

Biggest hospitals in Mass. face labor suits

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Pay during breaks is under scrutiny

By Todd Wallack, Globe Staff | September 5, 2009

An upstate New York law firm sued Massachusetts' largest hospital chains this week, alleging they systematically failed to pay employees for all the hours they worked.

The Rochester firm, Thomas & Solomon LLP, previously won a \$9 million settlement with the University of Rochester in a similar suit. And the firm has filed comparable batches of lawsuits against hospitals in Buffalo, Pittsburgh, and Syracuse, N.Y.

One of the key allegations of the lawsuits brought against the five Massachusetts hospital operators is that they generally don't pay employees during a 30-minute meal break, yet still expect the employees to work during at least a portion of the break time.

"They might be able to grab a bite, but it's not like they have a full 30 minutes" to eat, said Michael Lingle, a partner at Thomas & Solomon. He said employers are only legally allowed to skip paying workers if they give them an uninterrupted meal break.

Although the unpaid time might only amount to a half-hour per employee per day, it could easily add up to tens of millions of dollars a year in compensation.

The hospitals collectively employ more than 70,000 people.

Lingle's firm said it has signed up as plaintiffs about 500 hourly employees of Partners Healthcare System, Caritas Christi, Boston Medical Center, CareGroup, and UMass Memorial Health Care in Massachusetts. The suits are seeking back wages, interest, attorney fees, and other damages.

Two of the medical systems being sued would not comment on the lawsuits, but did say they are careful to follow the law and fully compensate employees.

"Boston Medical Center maintains an excellent relationship with its employees, compensates them fairly, and abides by all applicable employment, including wage and hour, laws," said Ellen Berlin of Boston Medical Center, which has nearly 4,800 workers.

UMass Memorial spokesman Mark Shelton said the hospital regularly conducts audits to assure employees are properly paid and to correct any errors. The system has about 13,000 employees.

Caritas Christi declined to comment. Partners and CareGroup could not be reached for comment.

Jay Shepherd, a Boston lawyer who has defended a number of health care companies on employment issues, questioned the Rochester law firm's approach.

"Calling what at most might be technical violations of arcane, inflexible wage laws a conspiracy of willful wrongdoing is absurd," Shepherd said. "The people who manage nonprofit healthcare institutions in the Commonwealth are not the sort to conspire to deprive employees of their wages."

Regardless, many of the country's largest companies have been sued on allegations they failed to pay some workers overtime or other wages over the past decade, and now the health care industry may be the newest target. [Morgan Stanley](#) agreed to pay \$42.5 million to settle a suit in California three years ago. State Farm Insurance Cos. settled a California suit for \$135 million in 2005. And [Starbucks](#) agreed to pay \$18 million in 2002.

"It has been an upsurge," said employment lawyer Patrick Bryant of Sandulli Grace P.C. in Boston, which won an \$850,000 settlement in 2004 on behalf of 800 Boston police officers who alleged they were shorted overtime.

Last year, Massachusetts enacted a law that requires employers to pay triple damages for violations of the state's

wage and hour laws, which Bryant said has spurred some companies to settle such lawsuits earlier in order to reduce the risk of a large judgment.

While government agencies are also charged with enforcing overtime and wage laws, Bryant says they have limited staff to investigate complaints, leaving many employees to file suit on their own.

“For better or for worse, we have set up a society where most enforcement is left to the private sector,” Bryant said.

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