

Seven Philadelphia area health systems sued over lunch breaks

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Seven of Philadelphia's largest health systems were sued yesterday and Friday by employees who said they were not compensated when they worked through their unpaid lunch hours.

Among the plaintiffs is nurse Pamela Kimble-Armstrong of Vineland, who said she was fired for taking a 15-minute break when she worked in the emergency room at Mercy Philadelphia Hospital in Southwest Philadelphia.

"A lot of times I worked triage," she said. "I was the only nurse out there." It got so bad, she said, that she started to wear adult diapers to work because it was close to impossible to get a bathroom break, let alone find time to eat a sandwich.

Named in the suits, which seek class-action status, were the University of Pennsylvania Health System, the Jefferson Health System, Temple University Health System, Mercy Health System, Albert Einstein Healthcare Network, Abington Memorial Hospital, and Aria Health System (formerly Frankford Healthcare System).

"We understand that a complaint may have been filed against Mercy Health System," the company said in a statement yesterday. "We remain committed to fair and lawful pay practices and plan to defend ourselves vigorously in any lawsuit." Mercy declined further comment.

Temple, Abington, and the University of Pennsylvania had similar responses. Jefferson, Einstein, and Aria did not return calls for comment.

"The people in hospitals put their patients first, and that's great," said J. Nelson Thomas, a partner in Thomas & Solomon L.L.P., the Rochester, N.Y., law firm that filed the suits in federal and state court.

"The hospital knows what's going on and expects them to do it. That's great," he said. "But just pay them for the time."

Federal and state law require that hourly workers be paid for all the time that they are working, even if it leads to being paid at an overtime rate.

Thomas & Solomon has filed similar suits in Pittsburgh, Boston, Buffalo, Rochester, and Syracuse, N.Y. Thomas said the hospitals' computerized payroll systems automatically deduct an unpaid half-hour lunch break.

But when nurses, technicians, janitors, or other hourly employees get too busy for lunch, they are not paid unless they ask for compensation, he said.

Employees may be afraid to push for their pay, especially in this economy, said Bill Cruice, executive director of the Pennsylvania Association of Staff Nurses and Allied Professionals, a union that represents 5,000 health-care workers statewide, including employees of Temple University Hospital and several other hospitals in the area.

They also are reluctant to leave their coworkers shorthanded on the hospital floor, he said. The union, he said, supports the idea of the suit but is not involved in it.

Working through unpaid lunch breaks becomes an unacceptable part of the hospital culture, Cruice said.

"Employers do this with a wink and nod," he said. They routinely understaff units, taking advantage of health workers' professionalism, he said.

The culture involving working through breaks can vary within a hospital.

In Temple University Hospital's emergency ward, staffers end up working through their breaks about half the time, said Patricia Eakin, an emergency-room nurse who is also president of the union.

To get paid, the nurses just check their names on a form saying they worked through their lunch breaks. "We shouldn't have to go through that aggravation," she said.

Cruice said it was not that way in every unit or for every category of worker - housekeeping staffers may be less assertive than emergency-room nurses.

To participate in the suit, workers must contact the law firm.

In Rochester, there was a \$9 million settlement that included legal fees and up to \$700 a worker for 26,000 workers, according to published reports about the case.

***Prior results do not guarantee similar outcomes.**