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## Calif. Ruling Doesn't Slow Starbucks Tips Suits

By Nick Malinowski

Law360, New York (October 07, 2009) -- New plaintiffs have been added to a putative class action brought by Starbucks Corp. baristas who accuse the coffee chain of wrongly sharing tips between servers and managers, building momentum for the case a month after the California Supreme Court declined to weigh in on an appellate reversal of a judge's \$105 million award to 120,000 current and former employees in a different suit.

An amended complaint lodged in the U.S. District Court for the District Court of Massachusetts added a third lead plaintiff to the action. Attorneys for the plaintiffs do not yet have an estimate of how large the putative class could be.

The claims alleged in the Massachusetts complaint are similar to those shot down by the California Appeals Court, but because the issues at stake are governed by state, rather than federal, law, the outcome could be different, plaintiff's attorney Shannon Liss-Riordan said Wednesday.

"The Massachusetts law is much stronger than the California law," she said. "In Massachusetts we think we have a slam dunk."

The local law prohibits managerial authorities from sharing in a tip pool, while the California statute is less explicit, she said.

Starbucks has a policy of dividing tips between counter service workers and supervisors, in violation of the laws of several states that require tips to be distributed exclusively among servers, Liss-Riordan said. The idea is that the tips are for direct service to the customers, not for administrative and other duties performed by managers, she added.

"Because a portion of patrons' tips is distributed to shift supervisors, Starbucks baristas have not received the total proceeds to tips that are intended, and required, to be paid to them," the complaint said.

Representatives for Starbucks did not immediately respond to requests for comment Wednesday.

At stake are millions of dollars in restitution, Liss-Riordan said.

Starbucks was ordered to pay just more than 120,000 current and former California baristas \$86.7 million in back tips, plus interest, in March 2008 — a ruling it successfully appealed. The California

Superior Court judge overseeing that case also issued an injunction preventing Starbucks from continuing to compensate shift supervisors with tips from the tip pool.

However, since the appellate reversal, that injunction has been lifted, and Starbucks continues to implement the unfair tips policy, Liss-Riordan said.

Similar cases remain pending in New York and Minnesota.

The plaintiffs in this matter are represented by Lichten & Liss-Riordan P.C.

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.