



3. Starbucks violates the FLSA by failing to pay its managers time and one-half for each hour worked in excess of forty (40) per workweek. Accordingly, Plaintiffs bring this collective action to recover unpaid overtime compensation under section 216(b) of the FLSA.

## II. JURISDICTION AND VENUE

4. This court has jurisdiction over the subject matter of this action under 28 U.S.C. § 1331 because it arises under the laws of the United States, specifically under the FLSA, 29 U.S.C. § 201, *et seq.*

5. Plaintiffs' claims arise under section 16(b) of the FLSA. 29 U.S.C. § 216(b). In connection with the acts and course of conduct alleged in this complaint, Plaintiffs engaged in commerce or in the production of goods for commerce. Further, Starbucks is an employer that engaged and continues to engage in commerce or in the production of goods for commerce and is therefore covered by the FLSA.

6. Venue is proper in the Southern District of Texas – Houston Division because a substantial part of the acts and conduct charged herein occurred in this district.

## III. THE PARTIES

7. Plaintiff Kathleen Mims is a resident of Harris County, Texas. Mims was an employee employed by Starbucks within the meaning of the FLSA. Mims' consent to this action is attached as Exhibit 1.

8. Plaintiff Kevin Keevican is a resident of Harris County, Texas. Keevican was an employee employed by Starbucks within the meaning of the FLSA. Keevican's consent to this action is attached as Exhibit 2.

9. The class of similarly situated employees consists of all current and former store managers of Starbucks who were not paid time and one-half for each hour worked in excess of forty (40) per workweek. These similarly situated persons are referred to as "Members of the Class" or "the Class."

10. Defendant Starbucks is a foreign corporation, qualified to do and doing business in Texas, and is within the jurisdiction of this Court. Starbucks is an “employer” under the FLSA and acted as such in relation to Plaintiffs and Members of the Class. Starbucks may be served with process through its registered agent, Prentice Hall Corporation System, 701 Brazos Street, Suite 1050, Austin, Texas 78701.

11. At this time, Plaintiffs are unaware of the true names and capacities of the defendants sued herein as Does 1 through 100, inclusive, and therefore Plaintiffs sue such defendants by fictitious names. Plaintiffs will seek leave of this Court to amend this Complaint when Plaintiffs ascertain the true names and capacities of Does, who are individuals and/or entities. Plaintiffs are informed and believe, and thereon allege, that each of the fictitiously named defendants was responsible for the occurrences alleged herein and proximately caused the injuries and damages sustained by Plaintiffs alleged herein.

#### IV. FACTS UNDERLYING THE CLAIMS

12. Plaintiffs are former employees who were employed by Starbucks as store managers. As store managers, Plaintiffs’ primary duties consisted of performing the duties of baristas, who are classified by Starbucks as non-exempt, hourly employees. These barista duties included, among other things, waiting on customers, making drinks for customers, serving customers, operating the cash register, ensuring that the store remained clean and orderly, and cleaning and maintaining store equipment. Indeed, Starbucks required Plaintiffs to work a minimum of thirty (30) hours per workweek performing the duties of non-exempt baristas. However, in an effort to keep their respective stores running properly, Plaintiffs often had to spend forty (40)—and sometimes even fifty (50)—hours per workweek, on average, performing barista duties.

13. Although Plaintiffs did perform some managerial duties as store managers, Plaintiffs performed such duties less than forty percent (40%) of their time while employed by Starbucks. Plaintiffs rarely exercised discretionary powers, and they were not relatively free from supervision concerning matters of significance, including scheduling employees and

making decisions with respect to human resources issues. Any relative freedom from supervision that did exist for Plaintiffs is the same as that which Starbucks afforded, and continues to afford, other non-exempt "managerial" employees, such as shift supervisors and assistant managers. Moreover, the limited managerial duties of Plaintiffs were relatively unimportant in comparison to the non-exempt duties Plaintiffs performed. Accordingly, Plaintiffs' primary job duties were those of non-exempt employees under the FLSA.

14. As store managers, Plaintiffs regularly worked more than forty (40) hours per workweek, and in fact, worked an average of 60-70 hours per workweek.

15. Because Plaintiffs were non-exempt employees, Starbucks was required to pay Plaintiffs time and one-half for each hour worked in excess of forty (40) per workweek. However, Starbucks inappropriately and improperly classified Plaintiffs as exempt employees under the FLSA, and failed to compensate Plaintiffs for all hours they worked in excess of forty (40) hours in a workweek at time and one-half.

