

1 Plaintiff, individually and on behalf of all others similarly situated, for her complaint against
2 defendants Polo Retail, LLC and Polo Ralph Lauren Corporation (collectively “Defendants”),
3 alleges upon information and belief, except as to the allegations which pertain to plaintiff and her
4 counsel, as follows:

5 **JURISDICTION AND VENUE**

6 1. This court has jurisdiction over this action under 28 U.S.C § 1332 because there is
7 complete diversity of citizenship between Plaintiff and Defendants and the amount in controversy
8 exceeds \$75,000, exclusive of interest and costs.

9 2. Plaintiff Toni Young is an individual who resides, and at all times relevant has
10 resided, in San Francisco, California, and who is a citizen of the State of California.

11 3. Defendant Polo Retail LLC is a company organized and existing under the laws of
12 the State of Delaware, with its principal place of business in the State of New Jersey.

13 4. Defendant Polo Ralph Lauren Corporation is a company organized and existing
14 under the laws of the State of Delaware, with its principal place of business in the State of the State
15 of New Jersey.

16 5. In addition, this court has personal jurisdiction over the Defendants who: (1)
17 conduct business in the State of California through their retail clothing outlets in California; (2) hire
18 and maintain employees in the State of California; and (3) avail themselves of the protection of the
19 laws of the State of California.

20 6. Under 28 U.S.C. § 1391(a)(2), venue is proper in this court because Defendants
21 committed the acts complained of herein in the City and County of San Francisco, as well as in
22 other locations throughout the State of California, including Beverly Hills, Burlingame, Costa Mesa,
23 La Jolla, Palo Alto, Sacramento, Alpine, Anderson, and Atascadero.

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1 **NATURE OF THE ACTION**

2 7. This action is brought by Plaintiff and all other current and former employees of
3 Defendants in the State of California who have been forced to purchase apparel and accessories
4 from Defendants as a condition of their employment in violation of Title 8, California Code of
5 Regulations, § 11070, subdivision 9(A), which provides:

6 “When uniforms are required by the employer to be worn by the
7 employee as a condition of employment, such uniforms shall be
8 provided and maintained by the employer. The term “uniform”
9 includes wearing apparel and accessories of distinctive design or
color.”

10 8. Defendants maintain and operate retail clothing stores throughout California, stores
11 that sell the Polo Ralph Lauren’s line of apparel and accessories of distinctive design. Defendants
12 require all retail sales associates in their employment to purchase Polo Ralph Lauren clothing and
13 accessories as a condition of their employment. This requirement is memorialized in the
14 Defendants’ Employee Handbooks and employee handouts, and is enforced by the Defendants’
15 management teams in the State of California through their improper and demeaning inspections of
16 the clothing worn by their employees. The “Polo Ralph Lauren Retail Employee Handbook 2002”
17 provides, in part:

18 “Employees are required in all PRC locations to wear Polo Ralph
19 Lauren merchandise.”

20 9. The clothing and accessories sold by Defendants’ stores are top-of-the-line designer
21 fashions that are extremely high priced. Sweaters and shirts costing several hundreds of dollars are
22 the norm. Defendants require their sales associates not only to buy the Polo Ralph Lauren clothing
23 line, but require them to maintain an up-to-date wardrobe of each season’s product line. Sales
24 associates, including Plaintiff, are paid low wages, yet are required to purchase these products on
25 an on-going basis. Furthermore, sales associates are required to purchase “complete outfits” of
26 Polo Ralph Lauren clothing and accessories, as opposed to single, less costly clothing items.

1 10. Defendants’ management teams inspect the Polo Ralph Lauren clothing and
2 accessory selections purchased by Plaintiff and the Class to ensure that the sales associates are
3 properly attired. Defendants have even subjected Plaintiff and Class members to strip searches to
4 ensure that all of their clothing is from Defendants’ product lines.

5 11. Defendants’ management teams also threaten sales associates with termination if
6 they do not abide by Defendants’ uniform requirements, reprimanding and issuing written warnings
7 to employees who violate this policy.

8 12. Defendants’ management teams have enforced their illegal uniform policy in several
9 ways, including through their express, written policies and strip searches. Defendants even
10 photographed the sales associates’ new Polo Ralph Lauren purchases, on a season-by-season basis,
11 making determinations of the appropriateness of the Polo Ralph Lauren apparel and accessories
12 purchased by Plaintiff and the Class.

