

The Berkshire Eagle



Cranwell workers get \$7M Gratuities owed in settlement mailed to 700 employees

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LENOX - For 700 current and former employees of **Cranwell** Resort, Spa and Golf Club, it will be an especially happy New Year's Day thanks to \$7 million in lawsuit settlement checks that landed in their mailboxes this week.

The 400 food-service and 300 spa workers are each getting thousands of dollars from a class-action lawsuit that was settled out of court then finalized at a fairness hearing in Berkshire Superior Court last month.

The settlements include tips withheld by the resort plus interest, said attorney Paul Holtzman of the Boston firm Krokidas and Bluestein, which represented the workers.

Checks for food- service workers also include the difference between their \$ 2.83 an hour " sub- minimum wage" and the \$ 8 an hour state minimum for other employees.

" If an employer doesn't pay all your tips, then state law prohibits them from using sub- minimum wages," Holtzman said. " The tips were withheld, so that violation triggers the other minimum- wage violation."

Spa employees who were paid at or above the \$8 an hour minimum

are receiving settlements representing the 20 percent gratuities that were not paid to them, Holtzman explained.

This week's checks also include penalty interest charges - 32 percent for the spa workers and 40 percent for the food-service employees.

For Erin Meizinger of New Lebanon, N.Y., now the mother of two and a parttime waitress at Mario's Restaurant on Route 22, the check will "help us get ahead of bills as much as we can."

She worked at **Cranwell** in 2002 and 2003 as a nail technician in the spa and recalled that the non-payment of gratuities was brought up to management. But she said the claim "was ignored or people

were pushed out the door. They weren't fair to the workers in general. It's nice to see more people are getting the justice and the money they earned."

Meizinger plans to attend beauty school and then seek employment in a smaller, family-oriented spa.

"The worst part was having to lie to the spa-savvy guests who asked us if we were receiving the 20 percent gratuities on their bills," said Polly Karis of Stephentown, N.Y., a massage therapist at **Cranwell** from January 2003 to June 2007. She plans to use her settlement to help pay for graduate school.

Karis and her fellow workers quickly realized that the gratuities were missing from their paychecks but during a meeting with the spa director, she said, the employees were told to lie to the guests who asked if the tips were being passed on.

"My mother always taught me not to lie," said Karis, adding that she always told the truth to her clients "as tactfully as possible" despite instructions to the contrary.

Following complaints by the workers, the resort started referring to the 20 percent gratuity listed on patrons' bills as a "service charge," she added.

" It was very demeaning when the spa director went around the

room, asking us to rehearse how we would lie to the guests," Karis told The Eagle. "That was the biggest frustration for us."

But now, Karis said, justice has been served and the "people who were wronged were compensated. Most important, it sets a precedent for people who work on tips."

"There were many wonderful things about working at **Cranwell**, and I didn't want to be the kind of employee who speaks badly about our employer," she recalled. "It put many of us in a pickle, we were up against having to put a lie between ourselves and the public."

According to Holtzman, " the laws on wages are intended to make sure workers get monies owed in a timely fashion."

The food and beverageservice workers did receive 75 percent of their tips, he said, but the spa employees did not receive any of the 20 percent gratuity or service charges billed to guests who paid on average \$100 apiece for spa services.

"Any time there's a settlement in one of these cases it's an important reminder to companies, hotels and spas that tips are required to be paid 100 percent to the employees who earned them," Holtzman said.

The lawsuit, first filed in 2007 by a half-dozen plaintiffs representing the 600 workers, named **Cranwell** Management Corp. and those who made up the resort's five member executive team at that time. The lawsuit covered unpaid tips dating back to 2002.

Cranwell's current general manager, Carl Pratt, who assumed the post last March, has told The Eagle that **Cranwell** denies any liability and never instructed employees to lie to patrons.

"We're pleased to have the matter behind us," he said Thursday, "and we're looking forward to continued support of the economy as we have done for the past 19 years."

Similar cases involving withholding of gratuities to employees have been resolved in recent years. In 2008, Canyon Ranch paid out \$14,750,000 in an out-of-court settlement to 600 employees who worked there from April 2004 until October 2007. Canyon Ranch also denied any wrongdoing.

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About 700 current and former employees of the **Cranwell** Resort in Lenox have received checks representing unpaid gratuities that were settled in a class-action lawsuit.

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