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UR settles employee lawsuit

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UR reached a settlement last week with hourly employees, represented by law firm Dolin, Thomas & Solomon LLP, who claim they were not paid for overtime worked.

The suit affects up to 40,000 current and former hourly employees and could cost UR up to \$9.05 million.

Hourly employees that worked for UR and its affiliates since 1999 are potentially eligible to receive up to \$100 for each year worked over the last seven years, totalling up to \$700 per person.

"For the past year, we have been negotiating with a local firm who has been threatening to bring a class action lawsuit on behalf of our hourly employees for alleged violations of the federal and New York State wage hour laws," UR Vice President and General Counsel Sue Stewart said.

UR does not admit wrongdoing in the matter, but is settling to avoid a lengthy and expensive litigation process.

"We did this because litigation is not a great way to resolve things," Stewart said. "It's extremely expensive and time consuming. What we ended up doing is arriving at an agreement where

we would set up a claims process so that employees who feel that they have not been paid will be able to file claims."

Had UR chosen to go through the litigation process rather than settle, they would have faced a significant burden of proof.

"In this type of lawsuit, we would have to show after the fact that, over a seven-year period, each of the employees named in the suit paid every hourly employee extra pay whenever a meal period was interrupted, someone stayed late or came in early, etc.," Interim Director of the Office of Communications Teri D'Agostino said. "It is and always was our intent to pay employees for the time they work."

The agreement includes a cap of \$9.05 million for the total cost of the suit and associated expenses, including legal fees.

The suit also covers affiliates of UR and Strong Memorial Hospital, including Highland Hospital, Visiting Nurse Service, Visiting Nurse Signature Care, The Highlands at Brighton and at Pittsford, The Highlands Living Center, Highland Apothecary, Highland Foundation and Highland Facilities Development Corporation.

SEE LAWSUIT, PAGE 5.

Thursday, February 23, 2006

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Lawsuit: Payment claim settled

CONTINUED FROM PAGE 1

Dolin, Thomas & Solomon LLP, the firm representing the workers, claim that UR violated the Fair Labor Standards Act by failing to pay all hourly workers for missed and interrupted lunch breaks.

However, there are policies and procedures in place to account for hourly employees interrupted during their lunch breaks and to ensure they are able to claim lost wages. For example, nurses interrupted during their lunches to care for a patient can note the interruption in a log which is reported to payroll officials and will then have wages automatically paid, according to Stewart.

"We pay \$10 million each year in overtime for these kinds of things and other kinds of things, but it's a self reporting system," Stewart said. "Some people may not have reported. Some people may feel they were discouraged from reporting. We do not know of any instances of that, but that may happen."

While hourly employees in patient care positions are among the most likely to frequently miss lunches, all hourly employees at UR and its affiliates are eligible to file a claim under the settlement.

"We don't want people to get cheated," Stewart said. "There are budgets to pay for overtime, but clearly we could do a much better job of educating people so that they know what their rights are and file. A lot of people do, but some people have not."

UR is currently examining how to ensure hourly employees are

appropriately paid for overtime in the future.

"[Current] systems rely heavily on self-reporting of time by employees themselves," D'Agostino said. "We intend to intensify our education of manager and hourly employees about the Fair Labor Standard Act and how to account for time worked. We're also studying best practices at similarly complex institutions to discover what has worked for them."

UR will attempt to send a mailing to the estimated 40,000 current and former hourly employees informing them of the settlement and instructing them how to make a claim.

Dolin, Thomas & Solomon LLP, has filed similar suits on behalf of employees alleging overtime pay violations including recent suits against J.P. Morgan Chase & Co., Eastman Kodak Co., Dick's Sporting Goods, Inc. and and Carrols Corp.- operated Burger Kings.

Nelson Thomas, the attorney handling the workers' claim, was unable to be reached for comment.

Such lawsuits, in which employees sue their employers for infringements on overtime pay, are part of a growing national trend, experts say.

"In the last five years — even more so in the last two years — there has been a wave of these types of cases," Cornell University labor law professor Lance Compa told the Rochester Democrat and Chronicle.

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