

Business First of Buffalo - October 23, 2009

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Kaleida, CHS facing class-action lawsuits

Business First of Buffalo - by [Matthew Chandler](#)

A federal judge certified class-action lawsuits against **Kaleida Health** and **Catholic Health Systems**, paving the way for potentially millions of dollars in judgements against Buffalo's largest health care providers.

The suits, filed by Rochester-based **Thomas & Solomon LLP** on behalf of thousands of current and former employees, allege that both health-care systems failed to pay workers for time

they worked assisting patients during what was scheduled meal periods. The suit alleges this practice was repeated in multiple facilities and impacted thousands of nurses, aide's and therapists.

Nelson Thomas, a partner in the firm, said because of the scope of who is eligible to participate in the suit, exact numbers won't be known until current and former employees respond to notices being sent out, but he expects the number of plaintiff's to reach "tens of thousands."

Nelson said his firm specializes in these types of cases and recently won a \$9 million settlement against Strong Hospital in Rochester for similar infractions.

"It's a huge victory that is has been certified as a class (action suit)," Nelson said. "If it had not been certified and a lot of cases aren't, then the problem is, everyone would have to file their own lawsuits."

He said the suit was born from employees within both companies notifying his firm that these "wage

theft” practices were occurring, prompting the lawsuit.

“What’s interesting, is ECMC is totally compliant and follows the law,” Nelson said of the other major health-care provider in Buffalo.

From here, current and former employees who may be eligible have 60 days to respond to court-approved notices regarding the class-action suit in order to be included. Nelson said he is confident both Kaleida and Catholic Health Systems violated the law and though he said cases like this can take several years to resolve, he predicted a multi-million dollar result for those employees impacted.

Reached for comment on the lawsuit, representatives for both Kaleida and Catholic Health Systems released written statements.

CHS Vice President Dennis McCarthy said they believe all employees were properly paid for time worked.

“With respect to the judge’s ruling, Catholic Health intends to steadfastly defend its position and attempt to win dismissal of what we still believe to be a dubious lawsuit,” he said.

Speaking on behalf of Kaleida Health, Michael Hughes accused the law firm handling the case of “exploiting our employees.”

“They (Thomas & Solomon LLP) have a track record of this type of behavior, most recently in Rochester. We most certainly will not let an opportunistic law firm interrupt our unquestionable commitment to patient care.”

Apprised of Hughes comments, Nelson said, “I think their personal attacks, particularly in the face of the judges very strong ruling in our favor shows they really don’t have a lot substantively to say about what they’ve been doing to their employees. To call our law firm opportunistic when they are the ones who have cheated their employees out of millions of dollars of wages every year, and have done it for years, I think

opportunistic probably better describes how they treat their employees in terms of these lunch breaks.”

Nelson added he expects to file a second round of lawsuits to cover additional categories of employees affected by the alleged violations.

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