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## **COURT GIVES PRELIMINARY APPROVAL TO \$6.255 MILLION SETTLEMENT IN CLASS ACTION WAGE AND HOUR DISPUTE**

A federal district court in California recently gave preliminary approval to a \$6.255 million settlement in a class and collective action wage and hour lawsuit against a California-based medical group. The proposed settlement class includes more than 1,300 registered nurses who provided advice and education to patients of the medical group through three call centers.

### **THE CLAIMS**

The plaintiff nurses claimed they did not receive pay for time spent opening and closing software applications that were necessary to performing their job duties. Specifically, their complaint alleged the computer start up process took 4 to 10 minutes daily (or as much as 30 minutes if technical issues interfered); however, they were not logged in for timekeeping purposes until the various programs were actually running. In addition, they alleged that the shut down process took 4 or 5 minutes daily, but they were not allowed to begin the process earlier than 3 minutes before the end of each shift (resulting in 1 to 2 minutes of additional unpaid time per shift). The plaintiffs also claimed that although the medical group automatically deducted 30 minutes of time from their shifts for unpaid meal breaks, the nurses were not "completely relieved" from their duties during those breaks.

As a result of their "off-the-clock" work, the plaintiff nurses claimed both that they did not receive overtime to which they were entitled under the Fair Labor Standards Act and that unpaid wages and penalties were owed under the California Labor Code.

### **A QUICK SETTLEMENT**

After a few depositions and other discovery, the court granted conditional certification of the class in February 2017, which prompted settlement discussions. According to forensic accountants engaged by the plaintiffs, the medical group's potential exposure for damages and penalties (mostly the latter) ranged between \$18,000,000 and \$20,000,000. In their motion seeking approval of the settlement, the plaintiffs stated that the proposed \$6.255 million settlement, approximately one-third of the medical group's potential exposure, represented "a reasonable compromise."

The settlement has only preliminary approval. Before it becomes final, notice must be delivered to the class members, a hearing on objections must be held and the court must give final approval.

### **PRACTICAL TAKEAWAYS**

As this proposed settlement shows, off-the-clock work represents a major area of potential legal liability for health care and other employers. Sometimes, employers' established practices, which were not intended to deprive employees of any pay at all, can cause very unintended consequences. A wage and hour audit may help to flush out such legal issues and prevent or at least mitigate risks.

If you have any questions about wage and hour disputes or about this case, please contact [Jon Rabin](mailto:jrabin@hallrender.com) at [jrabin@hallrender.com](mailto:jrabin@hallrender.com) or your regular Hall Render attorney.