

Zara Strikes \$1.25M Deal To Settle Workers' Overtime Suit

By **Emily Brill**

Law360 (May 20, 2024, 7:49 PM EDT) -- Fast-fashion retailer Zara agreed to a \$1.25 million deal to settle accusations that it shortchanged about 500 employees by excluding commissions from overtime calculations, according to a letter filed with a New York federal judge requesting approval of the settlement.

The workers' attorneys filed **the letter** with U.S. District Judge Katherine Polk Failla of the Southern District of New York on Friday. Zara signed off on the terms submitted to the court.

Should Judge Failla approve the settlement in its current form, the attorneys would receive about \$416,500 in compensation for the roughly 812 hours they spent working on the case and \$30,800 to cover the costs associated with pursuing the litigation.

The lead plaintiff, former Zara employee Latrell Gillett, would receive a \$25,000 service award for lending his name to the lawsuit, according to the letter. And the settlement claims administrator would receive a payment of no more than about \$17,600, the letter states.

The rest of the money would go to the workers Zara was accused of shortchanging, divvied up according to a formula that aims to pay all workers what they're owed, according to the letter.

Gillett sued Zara in May 2020, saying the company underpaid him and his co-workers by failing to factor their commissions into their overtime pay. Gillett claimed Zara had been made aware that its method of calculating overtime pay violated the Federal Labor Standards Act, but the retailer dragged its feet on changing.

"At the latest date of June 14, 2018, and certainly by Nov. 8, 2018, defendants were aware that their pay policies were in violation of the FLSA," Gillett said. "However, defendants continued their illegal pay scheme through at least July 1, 2019."

Gillett requested certification of the suit as a collective action, which **he received** in May 2021. The collective consisted of stock and sales associates, cashiers and other hourly employees who worked for Zara or Inditex USA LLC, the brand's owner, at U.S. Zara retail stores and were not paid proper overtime between May 2017 and July 2019.

According to Friday's letter, 479 workers opted into the collective.

Before the settlement, Zara "embraced an unorthodox litigation strategy" of offering money to workers directly in an attempt to wrap up the lawsuit, the workers' attorneys said. Over 50 workers **accepted these offers of judgment**, accepting sums ranging from \$2 to more than \$1,500, according to court records.

Representatives of the parties did not immediately respond to requests for comment Monday.

The workers are represented by Hunter G. Benharris and Brian S. Schaffer of Fitapelli & Schaffer LLP.

Zara is represented by Eli Zev Freedberg, Emma Jane Diamond, Jennifer S. Kim, Kevin K. Yam and Vinay Patel of Littler Mendelson PC.

The case is Gillett v. Zara USA Inc. et al., case number 1:20-cv-03734, in the U.S. District Court for the Southern District of New York.

--Additional reporting by Caleb Drickey and Daniela Porat. Editing by Nick Petruncio.