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## Fla. IHOP Franchisee Hit With Overtime Suit

By **Joyce Hanson**

Law360, New York (April 26, 2017, 3:38 PM EDT) -- Employees of a Florida franchisee of pancake restaurant chain IHOP filed a proposed collective action against their employer in Florida federal court Tuesday, accusing it of improperly classifying assistant managers and managers in training as being exempt from overtime pay.

The complaint filed by lead plaintiff Angela Littlejohn against IHOP franchisee Sunshine Restaurant Merger Sub LLC and Sunshine Restaurant Partners LLC alleged that SRP unlawfully classifies all of its assistant managers and managers in training as exempt from the minimum wage and overtime requirements of the U.S. Fair Labor Standards Act even though they should be classified as non-exempt employees.

"SRP's unlawful conduct has been pursuant to a corporate policy or practice of minimizing labor costs by violating the FLSA wage and hour laws," the complaint said. "SRP knew or recklessly disregarded the fact that underfunding store labor budgets resulted in plaintiffs and other AMs and MITs working more than 40 hours in a workweek without receiving any additional overtime compensation. This allowed SRP to avoid paying additional wages including overtime to the non-exempt, store-level employees."

Sunshine Restaurant Partners, which operates more than 150 restaurants in Florida and Georgia, employed Littlejohn as an assistant manager at its Fort Myers, Florida, restaurant from November 2013 until August 2014 and paid her an annual salary of approximately \$36,000 per year, including when she was doing her initial training to become an assistant manager, according to her complaint.

SRP's policy and practice was to require Littlejohn to put in between 50 and 55 hours during the workweek as an assistant manager but not to pay her premium overtime compensation for the hours she worked in excess of 40 each week, the complaint said.

The franchisee requires assistant managers to work a minimum of 72 hours per week during the company's initial four-week training course, during which time they are classified by SRP as exempt from overtime, according to the complaint.

"To minimize labor costs, SRP staffs its stores leanly and strictly manages hours worked by non-exempt, hourly employees to avoid paying them overtime," the complaint alleged. "To compensate for this approach, SRP relies heavily on its salaried managers to perform non-exempt duties at its restaurants when there are not enough hourly employees to properly do so."

The proposed FLSA collective action includes within the class all current or former Sunshine Restaurant Partners assistant managers working on or after March 21, 2014, who choose to opt in to the suit.

The suit seeks to recover unpaid overtime compensation and an additional and equal amount as liquidated damages under the FLSA.

Representatives for Littlejohn and Sunshine Restaurant did not immediately respond Wednesday to requests for comment.

Littlejohn is represented by Gregg I. Shavitz and Alan L. Quiles of the Shavitz Law Group.

Legal counsel information for Sunshine Restaurant was not available.

The case is Littlejohn et al. v. Sunshine Restaurant Merger Sub LLC et al., case number 0:17-cv-60810, in the U.S. District Court for the Southern District of Florida.

--Editing by Orlando Lorenzo.