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5 Attorneys for Defendants JENNY CRAIG, INC.; JENNY CRAIG INTERNATIONAL, INC.;  
6 JENNY CRAIG MANAGEMENT, INC.; JENNY CRAIG OPERATIONS, INC.; JENNY CRAIG  
PRODUCTS, INC.; and JENNY CRAIG WEIGHT LOSS CENTRES, INC.

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8 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
9 COUNTY OF SAN DIEGO

10 CONNIE DIBEL, BELINDA HAGEN, and  
11 VANESSA BROWN, individually and on  
behalf of others similarly situated,

12 Plaintiffs,

13 v.

14 JENNY CRAIG, INC., JENNY CRAIG  
INTERNATIONAL, INC.; JENNY CRAIG  
15 MANAGEMENT, INC.; JENNY CRAIG  
OPERATIONS, INC.; JENNY CRAIG  
16 PRODUCTS, INC.; JENNY CRAIG  
WEIGHT LOSS CENTRES, INC.; and  
17 DOES 1 through 50, inclusive,

18 Defendants.

CASE NO. GIC 873564

**ANSWER OF DEFENDANTS JENNY  
CRAIG, INC.; JENNY CRAIG  
INTERNATIONAL, INC.; JENNY CRAIG  
MANAGEMENT, INC.; JENNY CRAIG  
OPERATIONS, INC.; JENNY CRAIG  
PRODUCTS, INC.; AND JENNY CRAIG  
WEIGHT LOSS CENTRES, INC.; TO  
PLAINTIFFS' FIRST AMENDED  
COMPLAINT**

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Dept: 65  
Judge: Hon. Joan M. Lewis  
Complaint Filed: October 6, 2006  
Trial Date: Not set

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21 Defendants Jenny Craig, Inc.; Jenny Craig International, Inc.; Jenny Craig Management,  
22 Inc.; Jenny Craig Operations, Inc.; Jenny Craig Products, Inc.; Jenny Craig Weight Loss Centres,  
23 Inc.; (hereinafter "Defendants") answer plaintiffs' unverified First Amended Complaint  
24 ("Complaint") as follows:

25 **GENERAL DENIAL**

26 Pursuant to the provisions of California Code of Civil Procedure section 431.30,  
27 defendants deny each and all of the allegations of the complaint in every purported cause of action  
28 alleged therein and deny that plaintiffs have suffered damages in the sum or sums alleged or any

ANSWER TO FIRST AMENDED COMPLAINT

1

1 other sum.

2 **AFFIRMATIVE DEFENSES**

3 1. The complaint and each and every purported cause of action thereof fail to state  
4 facts sufficient to constitute any cause of action against defendants.

5 2. All of plaintiffs' claims and causes of action are barred by the applicable statutes  
6 of limitations, including, without limitation, 29 U.S.C. Section 255; California Code of Civil  
7 Procedure Sections 337, 338, 339, 340, and 343; and California Business and Professions Code  
8 section 17208.

9 3. Defendants are informed and believes and thereon alleges that all of plaintiffs'  
10 claims and causes of action are barred by the doctrine of estoppel.

11 4. Defendants are informed and believes and thereon alleges that all of plaintiffs'  
12 claims and causes of action are barred by the doctrine of unclean hands.

13 5. Defendants are informed and believes and thereon alleges that all of plaintiffs'  
14 claims and causes of action are barred by the doctrine of *in pari delicto*.

15 6. Defendants are informed and believes and thereon alleges that all of plaintiffs'  
16 claims and causes of action are barred by the doctrine of waiver.

17 7. Defendants are informed and believes and thereon alleges that all of plaintiffs'  
18 claims and causes of action are barred by the doctrine of laches.

19 8. As to all of plaintiffs' claims and causes of action, a collective or class action  
20 would not be the superior method for resolving the claims of plaintiffs and other current and  
21 former employees as described in the complaint because they do not share a community of  
22 interest, and they cannot satisfy the requirements of commonality, typicality, and/or adequacy  
23 necessary to support a collective or class certification.

24 9. As to plaintiffs' Second, Third, Fourth, Fifth, Sixth and Seventh Causes of Action,  
25 the California Division of Labor Standards Enforcement (DLSE) has special expertise in  
26 adjudicating the matters raised in the complaint, and accordingly the court should withhold  
27 resolution of the dispute under the doctrine of primary jurisdiction.

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1           10.     As to plaintiffs' First Cause of Action, the alleged conduct of which plaintiffs  
2 complain, if committed, was not willful, but rather, was made in good faith, honestly, and in the  
3 exercise of defendants' good faith business judgment.

4           11.     As to plaintiffs' Second Cause of Action, the alleged conduct of which plaintiffs  
5 complain with respect to Labor Code sections 201-203, if committed, was not willful or  
6 malicious, but rather, was made in good faith, honestly, and in the exercise of defendant's good  
7 faith business judgment.

8           12.     As to plaintiffs' Second, Third, Fourth, and Fifth Causes of Action, plaintiffs'  
9 claims for Civil Penalties for alleged violations of Labor Code sections 201-203, 204, 226, 226.7,  
10 510, 512, 1174, 1194, 1197, 1198, and 1199 are barred due to plaintiffs' failure to comply with  
11 the pre-lawsuit notice and exhaustion requirements of Labor Code section 2699.3.

