

DIVERSITY LAW GROUP, P.C.
Larry W. Lee (State Bar No. 228175)
lwlee@diversitylaw.com
Simon L. Yang (State Bar No. 260286)
sly@diversitylaw.com
515 South Figueroa Street, Suite 1250
Los Angeles, California 90071
Telephone: (213) 488-6555
Facsimile (213) 488-6554

Electronically Filed
4/2/2021 4:41 PM
Superior Court of California
County of Stanislaus
Clerk of the Court
By: Joshua Teixeira, Deputy

POLARIS LAW GROUP
William L. Marder (State Bar No. 170131)
bill@polarislawgroup.com
501 San Benito Street, Suite 200
Hollister, California 95023
Telephone: (831) 531-4214
Facsimile (831) 634-0333

Attorneys for Plaintiff and the Class

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF STANISLAUS**

KERRY CONNELLY, as an individual and on
behalf of all others similarly situated, and as a
private attorney general,

Plaintiff,

vs.

STARBUCKS CORPORATION, a Washington
corporation; and DOES 1 through 50, inclusive,

Defendants.

Case No. CV-21-001661

**FIRST AMENDED CLASS AND
REPRESENTATIVE ACTION COMPLAINT**

**(1) Inaccurate Itemized Wage Statements
(Lab. Code § 226(a)); and
(2) Violations of the California Labor Code
(Lab. Code §§ 2698 et seq.)**

DEMAND OVER \$25,000.00

1 On behalf of herself and other similarly situated current and former employees of Defendants,
2 and as a proxy for the State of California, Plaintiff, Kerry Connelly, submits this Class and
3 Representative Action Complaint against Defendant, Starbucks Corporation, and Does 1 through 50
4 (collectively, “Defendants”).

5 INTRODUCTION

6 1. This class and representative action challenges systemic employment practices resulting
7 in violations of the California Labor Code against individuals who worked for Defendants. The
8 Complaint addresses Defendants’ violations of Labor Code section 226 and seeks penalties and other
9 relief.¹

10 2. Plaintiff is informed and believes that Defendants have jointly and severally acted
11 intentionally and with deliberate indifference and conscious disregard to the rights of employees by
12 failing to provide accurate itemized wage statements that show the name of the legal entity that is the
13 employer or the total hours worked. First, Defendants fail to furnish Plaintiff and all other employees
14 with wage statements that itemize and show the name of the legal entity that is the employer. Instead,
15 the wage statements show an address only, without the name of a legal entity. Second, whenever shift
16 differential wages or other non-“regular time” wages are paid to Plaintiff and other non-exempt
17 employees, Defendants fail to furnish Plaintiff and non-exempt employees with wage statements that
18 itemize and show the total hours worked. Instead, the “gross hours” shown on the wage statements
19 itemize an inaccurate number of hours. Moreover, when the hours shown on the wage statements are
20 added up, the sum also does not equal the total hours worked.

21 3. Plaintiff is informed and believes that Defendants have engaged in, among other things, a
22 system of willful violations of the Labor Code by creating and maintaining policies, practices, and
23 customs that knowingly deny its employees the above stated rights and benefits.

24 JURISDICTION AND VENUE

25 4. The Complaint seeks relief exceeding \$25,000.00. The Court has jurisdiction of
26 Defendants’ violations of Section 226.

27 5. Venue is proper. Defendant conducted business in the County of Stanislaus.

28

¹ Except as otherwise noted, all “Section” references are to the Labor Code.

PARTIES

6. In or about October of 2017 Plaintiff began working for Defendants. Until her employment ended in or about October of 2020, Plaintiff was paid on an hourly basis as a non-exempt employee. Plaintiff was furnished wage statements that itemized and showed an address only, without the name of a legal entity that would be the employer. Whenever Plaintiff was paid shift differential wages or other non-“regular time” wages, Plaintiff was not furnished wage statements that itemize and show the total hours worked. Instead, the “gross hours” shown on the wage statement itemize an inaccurate number of hours. Moreover, when the hours shown on the wage statements are added up, the sum also does not equal the total hours worked. Plaintiff thus is a victim of the policies, practices, and customs of Defendants complained of in this action in ways that have deprived her of the rights guaranteed by the Labor Code.

7. Plaintiff is informed and believes that Defendant, Starbucks Corporation, was and is a Washington corporation. Plaintiff is informed and believes that at all times herein mentioned named defendants and Does 1 through 50, were and are corporations, business entities, individuals, or partnerships that are and were either licensed to do business or actually doing business in the State of California. Based upon all the facts and circumstances incident to Defendants’ business, Defendants are subject to Section 226.

8. Plaintiff does not know the true names or capacities of the defendants sued herein as Does 1 through 50, whether individual, partner, or corporate, and for that reason, said defendants are sued under such fictitious names. Plaintiff prays for leave to amend this Complaint when the true names and capacities are known. Plaintiff is informed and believes that each of said fictitious defendants was responsible in some way for the matters alleged herein and proximately caused the illegal employment practices, wrongs, and injuries complained of herein.