13 13. Defendants’ uniform policy is specifically designed to give Defendants’ a
14 competitive advantage over other designers and apparel retailers. This policy is also meant to
15 deliver Defendants’ current fashion message to the public, to “complete the visual merchandising”
16 of defendants’ stores, to guide Defendants’ customers to purchase complete wardrobes, as opposed
17 to single items, and to mislead customers to believe sales associates are loyal “fans” of Ralph
18 Lauren merchandise. In written policy statements, Defendants describe their sales associates as
19 “walking advertisement[s] of the store, projecting [the Polo Ralph Lauren] lifestyle image through
20 proper coordination of clothing, accessories, footwear, and personal grooming—what [Defendants]
21 call wardrobing.”

22 14. Defendants’ employee uniform policies and practices also violate California Labor
23 Code § 450, which provides in pertinent part:

24 a) No employer, or agent or officer thereof, or other person may
25 compel or coerce any employee, or applicant for employment, to
26 patronize his or her employer, or any other person, in the purchase
27 of a thing of value.

1 15. Defendants' employee uniform policies and practices also directly violate
2 an Industrial Welfare Commission Order (California Code of Regulations, § 11070,
3 subdivision 9(A)), and, thus, constitute an on-going violation of Labor Code § 1199, which
4 provides, in relevant part:

5 “Every employer or other person acting either individually or as an
6 officer, agent, or employee of another person is guilty of a
7 misdemeanor and is punishable by a fine of not less than one
8 hundred dollars (\$100) or by imprisonment for not less than 30
9 days, or by both, who does any of the following:

10 (c) Violates or refuses or neglects to comply with any provision of
11 this chapter or any order or ruling of the commission.”

12 16. Defendants have also established the “PRC Special Purchase Program” that
13 constitutes a direct violation of California Labor Code § 201. Defendants “advance” Polo Ralph
14 Lauren products to their employees (an illegal employment requirement) and then withhold wages
15 from their employees to pay for the apparel and accessory purchases. This program is designed
16 to create a captive, dependent, vulnerable and profitable customer base, i.e., Defendants' sales
17 associates, who must purchase Polo Ralph Lauren apparel and accessories as a condition of
18 employment.

19 17. Defendants' current employee handbook, the “Polo Ralph Lauren Retail Employee
20 Handbook 2002” provides, in part:

21 “
22 The Special Purchase Program provides employees with a method
23 to purchase an on-the-job wardrobe at a 65% discount, without
24 having to immediately expend the entire dollar amount. This is
25 viewed as an advance (taken in clothing) to be repaid by [sic] means
26 of a payroll deduction.”

27 18. The “Polo Ralph Lauren Retail Employee Handbook 2002” is attached hereto as
Exhibit A; see, pages 20-21.

19. Defendants' previous employee handbook, the “Polo Retail Corporation

1 Employee Handbook,” dated January 28, 1996, provides in part:

2 “Your attire should be reflective of the merchandise you are
3 selling. The Company offers liberal discount benefits and a
4 special purchase program to accommodate you clothing needs.”

5 20. The “Polo Retail Corporation Employee Handbook” from 1996 is attached
6 hereto as Exhibit B; see, page 15.

7 21. Over the course of her employment, Plaintiff Toni Young has been required to
8 purchase Polo Ralph Lauren clothing as a condition of her continued employment, and she has
9 incurred clothing expenses in an amount of over \$30,000. Other employees of Defendants, who
10 are similarly situated, have incurred clothing expenses in an amount known to Defendants, who
11 maintain computer records of purchases made by their employees. Plaintiff and other Class
12 members have also been required to participate in Defendants’ Special Purchase Program to abide
13 by Defendants’ unlawful uniform policies.

14 22. Defendants’ illegal policy of requiring its employees to buy and wear Polo Ralph
15 Lauren apparel and accessories while on the job also constitutes an anti-trust violation under
16 California’s Cartwright Act, (Business and Professions Code §§ 16720, et seq.) in that Defendants
17 have restrained competition among their competitors by creating a class of customers who are
18 required to purchase Polo Ralph Lauren products on an on-going basis under the threat of
19 terminating their employment for non-compliance with an illegal employment policy. This class
20 of customers, to wit, Defendants’ employees, have been used by Defendants to gain an advantage
21 over their competitors who, in compliance with California law, have not created a captive pool of
22 customers who are required to purchase their clothing as a condition of employment.

