



New York Jets Settle Cheerleaders' Wage Lawsuit

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Last week, a New Jersey state judge approved a \$324,000 settlement between the New York Jets (the "Jets") and 52 female cheerleaders stemming from a class-action lawsuit seeking unpaid wages and reimbursement of work-related expenses.

A former Jets cheerleader filed the class action lawsuit in New Jersey state court in Bergen County in 2014 alleging that the Jets paid less than minimum wage to its cheerleading staff. The lawsuit further alleged that the Jets paid their cheerleaders \$150 per game and \$100 for special events, however, the cheerleaders were not paid for practices. Moreover, the cheerleaders were allegedly required to work "off the clock" at home, attend rehearsals three days a week without pay, spend their own money on travel, makeup, and pay for maintenance of their uniforms. With these requirements, the lawsuit alleged that the cheerleaders were paid an average of \$3.77 an hour, or \$1.50 an hour with out-of-pocket expenses. "When you figure all that up, they were making less than minimum wage," Patricia V. Pierce, a lawyer for the cheerleader who initially commenced the lawsuit against the team.

According to the settlement agreement, the agreement covers the 2012-2013 and 2013-2014 NFL seasons. The Jets agreed to pay the cheerleaders \$2,500 per season per person. In addition to \$2,500, cheerleaders who participated in the annual calendar photo shoots would receive \$400 per photo shoot. However, the Jets are not required to admit any wrongdoing in the settlement. According to a team statement attached to the settlement, the team agreed to settle "to avoid the expense, time and distraction of litigation."

The Jets cheerleaders aren't the first group of cheerleaders to commence a lawsuit against an NFL team seeking unpaid wages. The lead plaintiff in the Jets' lawsuit stated that she was inspired to come forward after similar legal actions were taken by cheerleaders against the Oakland Raiders, Cincinnati Bengals, and Buffalo Bills. The Oakland Raiders settled its wage lawsuit concerning the cheerleaders for \$1.25 million in September 2014, and the Cincinnati Bengals agreed to pay its cheerleaders \$255,000 in August 2015. The cheerleaders in the Buffalo Bills case were recently granted their class-action status by a New York state judge in January 2016.

In the same week when the Jets' settlement agreement was approved by a New Jersey state judge, a bill was introduced in the New Jersey state legislature calling for better wages and benefits for cheerleaders. The proposed bill seeks to extend employment protections provided under New Jersey labor laws to cheerleaders affiliated with professional sports teams in New Jersey. Such protections would include providing minimum wage, unemployment compensation, and civil rights protections.

Last year, a similar bill, the Cheerleaders' Fair Pay Act, was introduced in the New York state legislature. The bill is currently pending and was introduced in the New York state senate after cheerleaders filed a class action lawsuit against the Buffalo Bills. The bill would amend the New York Labor Law to provide "cheerleaders employed by a professional sports team in New York State with the same rights, benefits, and protections conferred to its employees who have entered into professional sports-services contracts," according to New York state Senator Savino.

There have been numerous lawsuits in the past several years regarding the alleged improper classification of workers. Many workers have sued their employers alleging that they are employees rather than independent contractors, and, therefore, are entitled to protections afforded to employees such as minimum wage and collective bargaining rights. Employers are advised to follow these cases closely and monitor developments in the federal, state, and local legislature in order to ensure compliance with various federal, state, and local labor laws.

If you or your institution has any questions or concerns regarding employment or education-related issues, please contact Hayley B. Dryer at hdryer@cullenanddykman.com or at 516-357-3745.

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