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Road Engineering Co. Hit With FLSA Suit For Unpaid Wages

By **Sarah Jarvis**

Law360 (June 9, 2020, 9:39 PM EDT) -- An asphalt road engineering company was hit with a proposed class action in New York federal court Tuesday from employees accusing it of failing to pay them for required travel time to work sites in violation of the Fair Labor Standards Act.

The proposed class suit said The Gorman Group LLC, which provides road engineering services to municipalities throughout the Northeast, engaged in a pattern of violating the FLSA by not paying proper overtime wages to employees who worked more than 40 hours per week. The suit also names Gorman Bros. Inc. and company owners Albert Mark Gorman and Paul Anthony Gorman as defendants.

Employee Andrew Spiciarich and former employees Joel O'Neil and Ian Anderson said in their complaint that they have worked up to 60 hours per week without receiving the appropriate overtime pay.

The employees said the workforce at Gorman is organized into "crews" of hourly employees who travel from their residences to a meet-up location to perform work preparing their machine and vehicles for the day. The workers then depart with their crew to their assigned job site, which is generally a 90-minute to two-hour drive from the meet-up location, according to the complaint.

But the time the workers spend traveling from the meet-up location to the work site is not counted toward the hours they work, the employees said, adding that Gorman knows the workers regularly travel between assigned work sites.

"Despite being non-exempt employees, defendants have failed to properly pay plaintiffs and other hourly workers overtime compensation at 1.5 times their regular rate of pay when they work over 40 hours per workweek," the employees said. "Specifically, defendants failed to add together all compensable time, including time worked traveling between jobsites, for the purposes of overtime compensation."

The employees brought their FLSA claim on behalf of themselves "and all similarly situated persons who work or have worked as hourly workers for The Gorman Group who elect to opt-in to this action," the suit said.

The complaint included four other counts under New York Labor Law, which the employees brought on behalf of themselves and a proposed class consisting of anyone who was an hourly worker at the company in New York between June 9, 2014, and the date of final judgment in this case.

The employees are seeking unpaid overtime wages, unlawful deductions of wages, liquidated damages, pre- and post-judgment interest, and attorney fees. They also requested statutory penalties of \$250 for each work week that Gorman failed to provide employees with accurate wage statements or a total of \$5,000 each.

The employees and the proposed class are represented by Brian S. Schaffer and Hunter Benharris of Fitapelli & Schaffer LLP.

Counsel information for The Gorman Group was not immediately available Tuesday.

The case is Andrew Spiciarich et al. v. The Gorman Group LLC et al., case number 5:00-at-99999, in the U.S. District Court for the Northern District of New York.

--Editing by Daniel King.

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