23 23. Defendants’ illegal policy of requiring its employees to buy and wear Ralph Lauren
24 products as a condition of employment also constitutes a violation of California’s Unfair Trade
25 Practices Act (Code of Civil Procedure §§17200, et seq.), in that Defendants’ policy and acts
26 constitute unlawful, unfair or fraudulent business acts or practices, including violations of the

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1 Cartwright Act, California Labor Code §201, and California Industrial Welfare Commission Orders.

2 24. Defendants' policies are despicable and are enforced through oppressive and
3 fraudulent means, as described herein. Defendants' acts were committed and continue to be
4 committed with malice, and constitute despicable conduct that is carried on by Defendants with
5 a willful and conscious disregard of the rights of their employees. Plaintiff and the Class are
6 entitled to punitive or exemplary damages for Defendants' despicable conduct.

7 25. Plaintiff also seeks injunctive relief and damages for Defendants' past and continuing
8 violations of The Cartwright Act, and also seeks injunctive relief and the disgorgement of profits
9 for violations of California's Unfair Trade Practices Act. Injunctive relief is required. Unless
10 enjoined, Defendants' unlawful conduct will continue unchecked, while Plaintiff and the Class bear
11 the financial brunt of Defendants' unlawful conduct.

12 **CLASS ACTION ALLEGATIONS**

13 26. Plaintiff brings this class action pursuant to Rule 23(a), (b)(1), and (b)(3) of the
14 Federal Rules of Civil Procedure on behalf of a Class consisting of two groups of current and former
15 employees:

16 A. **The Main Class**: All persons who are and were employed by Defendants
17 in the State of California and who were required to purchase Ralph Lauren
18 clothing and accessories as a condition of their employment at any time (the
19 "Class Period").

20 B. **The Labor Code § 201 Sub-Class**: All persons within The Main Class
21 who have participated in Defendants' Special Purchase Program (and any
22 predecessor wage-withholding program). 1

23 27. The members of the Class are so numerous that joinder of all members is

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25 1 The term "Class" herein refers to members of both subgroups of current and former
26 employees: The Main Class and the Labor Code § 201 Sub-Class.

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1 impracticable. Defendants have employed hundreds of individuals in the State of California (a
2 number known particularly to Defendants) since the beginning of the Class Period.

3 28. The Defendants' unlawful acts and unfair trade practices have affected all members
4 of the Class in a similar manner, i.e., all members of the Class have been forced to buy the Ralph
5 Lauren "uniform" as a condition of their employment. Among the questions of law and fact
6 common to the Class are:

7 (a) Whether Defendants have violated California law, including the
8 Cartwright Act, the Unfair Trade Practices Act, and/or California
9 Labor Code § 2802 and California Code of Regulations §
10 11040(9)(A).

11 (b) Whether Defendants have violated Labor Code §201 by withholding
12 wages from the Labor Code § 201 Sub-Class, in furtherance of
13 Defendants' unlawful uniform policies.

14 29. Plaintiff's claims are typical of those of the Class she seeks to represent because
15 Plaintiff and all members of the Class were injured and/or continue to be injured in the same manner
16 by Defendants' anti-trust violations, illegal acts and practices, and other wrongful conduct
17 complained of herein. Plaintiff and the Class have been forced to purchase Ralph Lauren clothing
18 as a condition of their employment and members of the Labor Code § 201 Sub-Class have had
19 wages illegally withheld in furtherance of Defendants' illegal policies.

20 30. Plaintiff will fully and adequately protect the interests of all members of the Class.
21 Plaintiff has retained counsel who are experienced in class action and antitrust litigation. Plaintiff
22 has no interests which are adverse to or in conflict with other members of the Class.

23 31. The questions of law and fact common to the members of the Class predominate
24 over any questions which may affect only individual members.

25 32. A class action is superior to all other available methods for the fair and efficient
26 adjudication of this controversy. Plaintiff knows of no difficulty to be encountered in the
27 management of this action that would preclude its maintenance as a class action.

