

# The Berkshire Eagle

Pittsfield, Massachusetts, Tuesday, October 23, 2012

## Pittsfield

# Hotel tip case not isolated

### Situations similar to the Crowne Plaza's are being studied

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PITTSFIELD — Now that 150 current and former food service employees of the Crowne Plaza Hotel are receiving checks into the tens of thousands of dollars for tips partially withheld by management, similar cases in Berkshire County and elsewhere in the state are on the radar.

According to attorney Paul Holtzman of the Krokidas and Bluestein firm in Boston, "Questions have been raised about other Crowne Plazas, as well as catering companies, country clubs, and inns, hotels and resorts in Berkshire County and other parts of the state."

The \$1.3 million payout by the local Crowne Plaza results from an out-of-court settlement announced last February following a class-action lawsuit first filed at Berkshire Superior Court in November 2009 on behalf of the employees who served customers at banquets between November 2006 and June 2010.

The employees are sharing about \$850,000, while the remainder covers legal fees and related expenses.

The amount of each check awarded to the employees was based on the number of hours they worked at the hotel during that time span.

TIPS, continued on A3

## Hospitality workers need to be aware of rules on tips

### TIPS from A1

The Berkshire Common Corp., owner of the city's largest hotel, did not contest the settlement at a fairness hearing in the court.

One former Crowne Plaza employee said she is looking forward to a \$32,000 check for unpaid service charges.

Studying at BCC for a new career as a veterinarian, Anne (who preferred not to give her last name for privacy concerns) said she'll pay off some bills and save the funds until her daughter, now a junior at Pittsfield High, graduates.

"This really changed my life," said Anne, explaining that she intends to move to Florida eventually, buy a small mobile home, and pursue her career there.

Recalling her time at the hotel, the Pittsfield resident said "you never knew what you were going to get, that was the hard part. I always questioned the paychecks, but they didn't have any explanation."

"I didn't know I had any rights," said Debra Laframboise of Pittsfield, who worked at the hotel in 2005 and 2006

### By the numbers...

Recent out-of-court settlements involving partial non-payment of service charges to waitstaff at Berkshire County facilities:

■ **Crowne Plaza Hotel, Pittsfield:** \$1.3 million, 150 employees (February 2012)

■ **Cranwell Resort, Lenox:** \$7 million, 700 employees (November 2011)

■ **Orchards Inn, Williamstown:** \$240,000, 100 employees (Mid 2010)

■ **Canyon Ranch, Lenox:** \$4.75 million, 600 employees (Mid 2008)

Sources: Krokidas and Bluestein law firm in Boston; Eagle and Transcript archives; other published reports. Note: Settlements include legal fees.

and is now a paraprofessional for special needs students at Pittsfield High School.

"I was so ticked off with the way they treated me that I walked out," she added. Laframboise will use her

check, which arrived on Monday, to catch up on back bills.

The settlement was the fourth of its kind at a Berkshire facility in recent years.

"At any facility that has banquet operations," Holtzman said, "workers need to ask hard questions about whether tips are being diverted. If they get evasive answers or they're not getting the dollars they worked so hard for, they need to keep asking the questions."

Typically, said Holtzman, the facility keeps a portion of service charges at major events such as weddings, in some cases distributing them to sales and other management staffers.

According to court documents on the Crowne Plaza case, lead plaintiff Anthony Chavarry of Dalton, who served as the whistleblower, received a \$10,000 "incentive award" for being the first to bring the violations to light and to represent his fellow workers.

Chavarry explained that one-third of a 20 percent service charge billed to patrons at banquets was withheld by the hotel management.

Attorney Richard Michaud of the Boston law firm Bernkopf Goodman, representing Berkshire Commons Corp. owner Eugene Weiss and hotel manager Charles Burnick, called it a "misunderstanding."

Under state law, waitstaff members earn \$2.63 an hour as a minimum wage, but employers must distribute full tips, or compensate them up to the state's general minimum wage level of \$8 per hour. Food and beverage service managers, sales staff and others in management are not entitled to any portion of gratuities.

"Many companies do it right but some choose to engage in wage theft of this kind," Holtzman stated, pointing out that some guests who found that service charges were going to managers instead of waitstaff felt defrauded and were anxious to be sure the money was recovered for the employee.

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