

Bloomberg Law

## Kroger Grocery Stores Sued For Overtime by Assistant Manager

By Kathleen Dailey

July 8, 2020, 12:50 PM

---

- **COURT** [D. Colo.](#)
  - **TRACK DOCKET** [No. 1:20-cv-01983](#) (Bloomberg Law Subscription)
  - **COMPANY INFO** [The Kroger Co.](#) (Bloomberg Law Subscription)
- 

Bloomberg Law News 2020-07-16T11:49:21517-04:00

Kroger Grocery Stores Sued For Overtime by Assistant Manager

By Kathleen Dailey 2020-07-08T12:50:29000-04:00

COURT: [D. Colo.](#)

TRACK DOCKET: [No. 1:20-cv-01983](#) (Bloomberg Law Subscription)

COMPANY INFO [The Kroger Co.](#) (Bloomberg Law Subscription)

The Kroger Co. and a subsidiary are facing allegations in a new lawsuit filed in Colorado federal court that they systematically underpaid at least 50 assistant managers employed at King Soopers and City Market grocery stores by misclassifying them as exempt from overtime pay.

William Powell, who worked at a City Market location in Grand Junction, Colo., sued Kroger and Dillon Companies LLC under the Fair Labor Standards Act and Colorado law, seeking to represent other assistant store managers.

The suit was filed Tuesday in the U.S. District Court for the District of Colorado.

Powell claims that he and other ASMs regularly worked more than 40 hours per week, but have never received overtime pay for those excess hours because Kroger and Dillon have a centralized, uniform policy and practice of classifying ASMs as exempt.

But Kroger and Dillon didn't evaluate the ASMs' job duties on a case-by-case basis when making that decision, and the reality is that their work doesn't qualify them for any overtime exemptions available under the FLSA or Colorado laws, Powell says.

ASMs don't have any managerial responsibilities and spend the majority of their workday performing the same routine tasks as the hourly non-exempt workers do, like stocking shelves, helping customers, checking inventory, and cleaning the store, Powell alleges. Further, ASMs report to store managers and lack authority to hire, fire, schedule, or discipline other workers.

Moreover, Kroger and Dillon have maintained control, oversight and direction over ASMs nationwide through company-wide timekeeping, payroll, and other employment policies and practices, Powell claims.

Kroger and Dillon operate more than 150 King Soopers and City Market locations in Colorado, New Mexico, Utah, and Wyoming.

**Cause of Action:** FLSA and Colorado Wage and Hour Laws.

**Relief Sought:** Class and collective certification; actual and liquidated damages; statutory penalties; pre-judgment and post-judgment interest; injunctive relief; declaratory judgment; and any other and further relief the court deems just and proper.

**Potential Class Size** The Colorado class includes "at least 50 workers." The FLSA collective size is unknown.

**Response** Kroger and Dillons didn't immediately respond to a request for comment.

**Attorneys:** Conway Legal LLC represents Powell and the proposed class and collective members.

The case is Powell v. The Kroger Co. , D. Colo., No. 1:20-cv-01983, 7/7/20 .

To contact the reporter on this story: Kathleen Dailey at [kdailey@bloomberglaw.com](mailto:kdailey@bloomberglaw.com)

To contact the editors responsible for this story: Rob Tricchinelli at [rtricchinelli@bloomberglaw.com](mailto:rtricchinelli@bloomberglaw.com); Nicholas Datlowe at [ndatlowe@bloomberglaw.com](mailto:ndatlowe@bloomberglaw.com)

© 2020 The Bureau of National Affairs, Inc. All Rights Reserved

**Bloomberg Law**

Contact Us

View Full Directory

**BLAW® 24 / 7 Help Desk (888) 560-2529**

[Terms of service](#) , [Privacy](#) , [Copyright](#) , [Accessibility](#)

