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Four Seasons To Fork Over \$4M To Settle Server Tips Suit

By **Alex Lawson**

Law360, New York (October 31, 2013, 12:44 PM ET) -- Four Seasons Hotel Ltd. on Wednesday agreed to pay \$4 million to settle a class action in Hawaii federal court accusing the hotel giant of cheating its food and beverage service workers out of their tips by pocketing portions of gratuity fees on guest checks.

The plaintiffs asked the court for preliminary approval of the settlement after five years of litigation and two rounds of certified questions before the Hawaii Supreme Court. While some issues in the case, such as the potential awarding of liquidated damages, remain in question, both parties said the court's approval of the settlement is prudent at this time.

"The proposed settlement of \$4 million provides for substantial monetary relief for the class and should be approved as fair, reasonable and adequate," the plaintiffs said. "This amount will allow the class to recover their full single damages plus a portion of prejudgment interest, even after the deduction of attorneys' fees and incentive payments for the lead plaintiffs."

The case against the Four Seasons was one of several class actions brought in 2008 against hotel chains in Hawaii federal court by waitstaff workers who alleged they were being stiffed on automatic gratuity fees often levied on bills for large events such as wedding and parties.

In 2010, Hawaii's high court decided the Four Seasons plaintiffs had standing to bring the suits, but would need to prove that the hotel policies had an anti-competitive effect along the lines of an antitrust case.

But earlier this year in a related case, the high court **formally gave the green light** for the workers to sue under Hawaii wage laws. Harold Lichten, a partner with Lichten & Liss-Riordan PC who represents the plaintiffs, called the latter decision the "last nail in the coffin" for the hotels and hoped that more settlements would soon follow.

"We never dreamed when we took the case that it would take five years and two trips up and down to the Hawaii Supreme Court," Lichten told Law360. "We're very pleased about settling with Four Seasons and we are hoping to resolve the other cases too."

A third of the \$4 million settlement fund will be set aside for costs and attorneys' fees and will also cover payments of \$25,000 for each of the six named plaintiffs in the suit.

An attorney for Four Seasons did not immediately respond to a request for comment Thursday.

The plaintiffs are represented by David A. Rosenfeld, Ashley K. Ikeda and Stephanie Marn of Weinberg Roger & Rosenfeld APC and by Harold L. Lichten and Shannon Liss-Riordan of

Lichten & Liss-Riordan PC.

Four Seasons is represented by Robert S. Katz and Wayne S. Yoshigai of Torkildson Katz Moore Hetherington & Harris ALC and Paul E. Wagner of Stokes Wagner Hunt Maretz & Terrell ALC.

The case is Davis et al. v. Four Seasons Hotel Ltd., case number 1:08-cv-00525, in the U.S. District Court for the District of Hawaii.

--Editing by Katherine Rautenberg.

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