16. Starbucks' illegal pattern and practice with respect to denying payment to Plaintiffs for overtime compensation was and is in violation of the FLSA. Starbucks knew or should have known that its policies and practices violate the FLSA, and Starbucks has not made a good faith effort to comply with the FLSA. Rather, Starbucks knowingly, willfully, and/or with reckless disregard carried out its illegal pattern or practice regarding failure to pay Plaintiffs overtime compensation. Further, as set forth below, other prior and current store managers of Starbucks were subjected to the same wrongful policies, practices, and/or procedures.

#### V. COLLECTIVE ACTION ALLEGATIONS

17. Other persons employed by Starbucks as store managers have been victimized by the foregoing patterns, practices, and/or policies, which are in violation of the FLSA. Many of these employees have worked with Plaintiffs over the years and have reported that they were not paid time and one-half for hours worked in excess of forty (40) during a workweek. Thus, from discussions with these employees and former employees, Plaintiffs are aware that the illegal practices or policies imposed on Plaintiffs have been imposed on other current and former store managers employed by Starbucks.

18. Accordingly, Starbucks' pattern or practice of failing to pay its store managers time and one-half for all hours worked in excess of forty (40) in a workweek is a generally applicable policy or practice and does not depend on the personal circumstances of the Members of the Class. Thus, the Plaintiffs' experience is typical of the experience of the Members of the Class.

19. All store managers employed by Starbucks who were denied overtime compensation for hours worked in excess of forty (40) in a workweek are similarly situated. Although the issue of damages may be individual in character, there is no detraction from the common nucleus of liability facts. The class is therefore defined as:

All current and former store managers employed by Starbucks at any time during the time period of March 11, 2002 to present who were denied overtime compensation for hours worked in excess of forty (40) in a workweek.

## VI. CAUSES OF ACTION

20. Plaintiffs incorporate herein all allegations contained in paragraphs 1 through 19.

21. Starbucks' practice of failing to pay its store managers overtime compensation at time and one-half for all hours worked in excess of forty (40) hours in a workweek was and is in violation of the FLSA. Accordingly, Plaintiffs and all those similarly situated are entitled to be paid time and one-half for each hour worked in excess of forty (40) per workweek, and to have such overtime calculated in accordance with the Code of Federal Regulations, including commission/bonus payments earned in the appropriate workweek in the calculation of the regular rate for the purposes of determining overtime entitlement.

22. Additionally, Plaintiffs and all those similarly situated are entitled to an amount equal to all their unpaid wages as liquidated damages, as well as reasonable attorneys' fees and costs of this action.

## VII. JURY DEMAND

23. Plaintiffs hereby demand a trial by jury.

## VIII. PRAYER

24. WHEREFORE, Plaintiffs Kathleen Mims and Kevin Keevican respectfully request that judgment be entered in their favor, awarding them and all similarly situated employees:

- a. overtime wages for all unpaid hours worked in excess of forty (40) hours in a workweek at the rate of one and one-half (1 ½) times their regular hourly rates;
- b. an equal amount as liquidated damages as allowed under the FLSA;
- c. an injunction against further violations;
- d. reasonable attorneys' fees, costs, and expenses of this action as provided by the FLSA; and
- e. such other and further relief as may be required by law.

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Respectfully submitted,

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IN THE UNITED STATES DISTRICT COURT  
FOR THE Southern DISTRICT OF TEXAS  
Houston DIVISION

Kathleen Mims, et al.,

Plaintiffs,

vs.

Starbucks Corporation, et al.,

Defendants.

CIVIL ACTION NO. \_\_\_\_\_

NOTICE OF CONSENT

I, KATHLEEN MIMS, hereby consent to be a party plaintiff in this case, which  
is a suit to recover unpaid wages under the Fair Labor Standards Act.

DATE: FEB 8, 2005

Kathleen Mims  
Signature

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EXHIBIT

1

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION

Kathleen Mims, *et al.*,

Plaintiffs,

vs.

Starbucks Corporation, *et al.*,

Defendants:

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CIVIL ACTION NO. \_\_\_\_\_

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NOTICE OF CONSENT

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I, **Kevin John Keevican**, hereby consent to be a party plaintiff in this case, which is a suit to recover unpaid wages under the Fair Labor Standards Act.

DATE: February 26, 2005.

*Kevin J Keevican*  
Signature

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EXHIBIT  
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