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Odwalla faces suit over wage dispute

By Andrew Becker (04-17-03)

A class action lawsuit against juice and beverage manufacturer Odwalla was filed Monday in San Mateo County Superior Court, alleging that the Half Moon Bay-based company withheld overtime pay from possibly hundreds of delivery drivers.

Filed on behalf of two Los Angeles-area drivers, or "route sales representatives" as Odwalla calls its delivery personnel, the suit alleges that Odwalla has failed to pay overtime wages to its drivers for at least four years. Owned by the Coca-Cola Company since 2001, Odwalla also has an unfair advantage over its competition, the suit alleges, because it did not properly compensate and did not accurately reflect gross wages earned, net wages and appropriate deductions.

Scott Cole, the attorney for Joe Velazco and David Chaidez, the two drivers, and all other persons currently working or having worked as drivers since April 14, 1999, said although the men work in Los Angeles he believes the practice is widespread in the company.

"They had worked overtime hours and wanted to know why they had not been paid overtime," Cole said. "Odwalla said they wouldn't pay overtime for that position."

Odwalla spokesman Mike Schew said no one was available to comment on the suit.

Although sales is involved with the position, Cole said, the delivery job is not exempt from overtime pay because the drivers spend less than half their time selling.

"A lot of companies classify drivers as salespeople because small portion of job has to do with sales," Cole said. "Despite the title, it's primarily a delivery and merchandise delivery position. How Odwalla can consider this an exempt position is a mystery."

Although he declined to speculate on the how much the suit would cost Odwalla, Cole said at least 100 current drivers could be affected as well as numerous former drivers.

"When you consider the attrition rate over a four-year

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period, I would imagine the number would be in the hundreds.”

Drivers routinely worked 10 to 12 hour days or longer with no breaks, Cole said, but Odwalla failed to keep track of the number of overtime hours. The company did not itemize overtime on semimonthly wage statements, which is required by law. Overtime is typically one of the highest costs a company has to deal with.

Odwalla, which began in Santa Cruz in 1980, has prided itself on being environmentally friendly and community oriented. According to its Web site, Odwalla is “committed to ... seeking to do business in a way that nourishes customers, employees, community and the environment.”

Cole also said that Coca-Cola is also involved in litigation with allegations that Odwalla’s parent company was involved in shaving overtime hours from hourly workers and misclassifying managers to avoid overtime pay. However, Coca-Cola has not been named as a co-defendant in the lawsuit.

Odwalla faced numerous civil lawsuits stemming from an E.coli poisoning breakout in 1996. Apple juice products had to be recalled as were vegetable and carrot juices.

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