

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
OCALA DIVISION

SHAWBEL MOORE, ON BEHALF  
OF HIMSELF AND THOSE  
SIMILARLY SITUATED,

Plaintiff,

CASE NO.: 5:18-cv-21-oc-30 PRL

vs.

THE AMERICAN BOTTLING  
COMPANY, A DELAWARE  
CORPORATION, DR.  
PEPPER/SEVEN UP, INC., A  
DELAWARE CORPORATION,  
AND DR PEPPER SNAPPLE  
GROUP, INC., A DELAWARE  
CORPORATION

Defendants.

\_\_\_\_\_ /

COMPLAINT AND DEMAND FOR JURY TRIAL

2017 JAN 10 AM 10:46  
U.S. DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
OCALA, FLORIDA

FILED

Plaintiff, SHAWBEL MOORE, on behalf of himself and those similarly situated, by and through the undersigned attorneys, sues the Defendants, THE AMERICAN BOTTLING COMPANY, a Delaware Corporation, DR. PEPPER/SEVEN UP, INC., a Delaware Corporation, and DR PEPPER SNAPPLE GROUP, INC., a Delaware Corporation, and alleges:

1. Defendants employ and have employed hundreds, and potentially thousands of individuals, including Plaintiff, throughout the country as Merchandisers. These employees are classified as non-exempt, but are only paid their

“half-rate” for overtime hours worked as opposed to time and one of their hourly rate worked for overtime hours. These Merchandisers are ostensibly paid a “daily rate” but if they work less than forty (40) hours in a week they are only paid their hourly rate and not their full day rate. As such, these similarly situated Merchandisers, including Plaintiff, must be paid time and one-half of their hourly rates for overtime hours worked as opposed to the half-time they have received. As a result of this improper pay practice, Plaintiff and the other similarly situated merchandisers are entitled to overtime damages and related damages for the overtime hours worked by them within the last three years.

2. Plaintiff, SHAWBEL MOORE, is an employee of Defendants and brings this action for unpaid overtime compensation, declaratory relief, and other relief under the Fair Labor Standards Act, as amended, 29 U.S.C. § 216(b) (“FLSA”).

#### **GENERAL ALLEGATIONS**

3. Plaintiff has worked as a Merchandiser for Defendants since approximately September 2014 in Ocala, Florida.

4. Defendants jointly operate facilities throughout the country and jointly employ Merchandisers at these locations to assist Defendants with their stocking needs. *See* <https://www.drpeppersnapplegroup.com/careers/merchandiser> (stating Merchandisers employed in over 200 cities across the country).

5. Defendant, THE AMERICAN BOTTLING COMPANY, is a Delaware Corporation that operates and conducts business in, among other locations, Marion

County, Florida and is therefore within the jurisdiction of this Court.

6. Defendant, DR. PEPPER/SEVEN UP, INC., is a Delaware Corporation that operates and conducts business in, among other locations, Marion County, Florida and is therefore within the jurisdiction of this Court.

7. Defendant, DR PEPPER SNAPPLE GROUP, INC., is a Delaware Corporation that operates and conducts business in, among other locations, Marion County, Florida and is therefore within the jurisdiction of this Court.

8. Defendants operate under the trade name "Dr Pepper Snapple Group" and are a beverage company which provides multiple types of beverages for sale in the United States.

9. Defendants engage in the same activity of operating and providing beverages for sale to the public at large.

10. Defendants have common ownership among them.

11. Defendants operate their business from their headquarters located in Plano, Texas.

12. Based on information and belief, Defendants utilize common operations such as accounting and Human Resources to operate their business.

13. Defendants have a common business purpose of providing their beverage products to the general public and to turn a profit from its operation.

14. As such, Defendants are one joint and common enterprise for purposes of the FLSA and also jointly employ Merchandisers throughout the country.

15. Venue is proper in this Court and jurisdiction is appropriate over Defendants as Plaintiff worked at one of Defendants' locations in Ocala, Florida.

