



Portfolio Media, Inc. | 860 Broadway, 6th Floor | New York, NY 10003 | www.law360.com
Phone: +1 646 783 7100 | Fax: +1 646 783 7161 | customerservice@law360.com

Baristas Want Starbucks To Pour Out \$32M In Tip Pool Suit

By Jonathan Randles

Law360, Los Angeles (December 02, 2011, 3:57 PM ET) -- A class of Starbucks Corp. baristas who successfully sued the coffee giant over a policy that allowed shift supervisors to share in tip pools asked a Massachusetts federal judge Thursday for more than \$32 million in damages.

The baristas claim the tip sharing law that Starbucks was found to have violated requires a trebling of damages. Starbucks, which operates more than 150 locations in Massachusetts, should have been aware that its policy was unlawful, the baristas say.

"Starbucks, as a sophisticated and well-established business, had an affirmative obligation to understand the tips law," the plaintiffs argued, adding that Starbucks continued to violate the law even after the statute was amended in 2004 to expressly state that shift supervisors were not allowed to participate in tip pools.

U.S. District Judge Nathaniel M. Gorton handed the baristas a win over the coffee giant in March, certifying a class of Massachusetts coffee makers who worked for Starbucks during the past six years. The court also ruled Starbucks' tip sharing policy violated state law.

The class includes about 10,000 baristas who have worked in Massachusetts since March 2005, according to Shannon Liss-Riordan, an attorney representing the baristas, from Lichten & Liss-Riordan, P.C.

Starbucks had argued the shift supervisors bore no real managerial responsibility because baristas could refuse their orders. Only store managers had the ability to dictate how baristas spent their time during work, the company claimed.

In June, the First Circuit declined to review the district court's ruling.

The damages award is divided into two time periods. The judge has discretion to treble damages for the time period before July 11, 2008, and is required by the statute that amended the state's tip sharing law for all times after that, Liss-Riordan said.

In a motion filed Thursday, the baristas point out that the company is likely to raise concerns over how damages were calculated. Starbucks may object to how the damages calculation was reached, arguing the company's tip records used in the computation are incomplete, the baristas said.

The company was able to produce records on weekly tip rates at only one-third of its stores, according to the motion. But that should be a large enough sample size to get an accurate accounting of the the tips the baristas are entitled to, the plaintiffs say.

"An employer's incomplete records may, as a matter of law, form the basis of damages calculations even if they represent a small percentage of the total records," the motion said. "This is more than a mere sampling, and allows the court to make a 'just and reasonable inference' of plaintiffs' damages, as they have calculated here."

A representative for Starbucks could not immediately be reached for comment Friday.

The plaintiffs are represented by Shannon Liss-Riordan and Hillary Schwab of Lichten & Liss-Riordan PC.

Starbucks is represented by Akin Gump Strauss Hauer & Feld LLP and Goodwin Procter LLP.

The case is Matamoros et al. v. Starbucks Corp., case number 1:08-cv-10772, in the U.S. District Court for the District of Massachusetts.

--Additional reporting by Dan Rivoli and Ian Thoms. Editing by Elizabeth Bowen.

All Content © 2003-2010, Portfolio Media, Inc.