

Wal-Mart to Pay More Than \$33 Million to Employees in Back Wages

By Kenneth Davis

Wal-Mart Stores, Inc., will pay more than \$33 million in back wages to thousands of employees after turning itself in to the Labor Department for paying too little overtime over the past five years, according to an agreement announced by the U.S. Department of Labor.

The company said that because of errors in calculations, it underpaid about 87,000 employees nationwide by at least \$20 each during the past five years. But some are owed much more, including one person who is to receive \$39,775.

Wal-Mart approached the Labor Department in 2005 after errors were discovered in an internal audit, according to Steven Mandel, Associate Solicitor in the Labor Department's Fair Labor Standards Division. He said that the employees will receive their back pay within 90 days.

"It's not particularly unusual for an employer to come to us and talk to us about potential payroll violations," Mandel said.

But he also said the overtime settlement was one of the largest ever reached by the department's wage and hour division.

Wal-Mart said the settlement includes no fines or penalties and that it has adopted measures to prevent such errors from occurring again.

"The issue has been resolved," said John Simley, a Wal-Mart spokesman. "We are committed to our associates, and we apologize to them for this error."

About 75 employees are owed more than \$10,000, according to Simley. He said Wal-Mart discovered possible mistakes in its formulas for calculating overtime during a regular internal review. Simley added that there was no connection between the company reporting itself to the Labor Department and multiple lawsuits brought against the retailer in recent years by employees alleging payroll violations.

Additionally, the retailer said the department's review of its overtime calculations revealed it had overpaid about 215,000 hourly workers during the same five-year period. The company said it will not seek to recover any overpayments.

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Union-backed WakeUpWalMart.com, one of Wal-Mart's most outspoken critics, said that the overtime settlement was a sweetheart deal that favored the retailer rather than its employees. WakeUpWalMart.com spokesman Chris Kofinis said the workers were not represented in the settlement talks and added that the idea that Wal-Mart "would negotiate in the best interest of its workers is ludicrous on its face."

Wal-Mart is not out of the woods yet, as it will still face legal challenges from at least one state. On January 25, 2007, the California Labor Commissioner filed suit against Wal-Mart in the Sacramento Superior Court, alleging miscalculations of overtime pay. The retailer notified the state in December 2005 of payroll errors that resulted in underpayment of about 50,000 workers in the state. About 90% are owed less than \$20, according to the California Department of Industrial Relations. It estimates that a settlement would exceed \$2 million.

Critics had previously denounced a separate Labor Department settlement with Wal-Mart over child-labor violations, which was made public last February.

The \$135,540 settlement was later found by the Labor Department's inspector general to contain significant concessions to the retailer. The inspector general's report said the settlement was "significantly different" from other such agreements and included far-reaching restrictions on the government's ability to assess monetary penalties.

Over the years, Wal-Mart has been involved in a number of wage-and-hour-related suits. Last October, Wal-Mart workers in Pennsylvania won a \$78.5-million judgment for being forced to work off the clock and through rest breaks. Wal-Mart denied any wrongdoing and is appealing the jury's award.

In 2002, a federal jury in Oregon found that Wal-Mart employees had been forced to work off the clock and awarded back pay to 83 workers. In 2004, Wal-Mart settled a similar lunch-break case in Colorado for \$50 million.

At least 57 other wage-and-hour cases have been filed across the United States against Wal-Mart, and many of them are awaiting class-action certification, according to company filings.

Wal-Mart's decision to report this recent problem is indicative of how visible it has become, according to Harley Shaiken, a labor professor at the University of California at Berkeley (*The Washington Post*). "They realized there was a problem and didn't want to see it become a worse problem," he said. "I think Wal-Mart has really learned that putting it under the rug doesn't make it better."

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Wal-Mart Stores, Inc.
www.walmart.com

University of California, Berkeley
www.berkeley.edu

The U.S. Department of Labor
www.dol.gov