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Thousands may have claims in casino overtime case

By Ken Ritter August 30, 2013

LAS VEGAS (AP) — A pair of Nevada lawyers pressing a \$70 million wage and overtime abuse claim against the Cosmopolitan of Las Vegas resort are trying to contact more than 7,000 current and former employees who could be eligible to collect monetary damages.

Attorney Joshua Buck said mailers sent out Friday would invite people who worked at the \$3.9 billion high-rise property since it opened in December 2010 to opt-in by return mail to what Buck called one of the largest wage and hour class-action cases ever in the state.

"It's pay for time owed, and pay for work done," Buck said. "We're trying to get people unpaid wages for time they've already worked."

Officials at the 52-story upscale resort on the Las Vegas Strip declined to comment about the mailers or the lawsuit.

"As a matter of company policy, we do not comment on pending litigation," Cosmopolitan spokeswoman Amy Rosetti said.

Buck and attorney Mark Thierman of Reno filed the lawsuit in August 2012, seeking class-action status on behalf of former slot machine money changer Darlene Lewis against the resort and its corporate owner, Nevada Property 1 LLC.

U.S. Magistrate Judge George Foley Jr. granted conditional class certification this year under the federal Fair Labor Standards Act.

That gave the lawyers the go-ahead to contact 7,158 current and former hourly employees they say were required to change into uniforms before clocking in, and about 50 who were required to collect their cash bank, keys and radio before clocking in and return them after clocking out.

The judge referred to declarations from 97 employees about a company requirement that workers change into uniforms at the casino hotel. The judge noted the declarations, submitted by company lawyers, amounted to sampling from a fraction of the 3,700 employees at the resort.

The casino-resort's employee handbook instructed workers to "leave yourself extra time" to pick up and change into uniforms "so that you are able to report to your work station at the start of your shift," Foley noted in a

January order in the case. Workers were told to clock in only for time spent on the job performing assigned duties.

Buck said workers whose pay averaged \$14 per hour might have spent 15 to 30 minutes collecting their clothing and dressing before and after work each day. He said the resulting 30 minutes to one hour per day could amount to up to \$21 in time-and-a-half pay for each of perhaps 2,000 employees going through the garment area each day for more than 2 1/2 years.

"What we're learning with these off-the-clock cases is that employers are trying to nickel and dime employees to get them to do a little extra on the front and back end," Buck said. "In reality, it saves the company a lot of money."

Buck said the lawsuit is not connected with a labor dispute pitting the powerful Culinary Union in Las Vegas against Cosmopolitan owner Deutsche Bank AG. The German investment bank took over the 2,995-room property after the original developer defaulted before it opened.

A majority of Cosmopolitan service workers signed cards in 2010 saying they wanted union representation, and workers have picketed the property several times this year to protest stalled contract talks. Meanwhile, the resort remains one of a handful of nonunion casinos on the Strip.

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