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Sports » C1

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Marin Independent Journal

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NURSE CASE MANAGERS

\$850,000 MGH labor settlement

Hospital, Sutter to pay in dispute over wages

By Richard Halstead
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Marin General Hospital and Sutter Health Corp. have agreed as part of a court settlement to pay \$850,000 to an estimated 47 current and former nurse case managers to compensate them for un-

paid overtime and failing to pay all wages due at time of termination.

Marin General will pay the bulk of the settlement, \$750,000, while Sutter Health will pay \$100,000. That is because the settlement applies to nurse case managers who worked at Marin General from March 14, 2010, through March 1, 2016. Sutter Health turned over

management of the hospital to Marin General Hospital Corp. in July 2010.

"Marin General Hospital acts lawfully at all times and in this case, we chose to forego the time and expense of further litigation by settling these claims," Jamie Maites, a spokeswoman for Marin

MGH » PAGE 2



Marin General Hospital settled a suit involving current and former nurse case managers.

IJ PHOTO — FRANKIE FROST

MGH

FROM PAGE 1

General, said by email in response to an Independent Journal inquiry.

Also responding by email, Bill Gleeson, a spokesman for Sutter Health, said, "Rather than litigate for years, Sutter decided to contribute \$100,000 toward the voluntary resolution of the matter. The court's order does not make any findings on the merits of the case, and Sutter denies any wrongdoing or liability."

The plaintiff's co-counsel, Robert Jaret of San Rafael, said that nearly all of the 30 nurse case managers that he and co-counsel Arthur Siegel of San Francisco are representing in the class action no longer work for Marin General.

Retaliation claim

Nurse case managers,

who coordinate all aspects of a patient's care including their discharge, have taken on an even more pivotal role since passage of the Affordable Care Act. Under health care reform, hospitals are financially rewarded for eliminating unnecessary tests and treatment, if they can do so while maintaining good patient outcomes.

Two of the nurse case managers named as class representatives in the settlement — Sharon Reid and Ching Redmon — filed a separate suit in March 2014 that also included allegations of retaliation by Marin General managers for complaints the nurses registered regarding patient care and nurse safety.

According to the suit, the two nurse case managers complained about staffing shortages and deficiencies in the hospital's facilities that were causing worker injuries. The suit alleged that the nurses' concerns

were ignored by their supervisors, and that the nurses were admonished and labeled as troublemakers by management.

The suit states that when Reid and Redmon notified the hospital's human resources department regarding the retaliation nothing was done to protect them. And the suit alleges that eventually Reid and Redmon quit their jobs "because of the intolerable working conditions."

Maites said, "Marin General Hospital always encourages our employees to raise health and safety issues with us, and we do not retaliate against any employee for doing so — in fact, we appreciate it."

Overtime pay

In addition, she said, "Taking care of our employees is one of our highest priorities. Since our Safe Patient Handling Program launched, the average an-

nual number of patient handling claims has decreased by 38 percent."

Jaret said, "They (Reid and Redmon) settled their individual claims separately, and it's a confidential settlement agreement; but their wage and hours claims are being paid through the class action."

Under the Fair Labor Standards Act, employers must pay "non-exempt" employees one-and-a-half times their regular rate of pay when they work more than 40 hours a week. According to the suit filed by Jaret, the nurse case managers he is representing sometimes worked more than 12 hours a day, and seven or more consecutive days in a work week, without being paid overtime.

Under the Fair Labor Standards Act, employers must pay "non-exempt" employees one-and-a-half times their regular rate of pay when they work more

than 40 hours a week. But until Marin General reclassified its nurse case managers in June 2013, they were classified as "exempt" and therefore didn't qualify for overtime pay.

Maites said, "For decades, we have treated our nurse case managers as professional, salaried employees, and have chosen to pay our nurses near the top percentile nationally. Three years ago we voluntarily granted those employees' request to be paid daily and weekly overtime, following the example set by other area hospitals that had also done so."

Jaret, however, said that the hospital reclassified the nurse managers in 2013 indicates it knew it had a problem. He said the nurse case managers don't perform the kind of administrative or managerial functions that would allow the hospital to qualify them as exempt.