12           13.     As to plaintiffs' Sixth Cause of Action, plaintiffs' claims for equitable relief are  
13 barred because plaintiffs have adequate remedies at law.

14           14.     As to plaintiffs' Seventh Cause of Action, if plaintiffs suffered any losses or  
15 damages, such losses or damages were proximately caused, at least in part, by plaintiffs' own  
16 failure to mitigate against their alleged damages and that, therefore, plaintiffs' claims must be  
17 reduced, diminished or defeated by such amounts, as should have been so mitigated.

18           15.     Although defendants deny they have committed or have responsibility for any act  
19 that could support the recovery of punitive damages in this action, if and to the extent that any  
20 such act is found, recovery of punitive damages against defendants is unconstitutional under  
21 various provisions of the United States Constitution including, but not limited to, the Due Process  
22 Clause of the Fifth Amendment, and Section 1 of the Fourteenth Amendment. In addition, the  
23 recovery of punitive damages against defendants is unconstitutional under various provisions of  
24 the California Constitution, including, but not limited to, the excessive fines clause of Section 17  
25 of Article I and the Due Process Clause of Section 1 of Article I.

26           16.     Plaintiffs' civil action is barred by the parties' agreements to arbitrate all claims  
27 arising out of plaintiffs' employment relationships with defendants.

28     ///

1 17. Defendants currently have insufficient information upon which to form a belief as  
2 to whether they have additional affirmative defenses available. Defendants reserve their rights to  
3 assert additional affirmative defenses in the event investigation and discovery indicate they would  
4 be appropriate.

5 WHEREFORE, defendants pray as follows:

6 1. That plaintiffs' complaint and all claims and causes of action therein be dismissed  
7 with prejudice;

8 2. That plaintiffs take nothing by this action;

9 3. That judgment be entered against plaintiffs and in favor of defendants;

10 4. That defendants be awarded their costs incurred in this action, including  
11 reasonable attorneys' fees; and

12 5. That this court grant defendants such other and further legal or equitable relief as  
13 the court deems just and proper.

14 Dated: November 17, 2006

PAUL, PLEVIN, SULLIVAN &  
CONNAUGHTON LLP

15  
16  
17 By: 

FRED M. PLEVIN  
AARON A. BUCKLEY  
Attorneys for Defendants  
JENNY CRAIG, INC.; JENNY CRAIG  
INTERNATIONAL, INC.; JENNY CRAIG  
MANAGEMENT, INC.; JENNY CRAIG  
OPERATIONS, INC.; JENNY CRAIG  
PRODUCTS, INC.; and JENNY CRAIG  
WEIGHT LOSS CENTRES, INC.

1 Case name: *Dibel, et al. v. Jenny Craig, Inc., et al.*  
San Diego Superior Court Case No. GIC 873564

2 **PROOF OF SERVICE**

3 I, Jennifer Duran, hereby declare that I am over the age of eighteen years and not a party  
4 to this action. I am employed, or am a resident of, the County of San Diego, California, and my  
business address is: Paul, Plevin, Sullivan & Connaughton LLP, 401 B Street, Tenth Floor, San  
5 Diego, California 92101.

6 On November 17, 2006, I caused to be served the following document(s):

- 7 • **ANSWER OF DEFENDANTS JENNY CRAIG, INC.; JENNY CRAIG**  
8 **INTERNATIONAL, INC.; JENNY CRAIG MANAGEMENT, INC.; JENNY**  
9 **CRAIG OPERATIONS, INC.; JENNY CRAIG PRODUCTS, INC.; AND JENNY**  
**CRAIG WEIGHT LOSS CENTRES, INC.; TO PLAINTIFFS' FIRST AMENDED**  
**COMPLAINT**

10 on the interested party (ies) in this action by placing  a true copy  the original thereof and  
addressed as follows:

11 **[SEE ATTACHED SERVICE LIST]**

12  (By **MAIL SERVICE**) I then sealed each envelope and, with postage thereon fully  
prepaid postage, I placed each for deposit with United States Postal Service, this same  
13 day, at my business address shown above, following ordinary business practices.

14  (By **PERSONAL SERVICE**) I delivered such envelope by hand to the office of the  
addressee.

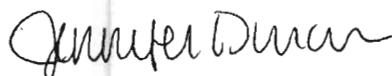
15  (By **FACSIMILE**) I transmitted the documents by facsimile machine, pursuant to  
16 California Rules of Court, Rule 2006. The facsimile machine I used complied with Rule  
2003 and no error was reported by the machine. The transmitting facsimile machine  
17 number is **619-615-0700**. The fax number of the party being served is \_\_\_\_\_. Pursuant to  
18 Rule 2006, I caused the machine to print a transmission record of the transmission, a copy  
of which is attached to this declaration.

19  (By **OVERNIGHT DELIVERY**) I caused to be delivered such envelope by hand to the  
office of the addressee. I then sealed each envelope and, with postage thereon fully  
20 prepaid, I placed each for deposit this same day, at my business address shown above,  
following ordinary business practices for overnight delivery.

21  (State) I declare under penalty of perjury under the laws of the State of California that the  
22 foregoing is true and correct.

23  (Federal) I declare that I am employed by the office of a member of the bar of this court  
at whose direction the service was made.

24 Executed November 17, 2006, at San Diego, California.

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26 \_\_\_\_\_  
27 JENNIFER DURAN

**SERVICE LIST**

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