16. This action is brought under the FLSA to recover from Defendants overtime compensation, liquidated damages, and reasonable attorneys' fees and costs. This action is intended to include each and every Merchandiser who was paid half-time overtime compensation for overtime hours worked and who worked for Defendants at any time within the past three (3) years.

17. This Court has jurisdiction over Plaintiff's claims pursuant to 28 U.S.C. §1331 and the FLSA and the authority to grant declaratory relief under the FLSA pursuant to 28 U.S.C. §2201 et seq.

18. During Plaintiff's employment with Defendants, Defendants each earned more than \$500,000.00 per year in gross sales.

19. During Plaintiff's employment with Defendants, Defendants each employed two or more employees which handled goods, materials and supplies which had travelled in interstate commerce.

20. Included in such goods, materials and supplies were computers, telephones, drink items, trucks and vehicles, office equipment and furniture, as well as numerous other goods, materials and supplies which had been carried in interstate commerce.

21. Therefore, Defendants are an enterprise covered by the FLSA, and as defined by 29 U.S.C. §203(r) and 203(s).

### FLSA VIOLATIONS

22. At all times relevant to this action, Defendants have failed to comply with the FLSA by failing to pay Plaintiff and their other Merchandisers time and one-half of their hourly rates for all overtime hours worked.

23. Based on information and belief, Defendants claim that their Merchandisers are paid a day rate and as a result utilize the day rate overtime procedures found in 29 C.F.R. § 778.112, which allow a half-time premium to be paid to an employee if they receive a day rate without regard to the number of hours worked in the day.

24. However, Defendants failed to pay a true day rate to its Merchandisers and actually paid them by the hour when they worked less than forty (40) hours in a workweek. Attached as Exhibit A are two paystubs in Plaintiff's possession showing that Plaintiff was paid by the hour.

25. Under the FLSA, employees paid by the hour must be paid time and one-half of their hourly rates for overtime hours worked. *See* 29 C.F.R. § 778.110.

26. However, when Plaintiff and the other similarly situated Merchandisers worked overtime hours, they were only paid half-time and not time and one-half of their hourly rates for such overtime hours worked. Attached as Exhibit B are two paystubs showing Plaintiff's weekly overtime hours paid at a half-time rate and not a time and one-half rate.

27. Defendants paid their other Merchandisers under the same pay scheme

throughout the country and only paid half-time overtime compensation. Attached as Exhibit C is a paystub from Opt-in Plaintiff Eric Landers showing his overtime hours paid at a half-time rate and not a time and one-half rate.

28. Such a practice violates the FLSA since Plaintiff and the other Merchandisers are truly hourly employees and must be paid time and one-half of their hourly rates for all overtime hours worked.

29. The additional persons who may become plaintiffs in this action are employees who worked as Merchandisers for Defendants and who worked in excess of forty (40) hours a week during one or more work weeks within the last three years and who were only paid half-time overtime compensation for overtime compensation worked.

30. Upon information and belief, the records, to the extent any exist and are accurate concerning the number of hours worked and amounts paid to Plaintiff and the similarly situated Merchandisers are in the possession and custody of Defendants.

#### **FLSA COLLECTIVE ACTION ALLEGATIONS**

31. Plaintiff brings a collective action pursuant to 29 U.S.C. §216(b) on behalf of a proposed collective class defined to include:

All persons Defendants employed as Merchandisers during any workweek in the maximum limitations period and who were paid at any time half-time of their regular rate for overtime hours worked.

32. Plaintiff reserves the right to modify the proposed collective definition at a later stage of litigation.

33. Plaintiff is a member of the proposed collective he seeks to represent because he worked for Defendants as a Merchandiser during the relevant period and suffered the same overtime violation alleged above.

34. This action may be properly maintained as a collective action on behalf of the putative Class because, during the relevant period:

- a. Plaintiff and the Class members had the same employer;
- b. Plaintiff and the Class members performed the same type of work;
- c. Plaintiff and the Class members were governed by the same compensation policies, practices, and systems;
- d. Plaintiff and the Class members were subjected to the same policies relating to the payment of overtime wages at a half-time rate;
- e. Plaintiff and the Class members were governed by the same payroll policies, practices, and systems;
- f. Defendants' labor relations and human resources systems were centrally-organized and controlled, and controlled the policies and practices at issue in this case.

