

N.Y. Barista Is Latest To Sue Starbucks Over Tips

N.Y. Barista Is Latest To Sue Starbucks Over Tips 4/3/2008 --- Last month's \$105 million ruling against Starbucks Corp. over its tip policy in California continues to have repercussions for the coffee chain, as another lawsuit on the same issue was filed Thursday in New York.

Since the California ruling on March 19, former baristas in Massachusetts, Minnesota and now New York have all sued Starbucks over its policy of splitting the tip pool with shift supervisors.

Former server Jeana Barenboim, who worked at a Starbucks location in New York City until recently, filed the proposed New York class action on behalf of all baristas who worked at any Starbucks in the state over the past six years.

The complaint estimates that the proposed class in New York could likely exceed 2,000 people and that the amount in controversy exceeds \$5 million. The judgment in California, by comparison, included 120,000 former employees.

Shannon Liss-Riordan, an attorney for the plaintiff, said that Starbucks' national policy of splitting the tip pool with shift supervisors violates several state laws regarding tipping. Those laws require pooled tips to be distributed entirely among servers.

"The New York law is almost identical to the California law, so the California decision is obviously very significant," she said.

Starbucks vehemently disputed the claims of the suits that have followed the California decision, which it plans to appeal. It argues that shift supervisors are hourly employees, not managers, who serve customers and are entitled to a share of the tips.

"We believe the California court's decision is not only contrary to the law, but also fundamentally unfair and beyond all common sense and reason," the company said

in a statement. “Unfortunately, copycat lawsuits have been filed. We intend to vigorously fight all such unjust lawsuits.”

In the California case, Starbucks was ordered to pay approximately 120,000 current and former California baristas \$86.7 million in back tips, plus interest. The California Superior Court judge overseeing the case also issued an injunction preventing Starbucks from continuing to compensate shift supervisors with tips from the tip pool.

Those baristas commenced their class action against Starbucks in 2004. Their case received a boost in February, when the judge ruled that shift supervisors were “agents” under state law because they supervise and direct baristas.

The judge based the restitution award on expert testimony that placed the hourly tip rate at \$1.71 and the shift supervisors' total hours worked at 50,694,694 between October 2000 and the start of the trial on Feb. 19.

Starbucks promised to “vigorously appeal” the ruling and seek a stay of the court's injunction pending the appeal.

Joseph & Herzfeld LLP and Pyle, Rome, Lichten, Ehrenberg & Liss-Riordan, P.C are representing the plaintiffs in the New York case. The case is Jeana Barenboim, on behalf of herself and all others similarly situated, v. Starbucks Corp., case number 08-cv-3318, in the U.S. District Court for the Southern District of New York.