

Written by Administrator

Saturday, 09 December 2017 00:05 -

MARTINSBURG—An employee at Hollywood Casino in Charles Town, has filed a class action and collective action civil complaint in the U.S. District Court for the Northern District of West Virginia against the company seeking relief for alleged withheld wages on behalf of herself and any similarly situated employees and/or former employees.

According to the complaint, the case was filed on Nov. 8 in response to the “improper use of the tip pool for purposes of a paid time off fund” against PNGI Charles Town Gaming, LLC; Hollywood Casino at Charles Town Races; and Penn National Gaming, Inc.

Eric Schippers, senior vice president, public affairs and government relations of Penn National Gaming, said on behalf of Hollywood Casino at Charles Town Races, while Hollywood does not typically comment on pending litigation, the allegations are incorrect and all of the tips received by dealers are distributed to dealers in the same pay period.

Allegations in the complaint said that Linda Barrick was employed as a dealer at Hollywood Casino around May 2011 with compensation of \$5.50 per hour plus tips. The complaint said she was given a raise to \$6.50 an hour plus tips.

According to the complaint, during each shift, the defendants require dealers to allocate the totality of their tips to a top pool shared with all other dealers on the same shift at Hollywood Casino. At the end of each shift, the tips are split equally among the dealers on that shift. Tips are in varying amounts based on daily customer base, the complaint said.

The daily tip pool generates an average of approximately \$21.50 per hour per dealer, the complaint said. However, some days, the tip pool can generate an hourly wage of \$60 to \$70 per dealer.

“On such days when the tip pool generates higher hourly wages for the dealers, defendants, at their discretion and without notifying the dealers, remove funds from the tip pool to support future payments of dealers’ paid time off,” the complaint said. “This, in turn, reduces the daily tip rate and overall daily hourly wage for plaintiff and for other dealers.”

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The complaint said the defendants violated and continue to violate federal wage and hour requirements by not allowing to dealers all to retain all of their tips.

Count one of the complaint discussed breach of contract, common law; count two discussed West Virginia Wage Payment and Collection Act (West Virginia code 21-5-1); and count three discussed the Fair Labor Standards Act of 1938 (29 U.S.C. 201).

The complaint called for a “prayer for relief.”

“Exact amounts owed to plaintiff and the punitive class members is unknown, but will be determined and stated after review of the defendants’ records and/or upon trial of this matter,” the complaint said.

According to the complaint, the prayer for relief from the court includes declaration from the defendants that they committed violations of the West Virginia Wage Payment and Collection Act and Fair Labor Standards Act of 1938. The complaint also requested an award judgment in the amount of the difference between the wages actually paid to the classes and the wages owed to them under FLSA, WPCA and defendants’ tip pool compensation policy contract; award judgment for the classes’ economic damages in amounts according to proof as provided for in the FLSA, WPCA and WV common law; award liquidated damages; award interest due to unpaid wages; and award reasonable attorney’s fee and the costs of this action.

“Any employee at Hollywood who has concerns about his or her pay is welcome to bring those concerns to the attention of Human Resources,” Schippers said. “Hollywood Casino will respond further to the allegations in its defense of the litigation, which Hollywood believes will be dismissed.”

Barrick is represented by the Employment Law Group as well as Garry Geffert.

Staff writer Kelsie LeRose can be reached at 304-263-8931, ext. 131, or Twitter@kleroseJN.

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