35. Plaintiff estimates that the collective group, including both current and former employees over the relevant period, will include hundreds or thousands of members. The precise number of members should be readily available from Defendants' personnel, scheduling, time and payroll records, and from input received from the Class members as part of the notice and "opt-in" process provided

by 29 U.S.C. §216(b). Given the composition and size of the Class, its members may be informed of the pendency of this action directly via U.S. mail, e-mail, and the posting of written notices at Defendants' work sites.

**COUNT I - RECOVERY OF OVERTIME COMPENSATION**

36. Plaintiff reincorporates and readopts all allegations contained within Paragraphs 1-35 above.

37. Plaintiff and other similarly situated Merchandisers were truly hourly paid employees and are entitled to be paid time and one-half their hourly rates for each hour worked in excess of forty (40) per work week.

38. During their employment with Defendants, Plaintiff and other similarly situated Merchandisers worked overtime hours but were not paid complete time and one-half compensation for same.

39. Defendants did not have a good faith basis for their failure to pay their Merchandisers full and complete overtime compensation at all times.

40. As a result of Defendants' intentional, willful and unlawful acts in refusing to pay Plaintiff and the similarly situated Merchandisers complete time and one-half of their hourly rates for each hour worked in excess of forty (40) per work week in one or more work weeks, Plaintiff and the similarly situated Merchandisers have suffered damages plus incurring reasonable attorneys' fees and costs.

41. As a result of Defendants' willful violation of the FLSA, Plaintiff and the similarly situated Merchandisers are entitled to liquidated damages.



42. Plaintiff demands a trial by jury.

WHEREFORE, Plaintiff, SHAWBEL MOORE, on behalf of himself and those similarly situated Merchandisers, demands judgment against Defendants for the payment of all overtime hours at one and one-half times their hourly rates for all overtime hours worked by them for which Defendants did not properly compensate them, liquidated damages, reasonable attorneys' fees and costs incurred in this action, declaratory relief, and any and all further relief that this Court determines to be just and appropriate.

**COUNT II – DECLARATORY RELIEF**

43. Plaintiff reincorporates and readopts all allegations contained within Paragraphs 1-35 above.

44. Plaintiff and Defendants have a pending dispute under the Fair Labor Standards Act, which the Court has jurisdiction to hear pursuant to 28 U.S.C. § 1331.

45. The Court also has jurisdiction to hear Plaintiff's request for declaratory relief pursuant to the Declaratory Judgment Act. 28 U.S.C. §§ 2201-2202.

46. Plaintiff may obtain declaratory relief.

47. Defendants employed Plaintiff and other similarly situated Merchandisers.

48. Defendants failed to pay Plaintiff and other Merchandisers complete

time and one-half overtime compensation.

49. Plaintiff and other Merchandisers are entitled to complete time and one-half of their hourly rates overtime compensation pursuant to 29 U.S.C. § 207.

50. Defendants did not rely upon a good faith defense in their decision to not pay Plaintiff and other Merchandisers complete time and one-half overtime compensation for overtime hours worked.

51. Plaintiff and the other Merchandisers are entitled to an equal amount of liquidated damages.

52. It is in the public interest to have these declarations of rights recorded as other Merchandisers are currently experiencing these same legal violations.

53. Plaintiff's declaratory judgment action serves the useful purpose of clarifying and settling the legal relations in issue.

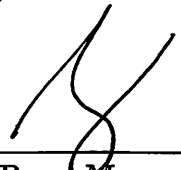
54. The declaratory judgment action terminates and affords relief from uncertainty, insecurity, and controversy giving rise to the proceeding.

55. Plaintiff demands a trial by jury.

WHEREFORE, Plaintiff, SHAWBEL MOORE, demands a declaration of rights finding that an employer-employee relationship existed, that Plaintiff worked over forty (40) hours in a workweek without receiving full and complete overtime compensation pursuant to the FLSA, that Defendants had a legal duty to pay Plaintiff and other Merchandisers time and one-half overtime compensation pursuant to the FLSA, that Defendants failed to prove a good faith defense to these

violations, and that Plaintiff and those similarly situated Merchandisers are entitled to proper overtime compensation, liquidated damages and reasonable attorneys' fees and costs pursuant to the FLSA.

