
Hughes Hubbard & Reed

Renal Advantage Wins Denial of Dietitian Class Certification

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Hughes Hubbard & Reed captured a big victory for Renal Advantage, a subsidiary of Fresenius Medical Care, when a California federal judge declined to certify a class of registered dietitians claiming they had been misclassified.

On June 24, Judge Gonzalo Curiel ruled that the lead plaintiff, Tanya Rosenberg, failed to show that all members of the proposed class suffered the same injury or shared similar experiences.

Renal Advantage, acquired by Fresenius in 2012, operated 45-50 renal dialysis centers across California. Rosenberg left a Renal Advantage clinic in San Diego to relocate to Texas in September 2010. She launched a class action lawsuit in August 2011. Her lawsuit claimed Renal Advantage violated California overtime laws by intentionally misclassifying registered dietitians as “exempt” to avoid paying overtime for any hours worked over eight hours in a day and 40 hours per week. Rosenberg alleged that while the RDs’ duties were outside the scope of professional, administrative or executive exemptions as defined by California law, they worked between two to five hours in overtime each week without compensation, meal or rest breaks.

Renal Advantage removed the case to the U.S. District Court for the Southern District of California a month later and Rosenberg moved for class certification in November 2012.

Hughes Hubbard pointed out differences in how RDs spent time on the job and variations in how they performed their duties, managed their tasks and number of hours they worked to fulfill their duties. Judge Curiel agreed with Hughes Hubbard’s argument and found that Rosenberg’s reliance on the RD job description and a few generalized sworn statements did not prove that RDs should not be classified under the professional exemption.

“Ultimately, dissimilarities regarding how the RDs perform their job duties prevent a showing that common questions and answers drive the resolution of the litigation on this threshold issue,” Judge Curiel wrote in his opinion.

The Hughes Hubbard team that represented Renal Advantage was led by David Stern and included Alex Spjute and Carolin Sahimi.

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