

## **Westlake Hardware class action certified; QuikTrip employees win back-pay award**

Overtime pay is at issue in two actions concerning the Fair Labor Standards Act.

A federal judge has conditionally certified an estimated class of 135 current and former employees of Lenexa-based Westlake Hardware Inc. in a case concerning overtime pay.

The class certified by U.S. District Judge Kathryn Vratil includes all front-end supervisors, later known as administrative managers, who were employed as such from July 31, 2005, to the present.

The lawsuit, which was filed last year, alleges that Westlake misclassified the front-end supervisors as salary exempt under the Fair Labor Standards Act and thus improperly denied them overtime pay. Brendan J. Donelon, an attorney for the plaintiffs, said that the employees' testimony showed they typically worked more than 50 hours a week without overtime pay.

Westlake operates retail hardware stores under the name Ace Hardware in Kansas, Missouri, Nebraska, Iowa, Oklahoma, Texas and New Mexico.

•QuikTrip workers, including 561 in the Kansas City area, will share in a back-pay award based on the payment of incorrect overtime wages.

The U.S. Department of Labor's Wage and Hour Division said Monday that QuikTrip had agreed to pay a total of \$747,729 to 3,819 current and former convenience store workers in nine states.

A government investigation found that QuikTrip had failed to calculate an overtime pay premium that included performance-related bonuses paid to the affected workers.

The Fair Labor Standards Act says that if nondiscretionary bonuses are paid, the bonus amount must be included as part of the employee's regular rate of pay when computing the rate of time-and-a-half overtime pay due that employee.

Federal investigators found such back-pay violations at QuikTrip stores in Arizona, Georgia, Illinois, Iowa, Kansas, Missouri, Nebraska, Oklahoma and Texas.

Information about this case is available by calling the Wage and Hour office in Oklahoma City at 501-217-9549.

The Star's Dan Margolies and Diane Stafford contributed to this report.

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