9. At all times herein mentioned, each of said Defendants participated in the doing of the acts alleged herein. Defendants, and each of them, were the agents, servants, or employees of each of the other Defendants, as well as the agents of all Defendants, and were acting within the course and scope of said agency and employment.

10. Plaintiff is informed and believes that at all times material hereto, each of said Defendants was the agent, employee, alter ego, or joint venturer of, or was working in concert with, each of the other Defendants and was acting within the course and scope of such agency, employment, joint venture, or concerted activity. To the extent said acts, conduct, or omissions were perpetrated by certain Defendants, each of the remaining Defendants confirmed and ratified said acts, conduct, or omissions of the acting Defendants.

11. Plaintiff is informed and believes that at all times material hereto each of the Defendants (i) aided and abetted the acts and omissions of each of the other Defendants in proximately causing the alleged harms, or (ii) were members of, engaged in, and acting within the course and scope of, and in pursuance of, a joint venture, partnership, or common enterprise.

CLASS ACTION ALLEGATIONS

12. **Definition:** Pursuant to Code of Civil Procedure section 382. Plaintiff seeks class certification of the following classes: (i) all current and former employees of Defendants in the State of California at any time since September 30, 2019 (the “Wage Statement Class”), and (ii) all current and former non-exempt employees of Defendants in the State of California who were paid shift differential wages or other non-“regular time” wages at any time since September 30, 2019 (the “Total Hours Class”). The Wage Statement Class and Total Hours Class are collectively referred to as the “Class.”

13. **Numerosity and Ascertainability:** The members of the Class are so numerous that joinder of all members would be impractical, if not impossible. The identities of the members of the Class are readily ascertainable by review of Defendants' records, including payroll records. Plaintiff is informed and believes that Defendants violated Section 226 against Plaintiff and the Class by failing to provide accurate itemized wage statements.

14. **Adequacy of Representation:** Plaintiff is fully prepared to take all necessary steps to represent fairly and adequately the interests of the Class defined above. Plaintiff's attorneys are ready, willing, and fully and adequately able to represent Plaintiff and the Class. Plaintiff's attorneys have prosecuted and settled wage-and-hour class actions in the past and continue to litigate numerous wage-and-hour class actions currently pending in California state and federal courts.

1 15. **Common Question of Law and Fact:** There are predominant common questions of law
2 and fact and a community of interest amongst the claims of Plaintiff and the Class. Plaintiff is informed
3 and believes that Defendants uniformly administer a corporate policy and practice of failing to provide
4 accurate itemized wage statements that show the name of the legal entity that is the employer and
5 failing to provide accurate itemized wage statements that show the total hours worked.

6 16. **Typicality:** The claims of Plaintiff are typical of the claims of all members of the Class
7 in that Plaintiff suffered the alleged harms in a similar and typical manner as other members of the Class
8 suffered. As with other members of the Class, Plaintiff was furnished wage statements that itemized and
9 showed an address only, without the name of a legal entity that would be the employer. Whenever
10 Plaintiff was paid shift differential wages or other non-“regular time” wages, Plaintiff was not furnished
11 wage statements that itemize and show the total hours worked. Instead, the “gross hours” shown on the
12 wage statement itemize an inaccurate number of hours. Moreover, when the hours shown on the wage
13 statements are added up, the sum also does not equal the total hours worked. Plaintiff thus is a member
14 of the Class and has suffered the alleged violations of the Labor Code.

15 17. The Labor Code is broadly remedial in nature. Its laws serve an important public interest
16 in establishing minimum working conditions and requirements in California. These labor standards
17 protect employees from onerous terms and conditions of employment or exploitation by employers who
18 have superior economic and bargaining power.

19 18. The nature of this action and the format of laws available to Plaintiff and members of the
20 Class make the class action format a particularly efficient and appropriate procedure to redress the
21 wrongs alleged herein. If each employee were required to file an individual lawsuit, the corporate
22 Defendants would necessarily gain an unconscionable advantage since they would be able to exploit and
23 overwhelm the limited resources of each individual plaintiff with their vastly superior financial and
24 legal resources. Requiring each member of the Class to pursue an individual remedy would also
25 discourage the assertion of lawful claims by employees who would be disinclined to file an action
26 against their former or current employer for real and justifiable fear of retaliation and permanent
27 damage to their careers at their current or subsequent employment.
28

1 19. The prosecution of separate actions by individual members of the Class, even if possible,
2 would create a substantial risk of (a) inconsistent or varying adjudications with respect to individual
3 members of the Class that would establish potentially incompatible standards of conduct for
4 Defendants, or (b) adjudications with respect to individual members of the Class that would, as a
5 practical matter, be dispositive of, or substantially impair or impede the ability to protect, the interests
6 of other members of the Class not parties to the adjudications. Further, the claims of the individual
7 members of the Class are not sufficiently large to warrant vigorous individual prosecution considering
8 the concomitant costs and expenses.

