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Up To 8K Huhtamaki Workers Win Cert. In FLSA Suit

By Derek Hawkins

Law360, New York (August 11, 2010) -- A judge has granted conditional certification to as many as 8,000 Huhtamaki Inc. employees in a suit accusing the consumer packaging powerhouse of failing to pay workers for off-the-clock tasks it required them to perform.

The plaintiff workers offered substantial allegations that Huhtamaki systematically rounded time away from employees who performed pre- and post-shift work, and denied them compensation they were entitled, Judge Julie Robinson of the U.S. District Court for the District of Kansas said in an order Monday, granting the group collective action status under the Fair Labor Standards Act.

Although policies for rounding down overtime work varied among Huhtamaki's facilities — which operate in 10 U.S. states, including Kansas — the differences were not significant enough to deny conditional certification, Judge Robinson said.

The certification covers all employees who worked at 10 Huhtamaki facilities over the past three years and who are allegedly not exempt from overtime provisions of the FLSA, according to the order.

Plaintiffs' attorney Brendan Donelon of Donelon PC said the collective action would include between 4,000 and 8,000 Huhtamaki employees.

Huhtamaki outside counsel Sara Welch, of Stinson Morrison Hecker LLP, said Huhtamaki denied the plaintiffs' allegations, and said the company has never rounded time away from its employees.

"Huhtamaki's position is that it pays employees for all time worked," she said. "If an employee has worked time, Huhtamaki does not round that time away."

Welch added that the company would seek to decertify the action.

Lead plaintiff Dawn Shockey, who worked in Huhtamaki's Desoto, Kan., plant, filed her original complaint in May 2009, accusing the company of violating the FLSA by failing to compensate her for overtime work she said the company scrubbed from her time sheet.

Shockey was soon after joined by 14 other Huhtamaki employees who submitted sworn statements in support of her allegations. They filed their second amended complaint in January.

The plaintiffs alleged that Huhtamaki required nonexempt employees to arrive before each shift and stay late after each shift to carry out additional work, but deliberately erased the extra time they worked.

Huhtamaki used a timekeeping system produced by Ceridian Corp. in all its plants that rounded away up to an hour of overtime work daily, the plaintiffs claimed.

According to the plaintiffs, each Huhtamaki plant programmed its timekeeping system differently, but at least 10 of the plants used a rounding process that stripped employees of time they worked before and after their scheduled shifts.

The plaintiffs filed their motion for class certification on Feb. 1, and were promptly met with opposition from Huhtamaki.

Huhtamaki contended in its response to the amended complaint that the plaintiffs failed to specifically identify the tasks they performed after normal hours that would have entitled them to overtime pay.

Huhtamaki also denied the existence of a policy or plan that would have prevented the employees in the class from receiving overtime pay for off-the-clock work, arguing that the company “frequently” compensated employees for working extra hours.

But Judge Robinson shot down those challenges in Monday’s order, saying that the plaintiffs’ sworn statements that the company required them to show up early and stay late supports their claims that they were compelled to perform work they weren’t compensated for.

“[T]he presence of intermittent lawfulness does not negate plaintiffs’ allegations that there was a general pattern of unlawfulness,” Robinson said.

The plaintiffs are represented by Donelon PC and Brown & Associates LLC.

Huhtamaki is represented by Stinson Morrison Hecker LLP.

The case is Shockey v. Huhtamaki Consumer Packaging Inc. et al., in the U.S. District Court for the District of Kansas, case number 2:09-cv-02260-JAR-DJW.