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Buffalo Hospitals Must Face OT Claims

By Jocelyn Allison

Law360, New York (December 01, 2008) -- Buffalo, N.Y.'s two major hospital systems will continue to battle allegations that they forced thousands of hourly employees to work through lunch now that a federal judge has mostly denied their bids to dismiss the claims.

In orders issued last week, Judge William M. Skretny of the U.S. District Court for the Western District of New York found that the plaintiffs had adequately pled their wage and hour claims in two proposed class actions against Kaleida Health and Catholic Health System Inc.

He denied the defendants' motions to dismiss in all respects except for their argument that the Labor Management Relations Act preempts the plaintiffs' state law claim on the hospitals' alleged failure to pay employees for work they performed before and after the end of their shifts or time they spent in training.

The plaintiffs had brought those claims, as well as claims for meal break violations, under both state and federal wage and hour laws. The judge kept all the federal claims as well as the state law claims related to meal breaks, according to court documents.

Kaleida and Catholic had argued that all the claims were barred under the LMRA because they would require an interpretation of the employees' collective bargaining agreement, but Judge Skretny found that the plaintiffs had an independent statutory right under New York labor law to bring the meal claims.

He also found that the plaintiffs' rights to minimum wage and overtime pay under the Fair Labor Standards Act was separate and distinct from their contractual rights arising from the collective bargaining agreement, court documents said.

The FLSA requires that employees be completely relieved from their duties under an

automatic meal deduction policy and that they receive compensation for time worked before and after their shift. Training also generally is considered compensable under the statute, the judge wrote.

Kaleida and Catholic also had argued that all the state law and FLSA claims should be dismissed because the complaints failed to specify the grounds for the allegations, such as when the plaintiffs performed the off-the-clock work or when they had requested and were denied overtime.

But Judge Skretny rejected the argument, noting that the plaintiffs had outlined three of the defendants' policies that allegedly violated state and federal wage and hour laws by causing employees to work more than 40 hours a week without overtime pay.

The plaintiffs in this case "go beyond mere identification of their legal claims, and do so in a complaint that exceeds 24 pages," the judge wrote.

Plaintiffs' attorney Nelson Thomas welcomed the ruling, saying it maintained the plaintiffs' ability to move forward with the primary claim in the suit.

"The central claim in the case is the lunch break, so we're gratified on that decision and very pleased with it," said Thomas, a partner at Dolin Thomas & Solomon LLP. "Although they are not the central claims in the case, we think ultimately we will prevail on [the other claims] as well because there is no interpretation required there, and there are specific provisions in state law that would override the collective bargaining agreement."

The suits against Kaleida and Catholic propose to establish both an opt-out class under state law and collective action under the FLSA on behalf of current and former hourly employees in health care-related positions, such as nursing.

Kaleida currently has about 9,000 hourly employees, while Catholic has about 6,800, Thomas said.

Judge Skretny said in his ruling that the plaintiffs would need to waive any claims for liquidated damages in order to move forward with the class allegations, which Thomas said the plaintiffs already agreed to do.

The plaintiffs are seeking to toll the statute of limitations beyond the three years under the FLSA and six years under state law, claiming that the defendants had misled employees

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about the lunch break policy.

An attorney for the defendants could not immediately be reached for comment Monday.

Attorneys from Dolin Thomas & Solomon LLP represent the plaintiffs.

Attorneys from Nixon Peabody LLP represent Kaleida Health and Catholic Health System Inc.

The suits are Gordon et al. v. Kaleida Health et al., case number 08-cv-00378, and Hinterberger et al. v. Catholic Health System Inc. et al., case number 08-cv-00380. Both are in the U.S. District Court for the Western District of New York.

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