

Cambridge health network faces suit over alleged worker wage violations

By Diane E. Lewis, Globe Staff | June 23, 2006

Cambridge Health Alliance, a public health network praised for its business and workplace practices, is named in a lawsuit alleging that Brazilian workers placed at its worksites by a Brockton firm were paid less than minimum wage, denied overtime, and were subjected to illegal deductions.

The lawsuit seeks to tie the actions of a contractor to the employer who retained its services. Similar lawsuits have been filed against grocery chains, general contractors, janitorial firms, and nurse placement agencies in other parts of the country.

Filed in Middlesex Superior Court against the contractor last year, the suit was amended last week to include the Cambridge Health Alliance as a co-defendant. It alleges that workers placed by Clean Link Inc. earned \$7 per hour as janitors or kitchen staff, but the firm routinely deducted money from paychecks with no explanation or reimbursement. The suit also alleges that the firm did not pay overtime when employees worked weekends or stayed late week days as required by the Fair Labor Standards Act.

Under federal law, hourly employees must receive time-and-a-half after working 40 hours. But Maria Antonia Esteves, 49, of East Boston, said in an interview that she often worked 60 to 70 hours a week without overtime. Esteves says she bought cleaning supplies, and was not reimbursed. Additionally, she said, the company deducted \$10 per week from her, reducing her hourly wage to \$5.50. The state minimum wage is \$6.75 per hour.

"Every week, they would take \$10 from my paycheck, but they never told me what it was for," Esteves said. "To make the money to live, I worked Saturdays and Sundays cleaning people's houses."

Cambridge Health Alliance did not hire the Brazilian immigrants, but the lawsuit claims the workers took day-to-day direction from alliance employees, noting that if workers time off they cleared the request with Cambridge Health Alliance, not Clean Link.

The alliance, whose hospitals, clinics, and services are highly regarded in the medical community, received a Commitment to Excellence Award last month from MassExcellence, a nonprofit that relies on established standards to help organizations improve their business processes and workplaces.

“We are going to move to dismiss this complaint because these employees are not employees of the Cambridge Health Alliance,” said attorney Thomas Royall Smith of Jackson Lewis LLP in Boston. “They were employees of Clean Link.”

Boston lawyer Thomas Birch, who represents Clean Link Inc., did not return requests for comment.

The workers' lawyers are seeking class action status for janitors and kitchen staff who were placed at Cambridge Health Alliance by Clean Link between 1996 and 2005. The lawsuit also names Manuel DeSousa, owner of the cleaning company, as a defendant. He did not respond to telephone calls.

The lawsuit is among several filed in recent years by labor unions or employment lawyers who want to discourage employers from hiring contractors who break wage laws. Two years ago, three California-based grocery chains agreed to a \$22 million settlement of a class action on behalf of 2,100 immigrant janitors who said they sometimes earned \$3.50 an hour and received no overtime after working seven days a week.

Defined in a 1964 US Supreme Court decision involving a bus company that contracted with a cleaning service, joint employer means that “one employer, while contracting in good faith with an otherwise independent company, retains sufficient control of the terms and conditions of employment of the workers hired by the other employer,” according to the high court decision.

Boston lawyer Shannon Liss-Riordan, whose firm represents the Clean Link workers, argues that some employers shirk responsibility for wage violations and mistreatment of employees on their sites by claiming that they are not the employer.

“Employers are using a myriad of ways in an attempt to insulate themselves from wage laws,” she said. “They should not be able to bury their heads in the sand when they use contractors who do not pay proper wages.”

Liss-Riordan declined to say whether the Brazilians are undocumented. Regardless of legal status, she said, the federal government has extended minimum wage laws and workplace safety protections to include undocumented workers.

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