

July 16, 2020

VIA CERTIFIED MAIL AND ONLINE UPLOAD

California Labor & Workforce Development Agency
Attn. PAGA Administrator
1515 Clay Street, Ste. 801
Oakland, CA 94612

RE: *Shaw vs. Beverages & More!, Inc.*

Dear PAGA Administrator:

Our office represents Plaintiffs Ashley Shaw and Mario Parra and all similarly-situated Class and Subclass Members in the above-captioned matter concerning putative class claims under California law for denied rest and meal breaks; on-duty meal breaks; unpaid meal period pay; unpaid rest and meal premium pay; unpaid minimum wage compensation; unpaid overtime compensation; failure to provide timely, accurate, itemized wage statements; failure to keep adequate payroll records; waiting time penalties; statutory penalties, interest, and attorney's fees and costs¹ against Beverages & More!, Inc., and Doe defendants (hereafter, "Defendant").

I am writing this letter to the LWDA pursuant to the exhaustion requirements of California Labor Code §§ 2699 and 2699.3, because my client intends to file suit very soon and intends to add claims under the Private Attorney General Act ("PAGA"). The purpose of my letter is to find out whether LWDA intends to investigate my client's allegations of violations of California Labor Code §§ 201-204, 226, 226.7, 510, 512, 558, 1174, 1194, 1194.2, 1197, 1197.1, 1198, Industrial Welfare Commission Wage Order No. 7, and Business and Professions Code § 17200 *et seq.* The following is a brief summary of my client's allegations against Defendant.

Missed and Non-Compliant Rest and Meal Period Policy

Defendants willfully denied its Floor Workers (the workers who complete stocking, cart attendance, and supervisory roles, including, but not limited to, cashiers, services leads, receivers, and assistant store managers) compliant rest and meal periods by requiring that two Floor Workers be on the floor at all times ("Two-Person Policy"). Defendants have not shown that the nature of the work prevents Floor Workers from missing their meal breaks and/or from being relieved of all

¹ Plaintiffs intend to seek attorneys' fees and costs pursuant to but not limited by Labor Code sections 218.5, 1194(a), 2699(g), 2802(c), and Civil Code section 1021.5.

duty during their meal breaks, and regardless, Defendants failed to pay premiums as required. *See* IWC Wage Order 7.

Defendants are aware that their Two-Person Policy prevents their Floor Workers from taking appropriate rest and/or meal breaks, but have not paid Plaintiffs and other Floor Workers for all these missed rest and/or meal periods and/or on-duty meal periods and/or premiums as required by Labor Code sections 226.7, 512, and the Wage Orders.

Defendants have also deducted for meal periods that were not actually taken and/or provided duty-free, leading to straight-time and overtime violations because of this off-the-clock work. Based on the foregoing, Plaintiffs Shaw and Parra allege the following willful violations by Defendants of California law:

1. Defendants failed to provide Plaintiffs and other Floor Workers with lawful rest or meal periods and to pay meal and rest break premiums, in violation of IWC Wage Order No. 7, and California Labor Code §§ 226.7, 512, and 558;
2. Defendants suffered or permitted Plaintiffs and other Floor Workers to work in excess of eight hours per workday and unlawfully failed to pay these employees proper minimum wage and overtime compensation, in violation of IWC Wage Order No. 4, and California Labor Code §§ 510, 558, 1194, 1194.2, 1197, 1197.1, and 1198;
3. Defendants failed to provide to Plaintiffs and other Floor Workers timely, accurate, itemized wage statements including, *inter alia*, of hours worked, in violation of California Labor Code § 226;
4. Defendants failed to timely pay Plaintiff and other Floor Workers for all hours of work, all wages due each month, at the time such employees left the employment of Defendants, and the time of discharge in violation of Labor Code §§ 201-204;
5. Defendants failed to maintain records required by Labor Code section 1174, in violation of Labor Code sections 1174; and
6. The foregoing conduct by Defendants further constitutes unlawful business actions and practices in violation of California Business and Professions Code § 17200 *et seq.*

Thank you for your assistance and cooperation in this matter. Please contact the undersigned if you have any questions. We look forward to your response at your earliest convenience.

Sincerely,

Bryan Schwartz, Esq.

cc: (by certified mail)

Douglas Christman

As Registered Agent for Beverages & More!, Inc.
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