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Medical Software Company to Pay $14.4 Million to End Suit Over Bonuses

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A Pennsylvania-based medical software company has agreed to pay more than $14.4 million to settle a class action suit brought by workers who said their incentive-based bonuses were unfairly reduced in 1998. Under the terms of the proposed settlement, a class of about 1,200 current and former employees of Siemens Medical Solutions Health Services Corp. will be paid from a fund of more than $10.1 million and will receive a net recovery of the full amount of the adjustment to their 1998 compensation.

SMS has also agreed to pay up to $4.33 million in attorney fees and costs to the team of lawyers who brought the suit -- Steven A. Schwartz of Chimicles & Tikellis in Haverford, Pa., and E. Powell Miller of Miller Shea in Rochester, Mich.

Philadelphia Common Pleas Judge Mark I. Bernstein has granted preliminary approval of the settlement, clearing the way for the lawyers to send notices to the class members. Bernstein also scheduled a fairness hearing for May 5 to hear any objections to the settlement or the proposed attorney fees.

In the suit, *Street v. Siemens Medical Solutions Health Services Corp.*, workers alleged that SMS breached their contract by instituting a 30 percent across-the-board reduction of their 1998 bonuses. The suit also alleged a claim under Pennsylvania's Wage Payment and Collection Law.

Lawyers for SMS -- Michael L. Banks and Azeez Hayne of Morgan Lewis & Bockius in Philadelphia and Erik Haas of Patterson Belknap Webb & Tyler of New York -- argued that the company's senior management had the right to reduce the employee bonuses, called "incentive compensation plans," at any time.

Ruling on cross-motions for summary judgment, Bernstein dismissed the plaintiffs' claims under the WCPL, but granted judgment in the plaintiffs' favor on the breach of contract claim.

Bernstein's ruling was a major victory for the plaintiffs because the only issues left for trial were an assessment of damages and a determination of whether any of the workers had forfeited their rights to pursue the breach of contract claim by signing release forms.

In court papers, lead plaintiff Janet Street, who worked for the corporation's sales division from 1983 to 2001 at its Malvern headquarters, alleged that under Pennsylvania contract law, the 30 percent across-the-board reduction of the 1998 bonuses had no basis in any contract language.

The suit alleged that up to 1,200 SMS employees who received the bonuses on top of their 1998 base salaries were entitled to the amount SMS calculated prior to the 30 percent cut. Schwartz said the SMS employees learned of the reduction after the end of 1998 but before any of the bonuses were paid.

According to Bernstein's opinion certifying the case as a class action, SMS had designed its incentive compensation plan to "align the interests of the ... participants with the profitability of sales and revenue they generated." Employees set goals for themselves and were rewarded with bonuses for meeting or exceeding those goals.

SMS had budgeted $29 million to pay for the 1998 bonuses, but early in the year it became clear from accounting projections that the company's performance in sales and other revenue was exceeding what was projected; therefore, the money slated for ICP "appeared low," according to an internal memorandum described in the opinion.

Employees would have received $48 million in total bonus payments before the reduction "adjustment" was made in early 1999, according to the opinion. As a result, the company's "leadership team" decided to adjust the payments to a level that "they believed to have been more consistent with 1998 financial results," Bernstein explained. That adjustment meant a blanket 30 percent reduction in the bonuses. The bonuses for at least 25 employees were cut by $50,000 each. About 380 more saw their bonuses cut by $10,000 each, and 600 bonuses were cut by $5,000 each, according to the opinion.

The potential class members reside in more than 40 states, including Delaware, New Jersey and New York.