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First Cause of Action
Against All Defendants

Trust In Restraint of Trade or Commerce in Violation of the Cartwright Act

33. Plaintiff repeats and realleges the preceding and subsequent paragraphs as though set forth herein.

34. The Cartwright Act states, in relevant part (Section 16726): “Except as provided in this chapter, every trust is unlawful, against public policy and void.” A trust is defined, in relevant part, at § 16720 as follows:

“A trust is a combination of capital, skill or acts by two or more persons for any of the following purposes:

- (a) To create or carry out restrictions in trade or commerce.
- (c) To prevent competition in manufacturing, making, transportation, sale or purchase of merchandise, produce or any commodity.

35. Defendants’ creation of a dependant group of customers, i.e., the Class, who must purchase Defendants’ products as a condition of employment, gives Defendants an illegal advantage over their competitors, thereby preventing competition within the industry.

36. Plaintiff and the Class are empowered by the Cartwright Act §16750 to commence a private action for up to three times their damages and injunctive relief due the injuries they have suffered and continue to suffer as a result of defendants’ violations of the Cartwright Act. The Cartwright Act states, in relevant part:

Any person who is injured in his or her business or property by reason of anything forbidden or declared unlawful by this chapter, may sue therefore ... and to recover three times the damages sustained by him or her, interest ... and preliminary or permanent injunctive relief....

37. Plaintiff and the Class are “persons” within the meaning of the Cartwright Act as

1 defined in § 16702.

2 38. Defendants' policies and acts violate the Cartwright Act, as described herein.
3 Accordingly, Plaintiff and the Class seek three times their damages caused by Defendants'
4 violations of the Cartwright Act and a permanent injunction enjoining Defendants' continuing
5 violations of the Cartwright Act, plus attorneys' fees.

6 **Second Cause of Action**

7 **Against All Defendants**

8 **For Violations of the Unfair Trade Practices Act**
9 **Based Upon Violations of the Cartwright Act**

10 39. Plaintiff repeats and realleges the preceding and subsequent paragraphs as
11 though set forth herein.

12 40. The Unfair Trade Practices Act (Business and Professions Code §§ 17200,
13 et seq.) prohibits all unfair competition, which is defined as "any unlawful, unfair or
14 fraudulent business act or practice," and includes violations of the Cartwright Act.

15 41. As alleged hereinabove, Defendants have unlawfully conspired, agreed,
16 arranged and combined to prevent and restrain competition in violation of The Cartwright
17 Act, all to the detriment of Plaintiff and the Class.

18 42. As a direct and proximate result of the violations alleged herein, Plaintiff and
19 the Class have been forced to purchase Defendants' clothing line as a condition of their
20 employment. Plaintiff and the Class are entitled to disgorgement of any and all illegal
21 profits made by Defendants in violation of the Unfair Trade Practices Act.

22 43. Plaintiff and the Class are also entitled to attorneys' fees under Professions
23 and Business Code §§ 17200, et seq.

24 44. Plaintiff and the Class also seek equitable relief to prevent Defendants from
25 engaging in further illegal acts as described herein. Plaintiff and the Class have no adequate
26 remedy at law for their irreparable injuries; unless equitable relief is granted, Plaintiff and

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1 the Class will continue to be subjected to Defendants' illegal conduct.

2 45. Accordingly, Plaintiff, on her behalf and on behalf of the Class, seeks a
3 permanent injunction enjoining Defendants' continuing violations.

4 **Third Cause of Action**

5 **Against All Defendants**

6 **For Violations of the Unfair Trade Practices Act**
7 **Based Upon Defendants' Unfair Business Acts and Practices**
8 **Separate and Apart from Defendants' Violations of the Cartwright Act**

9 46. Plaintiff repeats and realleges the preceding and subsequent paragraphs as
10 though set forth herein.

11 47. Separate, apart and in addition to Defendants' violations of the Cartwright
12 Act, Plaintiff brings this action pursuant to the Unfair Trade Practices Act, seeking
13 disgorgement of illegal profits and injunctive relief to enjoin Defendants' unfair trade
14 practices.

15 48. The Unfair Trade Practices Act prohibits all unfair competition, which is
16 defined as "any unlawful, unfair or fraudulent business act or practice."

17 49. As alleged hereinabove, Defendants have inequitably and unlawfully
18 conspired, agreed, arranged and combined to violate: (1) Labor Code § 2802, including
19 California Code of Regulations § 11040(9)(A), forcing Plaintiff and the Class to purchase
20 expensive clothing and accessories as a condition of employment; and (2) Labor Code § 201,
21 illegally withholding wages from their employees.

