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Trainers sue women's fitness centers over pay

Say Healthworks hasn't paid for all hours worked

By **Katie Johnston** | GLOBE STAFF | DECEMBER 09, 2011

Personal trainers at Healthworks are suing the Boston-based women's fitness chain, alleging that the company used "funny math" to avoid paying them for all the hours they worked.

The class-action lawsuit, filed this week in Suffolk Superior Court, alleges that Healthworks Fitness Centers Inc. uses a commission system designed to get free labor from its employees. Under the system, full-time trainers are paid for each session with clients and are required to hold 24 sessions a week to reach a 35-hour minimum to qualify for benefits.

If they fail to meet that quota, they must do extra work to meet the 35-hour requirement, but at no extra pay above their commission earnings.

"Healthworks markets itself specifically as a fitness community that empowers women," said lead plaintiff DeAnna Putnam, 40, of Waltham. "Unfortunately, behind the scenes it's astonishing how badly it treats its mostly female staff."

Healthworks owner Mark Harrington denied the allegations. The fitness chain's commission system is similar to those at other health clubs, he said, and is designed to provide incentives and reward employees who generate business.

"Under no circumstances are employees of Healthworks required to work without pay," he said in an e-mail.

The lawsuit alleges that Healthworks used accounting tricks to hide that it was not paying employees for every hour worked. During one two-week pay period in March, for example, Putnam said she earned about \$1,340 in commissions from personal training sessions and worked another 32 hours on side jobs.

By her calculations, she should have earned about \$1,660 in that pay period - her \$1,340 in commissions plus \$320, or \$10 per hour, for hours worked beyond her training

sessions. Instead, Healthworks held her earnings at \$1,340, contending she only earned about \$1,020 in commissions - \$320 less than she expected, Putnam said.

Putnam estimates she worked more than 200 hours over a four-month period for which she wasn't paid.

"You kind of pay yourself, because they're taking money out of what they owe you for that training session and turning it into the amount for the extra work," said Putnam, who started at the club five years ago as a belly dance instructor and became a personal trainer at the Brookline gym last year. "There's a bit of a shell game going on."

Harrington, the Healthworks owner, said trainers' commissions are designed to cover all hours they work, whether training with clients or doing other jobs. He said full-time workers also get health insurance, holiday pay, vacation, and other benefits.

There are plenty of opportunities at the club to meet the 24-session minimum, he said, but trainers must attract their own clients. "It depends on how good you are," he said. "You've got to work it like any other sales job."

The suit alleges that the health club purposely employed more personal trainers than it needed, knowing they couldn't get enough sessions to meet the 35-hour requirement.

"They created a system that is designed not to be achieved, thereby getting free labor," said Hillary Schwab, the lawyer representing the workers. "It's a pretty egregious situation."

Putnam said she was fired after she complained about the payment system. Putnam said she and other trainers were willing to go part-time so the company could drop the minimum hours requirement, but once Healthworks learned she was filing a lawsuit, she was let go. Harrington said this allegation is "entirely without merit."

The suit also contends that trainers and group fitness instructors weren't paid overtime or compensated for meetings, employee training, and member appreciation days when clients get free services.

Healthworks has 400 employees at five women's fitness centers in Coolidge Corner, Chestnut Hill, Back Bay, Cambridge, and Salem, and two nonprofit community fitness centers in Dorchester. Schwab estimates that as many as 100 Healthworks trainers and fitness instructors who worked for the club over the past three years could become part of the class-action suit.