Dated this <sup>4<sup>th</sup></sup>0 day of January, 2018.



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[Kimd@forthepeople.com](mailto:Kimd@forthepeople.com)  
Attorneys for Plaintiff

# **EXHIBIT "A"**



Pay Date: 06/03/2016 - Regular

The American Bottling Company  
 P.O. Box 869077  
 Plano, TX 75086-9077  
 1-866-602-3774

Shawbel Moore

Personnel Number 02068143 Daily

Pay Advice # 0206814300097  
 Period Begin Date 05/22/2016  
 Period End Date 05/28/2016  
 Pay Frequency Weekly

Taxes	State Codes	Marital Status	Allowances	Additional Amounts
Federal		Single	0	
Primary State	FL		0	
Secondary State			0	
Local			0	

**Messages**

Welcome to ePayPlus

Earnings	Rate	Hours	This Period	YTD
Regular Hourly	11.42	39.17	447.32	7,973.63
Overtime (.5)			0.00	286.79
Sick Pay			0.00	91.36
Mileage Reimbursement			65.34	1,207.54
Wellness Reward			0.00	250.00
<b>Total Earnings :</b>			<b>\$512.66</b>	<b>\$9,809.32</b>
Pre-Tax			This Period	YTD
Medical - Pre Tax			8.98	239.24
Dental			9.37	168.66
Vision			1.75	31.50
<b>Total Pre-Tax :</b>			<b>\$20.10</b>	<b>\$439.40</b>
Taxes			This Period	YTD
Fed Withholding Tax			48.67	947.01
Social Security Tax			26.49	506.07
Medicare Tax			6.19	118.38
<b>Total Taxes :</b>			<b>\$81.35</b>	<b>\$1,571.43</b>
After-Tax			This Period	YTD
Garnishment			96.50	1,737.00
Life-Supplemental EE			1.94	32.74
LTDC Post			1.98	44.34
AD&D Disability			0.54	7.02
Product Purchase			26.50	26.50
<b>Total After-Tax :</b>			<b>\$127.46</b>	<b>\$1,847.60</b>
Net Pay			This Period	YTD
<b>Total Net Pay :</b>			<b>\$283.75</b>	<b>\$5,950.88</b>

Summary	Earnings	Less Pre-Tax	Taxable Wages	Less Taxes	Less Deds	Equals Net Pay
This Period	\$512.66	\$20.10	\$427.22	\$81.35	\$127.46	\$283.75
YTD	\$9,809.32	\$439.40	\$8,162.38	\$1,571.43	\$1,847.60	\$5,950.88

**Pay Distribution List**

Description	Type	Amount	Account #	Bank
Direct deposit 1	Checking or Money Market	\$283.75	<...8121>	Bank of America, National Association



Pay Date: 06/10/2016 - Regular

The American Bottling Company  
P.O. Box 869077  
Plano, TX 75086-9077  
1-866-602-3774

Shawbel Moore

Personnel Number 02068143 Daily

Pay Advice # 0206814300098  
Period Begin Date 05/29/2016  
Period End Date 06/04/2016  
Pay Frequency Weekly

Taxes	State Codes	Marital Status	Allowances	Additional Amounts
Federal		Single	0	
Primary State	FL		0	
Secondary State			0	
Local			0	

Messages:

