

Crowne Plaza service workers net \$10K or more

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PITTSFIELD -- Although the checks won't be in the mail until mid-October, 150 current and former banquet-service employees of the Crowne Plaza Hotel will get big payouts following a final Berkshire Superior Court order affirming settlement of a class-action lawsuit filed on their behalf.

Dozens of people will be getting up to \$10,000 each, according to Boston attorney Paul Holtzman, who represented the employees in their suit for payment of a portion of tips withheld by Berkshire Common Corp., owner of the city's largest hotel.

Twenty employees will receive more than \$10,000 each.

"These are hard-working folks who live from week to week in many cases," Holtzman said on Monday. "The ability to get the money back can be life-changing for someone working for an hourly wage of \$2.63. They can go back to school or start new business ventures."

Berkshire Common and the employees' group of waiters and bartenders signed off on a total settlement of \$1.3 million. After subtraction of legal fees and administrative costs, the group shares an award of about \$850,000.

The checks include 42 percent interest on the money owed, Holtzman explained. "The employer had use of this money, so we wanted to make sure we got the interest," he said.

Under state law, waiters and bartenders in hotels, resorts, country clubs, banquet facilities, catering firms, restaurants and spas employing workers such as massage therapists, hairdressers and nail technicians are entitled to all service charges imposed by the facility and any extra tips offered by patrons.

Employees in management are not allowed to gain any portion of the tips.

Attorney Richard Michaud of the Boston law firm Bernkopf Goodman, which represented Berkshire Common Corp. owner Eugene Weiss and Crowne Plaza manager Charles Burnick, did not return a call seeking comment on Monday. But he told The Eagle last February -- when a preliminary agreement was announced -- that although the case was based on a "misunderstanding," Berkshire Commons and its insurance company agreed to the settlement.

According to court documents, the hotel's owners had denied any liability or wrongdoing.

Michelle Richards of Pittsfield, who worked at Crowne Plaza for seven years before leaving last July, explained that "they were really messing with us, but we didn't know. Half the time, people weren't getting the right pay for the right hours."

During her first years there, she said, the full 20 percent service charge was paid, but in her final two years, "they brought it down to 14 percent, with 6 percent going to management."

The suit was originally filed at Berkshire Superior Court in December 2009 on behalf of the employees who served customers at Crowne Plaza banquets between November 2006 and June 2010. Superior Court Judge Daniel A. Ford issued the final approval of the class-action agreement last week after a fairness hearing.

Holtzman said he and his firm, Krokidas and Bluestein, are investigating several other potential cases involving Berkshire County facilities. Although he has handled unpaid-tips lawsuits statewide, the majority of cases involve the resort areas of Berkshire County and Cape Cod.

"What we've seen is that customers and organizers of banquets and business meetings are only too happy to pay a

generous tip to the waiters and bartenders they see working hard," Holtzman said. "In some instances, we've seen companies serving those patrons dip into that money themselves. It's a significant amount which, for some, is very tempting."

Anthony Chavarry of Dalton was the whistleblower and the lead plaintiff on behalf of the workers in the class-action suit, which contended that one-third of the 20 percent service charges was withheld.

Attorney Holtzman said that anyone seeking further information can call him at (617) 482-7211.

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Follow the money ...

The following list covers class-action lawsuit settlements involving portions of service charges withheld by area employers to food and beverage workers or spa attendants:

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- Canyon Ranch: \$14,750,000 (600 employees) 2008
-
- Cranwell Resort: \$7 million (700 employees) 2011
-
- Crowne Plaza Hotel: \$1.3 million (150 employees) 2012
-
- Orchards Hotel: \$240,000 (150 employees) 2010

Note: These are total settlements before legal fees and administrative costs.

Sources: Court documents; Eagle and Transcript archives.