C.G.S. Section 31-68;
6. Injunctive relief in the form of an order directing Defendant to comply with the Connecticut Minimum Wage Act;
7. Such other relief as in law or equity may pertain.

Plaintiffs, Michael Cook and  
Rebecca Feeney, individually and on  
behalf of others similarly situated

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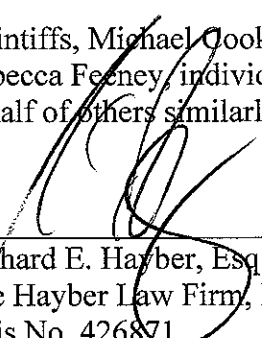
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STATEMENT OF AMOUNT IN DEMAND

WHEREFORE, the Plaintiffs claim 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.

Plaintiffs, Michael Cook and  
Rebecca Feeney, individually and on  
behalf of others similarly situated

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