22 50. As a direct and proximate result of the unfair, unlawful, and/or fraudulent
23 business practices alleged herein, Plaintiff and the Class have been required to purchase
24 Defendants' apparel and accessories as a condition of their employment, incurring
25 substantial expenses, all to their detriment and all to Defendants' illegal advantage.

26 51. Plaintiff and the Class are entitled to disgorgement of Defendants' illegal
27 profits and to attorneys' fees under Business and Professions Code §§ 17200.

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Fifth Cause of Action

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Against All Defendants

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For Violations of California Labor Code § 450

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57. Plaintiff repeats and realleges the preceding and subsequent paragraphs as though set forth herein.

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58. Defendants express, written policy requiring Plaintiff and the Class to purchase and wear Polo Ralph Lauren products as a condition of employment constitutes a *per se* violation of California Labor Code § 450 in that Defendants have compelled and coerced its employees to patronize Polo Ralph Lauren and make on-going purchases of Defendants' most expensive products.

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59. Plaintiff and the Class have sustained damages as a direct and proximate consequence of the Defendants' illegal conduct, to wit, they have been forced to purchase Ralph Lauren clothing and accessories, the Polo "uniform" under the direct and unequivocal threat of losing their jobs if they do not fully comply.

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60. Plaintiff and the Class are entitled to recover from Defendants any and all sums expended on Ralph Lauren clothing and accessories as a condition of their employment, and to any and all civil penalties provided by law.

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Sixth Cause of Action

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Against All Defendants

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For Violations of California Labor Code Section 201

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61. Plaintiff repeats and realleges the preceding and subsequent paragraphs as though set forth herein.

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62. Defendants' policy of forcing their employees to purchase Polo Ralph Lauren apparel and accessories as a condition of employment is effectuated through an illegal scheme whereby Defendants, who understanding the financial burden their policy has placed on their

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1 low-paid sales associates, withhold wages in exchange for Polo Ralph Lauren products.

2 63. This illegal scheme constitutes a willful failure by Defendants to pay all wages
3 and compensation due and owing to Plaintiff and the Labor Code § 201 Class.

4 64. As a result of Defendants' willful violations of Labor Code § 201, Plaintiff and
5 the Labor Code § 201 Class are entitled to damages in the full amount of wages illegally
6 withheld, plus waiting time penalties under Labor Code § 203. Plaintiff and the Labor Code §
7 201 Class are also entitled to recover attorneys' fees pursuant to Labor Code § 218.5.

8 **Seventh Cause of Action**

9 **Against All Defendants**

10 **For Declaratory Relief**

11 65. Plaintiff repeats and realleges the preceding and subsequent paragraphs as
12 though set forth herein.

13 66. Plaintiff seeks a Declaration by this Court that Defendants' concerted
14 violations alleged herein constitute unfair and unlawful trusts in the form of restraints of
15 trade or commerce and illegal interference in competition, in violation of the Cartwright Act
16 and the Unfair Trade Practices Act.

17 **PRAYER FOR RELIEF**

18 WHEREFORE, Plaintiff and the Class pray for judgment against all Defendants,
19 jointly and severally, as follows:

20 (a) Certifying this action to proceed as a class action pursuant to Rules 23(a),
21 (b)(1), and (b)(3) of the Federal Rules of Civil Procedure and designating Plaintiff as the
22 representative of the Class and her counsel as counsel for the Class;

23 (b) Declaring that the concerted violations alleged herein constitute unfair and
24 unlawful trusts in the form of restraints of trade or commerce and illegal interference in
25 competition, in violation of the Cartwright Act and the Unfair Trade Practices Act;

26 (c) Permanently enjoining Defendants from continuing to engage in the unlawful
27 concerted conduct described herein;

1 (d) Awarding Plaintiff and the Class three times their damages caused by
2 Defendants' violations of the Cartwright Act;

3 (e) Awarding Plaintiff and the Class punitive or exemplary damages based on
4 Defendants' despicable conduct;

5 (e) Granting Plaintiff and the Class the costs of prosecuting this action, together
6 with interest and reasonable attorneys' and experts' fees; and

7 (f) Granting such other relief as this Court may deem just and proper under the
8 circumstances.

9 **JURY DEMAND**

10 To the full extent available, Plaintiff demands a trial by jury.

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12 DATED: September 20, 2002

13 By: _____
Patrick R. Kitchin

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