Welcome to ePayPlus

Earnings	Rate	Hours	This Period	YTD
Regular Hourly	11.42	34.45	393.42	8,367.05
Overtime (.5)			0.00	286.79
Sick Pay			0.00	91.36
Mileage Reimbursement			70.62	1,278.16
Wellness Reward			0.00	250.00
<b>Total Earnings :</b>			<b>\$464.04</b>	<b>\$10,273.36</b>
Pre-Tax			This Period	YTD
Medical - Pre Tax			8.98	248.22
Dental			9.37	178.03
Vision			1.75	33.25
<b>Total Pre-Tax :</b>			<b>\$20.10</b>	<b>\$459.50</b>
Taxes			This Period	YTD
Fed Withholding Tax			40.59	987.60
Social Security Tax			23.14	529.21
Medicare Tax			5.42	123.77
<b>Total Taxes :</b>			<b>\$69.15</b>	<b>\$1,640.58</b>
After-Tax			This Period	YTD
Garnishment			96.50	1,833.50
Life-Supplemental EE			1.94	34.68
LTDC Post			1.98	46.32
AD&D Disability			0.54	7.56
Product Purchase			0.00	26.50
<b>Total After-Tax :</b>			<b>\$100.96</b>	<b>\$1,948.56</b>
Net Pay			This Period	YTD
<b>Total Net Pay :</b>			<b>\$273.83</b>	<b>\$6,224.72</b>

Summary	Earnings	Less Pre-Tax	Taxable Wages	Less Taxes	Less Deds	Equals Net Pay
This Period	\$464.04	\$20.10	\$373.32	\$69.15	\$100.96	\$273.83
YTD	\$10,273.36	\$459.50	\$8,535.70	\$1,640.58	\$1,948.56	\$6,224.72

Pay Distribution List

Description	Type	Amount	Account #	Bank
Direct deposit 1	Checking or Money Market	\$273.83	<...8121>	Bank of America, National Association

# **EXHIBIT “B”**



Pay Date: 05/27/2016 - Regular

The American Bottling Company  
 P.O. Box 869077  
 Plano, TX 75086-9077  
 1-866-602-3774

Shawbel Moore

Personnel Number 02068143 Daily

Pay Advice # 0206814300096  
 Period Begin Date 05/15/2016  
 Period End Date 05/21/2016  
 Pay Frequency Weekly

Taxes	State Codes	Marital Status	Allowances	Additional Amounts
Federal		Single	0	
Primary State	FL		0	
Secondary State			0	
Local			0	

**Messages**

Welcome to ePayPlus

Earnings	Rate	Hours	This Period	YTD
Regular Hourly	11.42	40.00	456.80	7,526.31
Overtime (.5)	5.26	3.48	18.30	286.79
Sick Pay			0.00	91.36
Mileage Reimbursement			76.23	1,142.20
Wellness Reward			0.00	250.00
<b>Total Earnings :</b>			<b>\$551.33</b>	<b>\$9,296.66</b>
Pre-Tax			This Period	YTD
Medical - Pre Tax			8.98	230.26
Dental			9.37	159.29
Vision			1.75	29.75
<b>Total Pre-Tax :</b>			<b>\$20.10</b>	<b>\$419.30</b>
Taxes			This Period	YTD
Fed Withholding Tax			52.84	898.34
Social Security Tax			28.21	479.58
Medicare Tax			6.60	112.16
<b>Total Taxes :</b>			<b>\$87.65</b>	<b>\$1,490.08</b>
After-Tax			This Period	YTD
Garnishment			96.50	1,640.50
Life-Supplemental EE			1.94	30.80
LTDC Post			1.98	42.30
AD&D Disability			0.54	6.40
<b>Total After-Tax :</b>			<b>\$100.96</b>	<b>\$1,720.14</b>
<b>Net Pay</b>			<b>This Period</b>	<b>YTD</b>
<b>Total Net Pay :</b>			<b>\$342.62</b>	<b>\$5,667.14</b>

Summary	Earnings	Less Pre-Tax	Taxable Wages	Less Taxes	Less Deds	Equals Net Pay
This Period	\$551.33	\$20.10	\$455.00	\$87.65	\$100.96	\$342.62
YTD	\$9,296.66	\$419.30	\$7,735.16	\$1,490.08	\$1,720.14	\$5,667.14

**Pay Distribution List**

Description	Type	Amount	Account #	Bank
Direct deposit 1	Checking or Money Market	\$342.62	<...8121>	Bank of America, National Association





Pay Date: 06/24/2016 - Regular

The American Bottling Company  
 P.O. Box 869077  
 Plano, TX 75086-9077  
 1-866-602-3774

