

LOS ANGELES
Daily Journal

WEDNESDAY,
AUGUST 14, 2002
VOL. 115 NO. 156

© 2002 DAILY JOURNAL CORPORATION. ALL RIGHTS RESERVED

SINCE 1888

OFFICIAL NEWSPAPER OF THE CITY OF LOS ANGELES AND THE COUNTY OF LOS ANGELES

www.dailyjournal.com

915 EAST FIRST STREET, LOS ANGELES, CA 90012 (213) 229-5300

\$2.50

Seven Coca-Cola Employees File Overtime Complaints

By Jason W. Armstrong
Daily Journal Staff Writer

RANCHO CUCAMONGA — When Tina Cox took a job at Coca-Cola's Rancho Cucamonga distribution center, she said, her supervisor told her she'd be working from 6 a.m. to 2:30 p.m., five days a week.

Yet during the six months Cox stocked the bottling giant's products at grocery stores throughout western San Bernardino County, she contends, her bosses forced her to work one or two extra hours a day and failed to pay her \$50 a week in overtime.

"My supervisors came to me and said if I didn't work a certain amount of overtime hours per day, they'd fire me," Cox said.

She quit her \$9.20-an-hour job as a merchandiser for Coca-Cola in February 2001, five months after she started.

She works as a manicurist in Rancho Cucamonga.

Cox, 36, is among seven named plain-

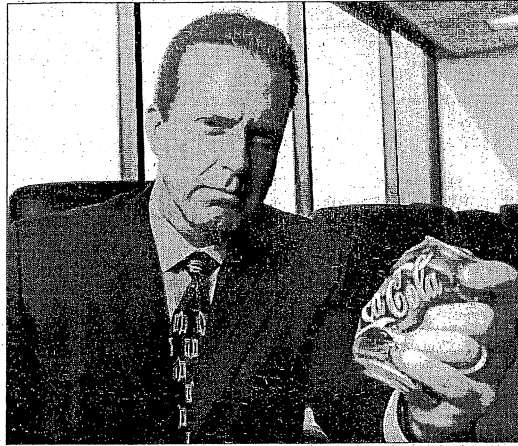
tiffs in two pending San Bernardino County Superior Court class actions alleging employees in the company's California plants and distribution centers were bilked of "tens of millions" of dollars in overtime compensation.

A third class action alleges that Coca-Cola officials forced employees to engage in the practice of "ragging," or rubbing expiration dates off the soft drink company's products and counterfeiting new dates so older products could continue to be sold.

That complaint — the first of its kind in California against Coca-Cola — was coordinated last week with the overtime class actions for discovery purposes, lawyers said.

The complaints, which haven't been certified as class actions, could include thousands of plaintiffs since the alleged wrongdoing continues, said Scott Cole, an Oakland attorney who is representing plaintiffs in two of the complaints alleg-

See Page 5 — EMPLOYEES



Scott Cole, an Oakland attorney, is representing plaintiffs in two complaints by California employees of Coca-Cola who are alleging overtime discrepancies.

Employees of Coca-Cola File Complaints

Continued from Page 1

ing overtime discrepancies.

State law — under the Eight-Hour-Day Restoration and Workplace Flexibility Act of 1999 — requires that employers pay overtime wages after eight hours of work per day.

However, Coca-Cola officials at the company's Rancho Cucamonga distribution center and other California plants have "secretly modified" employees' time records to show less time worked, according to Cole.

The time-sheet-doctoring allegations, in *Ramirez v. The Coca-Cola Company*, RCN056388 (San Bernardino Super. Ct., filed 2001), are the first in the state against Coca-Cola, said Cole, counsel for the three named *Ramirez* plaintiffs.

Cole also is counsel for four named plaintiffs in a similar case, *Santilli v. The Coca-Cola Company*, RCN059085 (San Bernardino Super. Ct., filed 2001).

"The *Ramirez* case is definitely one of the most egregious examples of a corporate management directive to cheat employees out of overtime that they clearly worked and earned compensation for," said Cole, whose practice focuses on wage and hour class actions.

The *Santilli* case, which echoes allegations of many recent employment class actions in the state, claims Coca-Cola has a policy of "permitting, encouraging or requiring" midlevel managers to work more than eight hours a day or "in excess" of 40 hours a week without overtime pay.

Other allegations include failure by the company to give employees itemized statements detailing the total amount of time they worked or to pay former employees "in a prompt and timely manner" when they leave the company.

The midlevel managers listed as plaintiffs in the *Santilli* case include delivery supervisors, district sales managers and warehouse supervisors.