9 20. Defendants' pattern, practice, and uniform administration of corporate policy in violation
10 of the Labor Code is unlawful. Proof of a common business practice or factual pattern will establish the
11 rights of Plaintiff and the Class under Section 226, applicable IWC Wage Orders, and Code of Civil
12 Procedure section 1021.5 to recover applicable penalties, reasonable attorneys' fees, and costs of suit.

13 **FIRST CAUSE OF ACTION**

14 **Inaccurate Itemized Wage Statements (Lab. Code § 226(a))**

15 **(By Plaintiff, the Wage Statement Class, and Total Hours Class Against All Defendants)**

16 21. The preceding paragraphs are re-alleged and incorporated by this reference.

17 22. Section 226(a) requires an employer to furnish to its employees itemized wage
18 statements that show accurate information, including without limitation, the name of the legal entity that
19 is the employer and the total hours worked.

20 23. As a matter of policy and practice, Defendants fail to provide accurate itemized wage
21 statements to Plaintiff and the Wage Statement Class. Specifically, Defendants fail to furnish Plaintiff
22 and the Wage Statement Class with wage statements that itemize and show the name of the legal entity
23 that is the employer. Instead, the wage statements show an address only, without the name of a legal
24 entity.

25 24. As a matter of policy and practice, Defendants also fail to provide accurate itemized
26 wage statements to Plaintiff and the Total Hours Class. Specifically, whenever shift differential wages
27 or other non-"regular time" wages are paid to Plaintiff and the Total Hours Class, Defendants furnish
28 wage statements that fail to itemize and show the total hours worked. Instead, the "gross hours" shown

1 on the wage statements itemize an inaccurate number of hours. Moreover, when the hours shown on the
2 wage statements are added up, the sum also does not equal the total hours worked.

3 25. Such a pattern, practice, and uniform administration of corporate policy is unlawful and
4 entitles Plaintiff, the Wage Statement Class, and Total Hours Class to recover applicable penalties,
5 attorneys' fees, and costs of suit.

6 **SECOND CAUSE OF ACTION**

7 **Violation of Labor Code §§ 2698 *Et Seq.***

8 **(By Plaintiff and Aggrieved Employees Against All Defendants)**

9 26. The preceding paragraphs are re-alleged and incorporated by this reference.

10 27. Pursuant to the Labor Code Private Attorneys General Act of 2004, Labor Code §§ 2698
11 *et seq.* ("PAGA"), Plaintiff brings this cause of action as a proxy for the State of California. In this
12 capacity, Plaintiff seeks penalties for Defendants' violations of Section 226, committed since September
13 30, 2019, against all aggrieved employees. As stated herein, Defendants fail to provide accurate
14 itemized wage statements. Under Section 2699(c), Plaintiff is an "aggrieved employee," as one or more
15 of the alleged violations was committed against Plaintiff as an employee of Defendants.

16 28. On or about January 29, 2021, Plaintiff sent written notice to the Labor & Workforce
17 Development Agency ("LWDA") of specific facts and theories for Defendants' violations of Section
18 226. Plaintiff simultaneously sent written notice to Defendants via certified mail. As of the date of the
19 filing of this Complaint, the LWDA has neither responded nor indicated that it intends to investigate the
20 allegations in the written notice.

21 29. As such, pursuant to Section 2699(a), (f), and (g), Plaintiff seeks recovery of all
22 applicable penalties, for Defendants' violations against all aggrieved employees for the period described
23 above.

24 **PRAYER FOR RELIEF**

25 WHEREFORE, Plaintiff prays for judgment for herself and all others on whose behalf this suit
26 is brought against Defendants, jointly and severally, as follows:

- 27 1. For an order certifying the proposed Class;
- 28 2. For an order appointing Plaintiff as the representative of the Class;

- 1 3. For an order appointing Counsel for Plaintiff as Class Counsel;
- 2 4. Upon the First Cause of Action for penalties and for costs and attorneys' fees, pursuant
- 3 to Section 226;
- 4 5. Upon the Second Cause of Action for penalties and for costs and attorneys' fees,
- 5 pursuant to Section 226.3 and Section 2699;
- 6 6. Upon each cause of action for attorneys' fees and costs as provided by Section 226,
- 7 Section 2699, and Code of Civil Procedure section 1021.5; and
- 8 7. For such other and further relief that the Court may deem just and proper.

9 DATED: April 2, 2021

DIVERSITY LAW GROUP, P.C.

10 By: 

11 Larry W. Lee

12 Simon L. Yang

13 Attorneys for Plaintiff

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28