Shawbel Moore  
 6710 Nw 5th Avenue  
 Ocala, FL 34475

Personnel Number 02068143 Daily

Pay Advice # 0206814300100  
 Period Begin Date 06/12/2016  
 Period End Date 06/18/2016  
 Pay Frequency Weekly

Taxes	State Codes	Marital Status	Allowances	Additional Amounts
Federal		Single	0	
Primary State	FL		0	
Secondary State			0	
Local			0	

**Messages**  
 Welcome to ePayPlus

Earnings	Rate	Hours	This Period	YTD
Regular Hourly	11.42	40.00	456.80	9,240.34
Overtime (.5)	4.93	6.38	31.45	318.24
Funeral			0.00	182.72
Sick Pay			0.00	91.36
Mileage Reimbursement			65.67	1,393.63
Wellness Reward			0.00	250.00
<b>Total Earnings :</b>			<b>\$553.92</b>	<b>\$11,476.29</b>

Pre-Tax	This Period	YTD
Medical - Pre Tax	8.98	266.18
Dental	9.37	196.77
Vision	1.75	36.75
<b>Total Pre-Tax :</b>	<b>\$20.10</b>	<b>\$499.70</b>

Taxes	This Period	YTD
Fed Withholding Tax	54.81	1,113.87
Social Security Tax	29.02	594.14
Medicare Tax	6.79	138.95
<b>Total Taxes :</b>	<b>\$90.62</b>	<b>\$1,846.96</b>

After-Tax	This Period	YTD
Garnishment	96.50	2,026.50
Life-Supplemental EE	1.94	38.56
LTDC Post	1.98	50.28
AD&D Disability	0.54	8.64
Product Purchase	0.00	26.50
<b>Total After-Tax :</b>	<b>\$100.96</b>	<b>\$2,150.48</b>

Net Pay	This Period	YTD
<b>Total Net Pay :</b>	<b>\$342.24</b>	<b>\$6,979.15</b>

Summary	Earnings	Less Pre-Tax	Taxable Wages	Less Taxes	Less Deds	Equals Net Pay
This Period	\$553.92	\$20.10	\$468.15	\$90.62	\$100.96	\$342.24
YTD	\$11,476.29	\$499.70	\$9,582.96	\$1,846.96	\$2,150.48	\$6,979.15

**Pay Distribution List**

Description	Type	Amount	Account #	Bank
Direct deposit 1	Checking or Money Market	\$342.24	<...8121>	Bank of America, National Association

# **EXHIBIT "C"**

Dr Pepper/Seven Up Inc.  
 for The American Bottling Company  
 Payroll Account, Ph:(866) 602-3774  
 P.O. Box 869007  
 Plano TX 75086-9077

Page 001 of 001  
 01/25/2015 - 02/07/2015  
 02/13/2015  
 0651020015  
 000000000032

Federal Married 01 10.00

ERIC THOMAS LANDERS

Basis of Pay: Daily

Earnings	Rate	Hours	This Period	Year-to-Date
Regular Hourly	13.13	80.00	1,050.40	4,201.60
Overtime (.5)	4.97	34.00	168.98	0.00
Overtime (.5)	5.37	28.50	153.05	757.37
6/7 Day	13.13	32.00	420.16	735.28
Holiday				210.08
Vacation				105.04
Flat Mileage Reimbur			811.41	2,864.91
<b>Gross Pay</b>	<b>174.50</b>		<b>2,604.00</b>	<b>8,874.28</b>
<b>TAXES</b>				
Federal Withholding Tax			164.46	485.41
Social Security Tax			108.55	362.23
Medicare Tax			25.39	84.72

