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Call Center Inks Deal With Workers In Virus Form Time Suit

By **Carolina Bolado**

Law360 (May 6, 2022, 3:59 PM EDT) -- A group of call center workers claiming that a Maximus Inc. subsidiary paid improper overtime by making them respond to coronavirus health questions asked a Florida federal court Thursday to approve a settlement with the 347 plaintiffs who have opted in to the collective action.

The plaintiffs told the court that Maximus Federal Services Inc. had agreed to pay \$75,000 to end their claims that time they spent completing the required health assessments went unpaid.

The \$75,000 will be used to pay claims for the 347 plaintiffs, all of whom had to opt in to the suit, which was **conditionally certified last year**. The \$75,000 settlement fund will also be used to pay \$2,750 to each of the four named plaintiffs, attorney fees of \$21,651.77, and litigation costs of \$13,051.02, according to the settlement.

In addition, Maximus agreed to pay up to \$11,000 for the settlement administrator's fees and costs, according to the settlement.

In their motion for approval, the plaintiffs and Maximus said that in the absence of the settlement, they would have engaged in "lengthy, complex and costly legal proceedings that would last for months or even years."

"Among other things, the parties would have had to undertake time-consuming and expensive discovery, including depositions; brief [Fair Labor Standards Act] decertification; brief summary judgment motions regarding the merits of plaintiffs' claims; and possibly proceed to trial and post-trial appeal proceedings," they said in the motion. "Thus, the complexity, expense and likely duration of legal proceedings weighs in favor of settlement approval."

Chad Levy, who represents the plaintiffs, told Law360 that the settlement is a "fair and reasonable settlement on both sides, and all parties are able to move forward without the expense and time of potentially litigating 347 plaintiff claims."

An attorney for Maximus did not respond to a request for comment.

In the suit, filed in April 2021 by four former call center workers, they alleged that Maximus Federal Services, a subsidiary of government services provider Maximus, violated the FLSA by failing to pay proper overtime, stemming from the unpaid time they spent completing the health assessments.

In response to COVID-19 pandemic, the workers had to answer daily health screening questions on a mobile app, according to the suit. Doing so would take 15 to 20 minutes each day, for which they did not receive compensation, they claimed.

The company pushed back on the workers' request for conditional certification and put forward declarations by two managers and nine employees who said the health screenings took at most 40 seconds and by a data analyst saying the average time spent was 32 seconds.

But last July, U.S. District Judge James I. Cohn conditionally certified the collective, saying the workers showed under a lenient standard that they were similarly situated, despite concerns about how long they said it took them to use the health screening application.

The difference between the amount of time the workers claimed the assessment took them to complete — up to 20 minutes daily — and the length other employees the company put forward said it took — up to 40 seconds — could cause certification issues later on, the judge said.

The plaintiffs are represented by Chad E. Levy and David M. Cozad of Law Offices of Levy & Levy PA and Peter R. Siegel and Alejandro I. Leiva of Greenspoon Marder LLP.

Maximus is represented by Robert R. Hearn, Paul DeCamp and Adriana S. Kosovych of Epstein Becker Green.

The case is *Ferjani et al. v. Maximus Federal Services Inc.*, case number 0:21-cv-60770, in the U.S. District Court for the Southern District of Florida.

--Additional reporting by Max Kutner. Editing by Patrick Reagan.

Update: This story has been updated to include comment from counsel.