Plaintiffs in the *Ramirez* case are hourly employees excluding managers, Cole said.

A spokesman said the company is investigating the allegations.

"The Coca-Cola Bottling Company of Southern California follows all federal, state and local laws with regards to employment," said Bob Phillips, a company spokesman.

"We have clear policies and procedures in place for compensation and workplace standards," Phillips said. "If any individual who is employed by our company is found to have violated [employment policies], we'll fix the problem immediately and take

appropriate action up to termination."

Kevin Gaut, counsel for Coca-Cola with the Los Angeles firm of Mitchell, Silberberg & Knupp, did not return telephone calls seeking comment.

In addition to the managers' overtime allegations, a group of former and current Coca-Cola employees at the Rancho Cucamonga facility are contending that their supervisors forced them to rub the expiration dates off older company products and re-mark them with newer dates before stocking them.

In *Wimsatt v. Coca-Cola Enterprises Inc.*, 063712 (San Bernardino Super. Ct., filed May 2002), five current and former employees allege that their supervisors told them to engage in the process of "ragging" or their paychecks would be docked for the expired goods, said James S. Davis, a Rancho Cucamonga attorney representing the plaintiffs.

"If expired Coke was returned to Coca-Cola's distribution center, [employees'] paychecks would be ding'd for the returned product, which is illegal," said Davis, chief counsel for the California Private Attorney General Group in Rancho Cucamonga. The firm specializes in overtime wage cases and class actions.

"The employees' checks could be ding'd anywhere from 25 cents per case of expired Coke up to the full value of the case, which could be up to \$10," Davis said.

"The company doesn't want to dispose of [expired Coca-Cola products] because it's too expensive," the attorney added.

The *Wimsatt* case also alleges failure to pay overtime; furnish employees records of hours worked; pay wages due former employees; retaliation and equitable conversion, among other things.

Phillips could not be reached to comment on allegations in the *Wimsatt* case.

Davis originally represented the *Ramirez* and *Santilli* plaintiffs but withdrew from the cases earlier this year after a dispute with Peter Santilli, a plaintiff and former district sales manager for Coca-Cola at the Rancho Cucamonga distribution center.

The attorney claims in a federal Racketeer Influenced and Corrupt Organizations Act lawsuit against Santilli and others that Santilli, who worked for Davis' law firm earlier this year, stole computer equipment and files from his office.

Santilli, who did not return several telephone calls seeking comment, has denied the allegations in published reports.

Davis filed another class action against

Coca-Cola earlier this year, alleging that company officials retaliated against managers who raised concerns about being ordered to trim overtime hours from employees' paychecks. Davis said he recently withdrew as counsel in that case, which was filed in San Bernardino Superior Court and is on hold pending the assignment of new counsel.

Allegations in all the lawsuits stemmed from employees at Coca-Cola's sales and distribution center in Rancho Cucamonga, attorneys said. The Rancho Cucamonga center is under the umbrella of the Coca-Cola Bottling Co. of Southern California, one of four such franchised companies in the state, according to company officials.

Coca-Cola operates 50 bottling and wholesale plants statewide and has employed "tens of thousands" of workers in California in recent years, according to the complaints.

Among other recent California lawsuits claiming unpaid overtime, an employee of Atlanta-based OneSource filed a complaint Tuesday in Los Angeles Superior Court, contending OneSource's parent company failed to shell out overtime. The complaint also alleges that OneSource terminated the plaintiff in an effort to conceal the company's exposure for wage violations.

OneSource, which has 40,000 employees, provides janitorial, landscaping, interior painting, engineering and other services to 12,000 clients including Southwest Airlines Co., Saks Fifth Avenue, and Bank of America.

Last month, RadioShack Corp. agreed to pay \$29.9 million to settle an overtime suit by 1,200 retail store managers in 550 stores. In allegations that mirror some of the charges in the suits against Coca-Cola, the RadioShack managers contended in their 2000 class action that the electronics giant improperly classified them as exempt from overtime wages, even though they performed many of the same duties as lower-level staff, who were paid overtime.

In a class action involving Sav-On, the state Supreme Court last month voted to review a 2nd District Court of Appeal decision vacating class certification of a complaint alleging overtime violations affecting 1,400 employees at 300 Sav-On stores. *Sav-On Drugstores v. Superior Court*, 2002 DJDAR 4347 (Cal. July 17, 2002).

A status hearing on plaintiffs' allegations in the *Ramirez*, *Santilli* and *Wimsatt* cases has been scheduled for Nov. 13 in San Bernardino County Superior Court.