Other Benefits and Information	This Period	Year-to-Date
<b>PRE-TAX DEDUCTIONS</b>		
Medical Pre Tax	29.77	119.08
Dental Pre Tax	8.46	33.84
Vision Pre Tax	3.50	14.00
<b>AFTER-TAX DEDUCTIONS</b>		
Life Sup EE	5.32	21.28
LTDC Post Tax	9.31	37.24
AD&D	3.23	12.92
Add 1 Disability	12.26	49.04
Total Pre-Tax	41.73	166.92
Total After-Tax	30.12	120.48
Total Taxes	298.40	932.36
<b>Net Pay</b>	<b>2,233.75</b>	<b>7,654.57</b>
FRIENDSHIP BANK,	2,233.75	XXXX7717

VERIFY DOCUMENT AUTHENTICITY - COLORED AREA MUST CHANGE IN TONE GRADUALLY AND EVENLY FROM DARK AT TOP TO LIGHTER AT BOTTOM

DR PEPPER SNAPPLE Dr Pepper/Seven Up Inc.  
 for The American Bottling Company  
 Payroll Account, Ph:(866) 602-3774  
 P.O. Box 869007  
 Plano, TX 75086-9077

Advice Number: 0651020015  
 Advice Date: 02/13/2015

Deposited to the account of ERIC THOMAS LANDERS  
 Account Number: XXXX7717  
 Transf: ABA XXXX2313  
 Amount: 2233.75

**THIS IS NOT A CHECK**  
**NON-NEGOTIABLE**

JS 44 (Rev. 12/12)

**CIVIL COVER SHEET** 5:18-cv-21-00-30PRL

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

**I. (a) PLAINTIFFS**

SHAWBEL MOORE, ON BEHALF OF HIMSELF AND THOSE SIMILARLY SITUATED,

(b) County of Residence of First Listed Plaintiff Marion  
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

Morgan & Morgan, P.A., 20 North Orange Avenue, Suite 1400, Orlando, Florida 32801; Telephone (407) 420-1414

**DEFENDANTS**

THE AMERICAN BOTTLING COMPANY, A DELAWARE CORPORATION, DR. PEPPER/SEVEN UP, INC., ET AL.,

County of Residence of First Listed Defendant  
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

**II. BASIS OF JURISDICTION** (Place an "X" in One Box Only)

- 1 U.S. Government Plaintiff
- 3 Federal Question (U.S. Government Not a Party)
- 2 U.S. Government Defendant
- 4 Diversity (Indicate Citizenship of Parties in Item III)

**III. CITIZENSHIP OF PRINCIPAL PARTIES** (Place an "X" in One Box for Plaintiff and One Box for Defendant)

	PTF	DEF		PTF	DEF
Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	<input type="checkbox"/> 4	<input type="checkbox"/> 4
Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6

**IV. NATURE OF SUIT** (Place an "X" in One Box Only)

CONTRACTS	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	<b>PERSONAL INJURY</b> <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other <b>LABOR</b> <input checked="" type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act <b>IMMIGRATION</b> <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark <b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) <b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY	CIVIL RIGHTS	PRISONER PETITIONS			
<input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	<b>Habeas Corpus:</b> <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <b>Other:</b> <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

**V. ORIGIN** (Place an "X" in One Box Only)

- 1 Original Proceeding
- 2 Removed from State Court
- 3 Remanded from Appellate Court
- 4 Reinstated or Reopened
- 5 Transferred from Another District (specify)
- 6 Multidistrict Litigation

**VI. CAUSE OF ACTION**

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):  
**U.S.C. Section 216(b)**  
 Brief description of cause:  
**Overtime Compensation**

**VII. REQUESTED IN COMPLAINT:**

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$ CHECK YES only if demanded in complaint:  
**JURY DEMAND:  Yes  No**

**VIII. RELATED CASE(S) IF ANY**

(See instructions): JUDGE \_\_\_\_\_ DOCKET NUMBER \_\_\_\_\_

DATE \_\_\_\_\_ SIGNATURE OF ATTORNEY OF RECORD \_\_\_\_\_

**FOR OFFICE USE ONLY**

RECEIPT # OCA - AMOUNT \$ 400.00 APPLYING IFP \_\_\_\_\_ JUDGE \_\_\_\_\_ MAG. JUDGE \_\_\_\_\_

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# ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [American Bottling Co., Dr. Pepper Snapple Group Rung Up with Unpaid Overtime Complaint](#)

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