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By ALEXIA ELEJALDE-RUIZ
CHICAGO TRIBUNE | FEB 11, 2021



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Potentially hundreds of Jewel-Osco employees will be given a chance to join a lawsuit alleging the grocery chain improperly denied overtime pay to assistant store directors.

The suit, filed in May in Chicago federal court, accuses Jewel-Osco, the largest grocery chain in the Chicago area, of misclassifying assistant store directors as salaried employees exempt from receiving overtime pay under state and federal law. It is one of numerous lawsuits claiming grocers and retailers cut their labor costs by giving employees managerial titles even as they do mostly manual work.

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Assistant store directors “spend the vast majority of their time performing the same duties as non-exempt employees, including helping customers, working the cash register, moving products, stocking shelves, setting and resetting displays, counting inventory, cleaning the store, and otherwise standing in as cashiers, stockers, or other hourly workers,” the suit alleges.

It claims they don’t perform managerial duties like hiring and firing and should be classified as hourly workers eligible to receive time-and-a-half pay when they work more than 40 hours a week.

The suit was filed by Chicagoan Lisa Piazza, who worked as an assistant store director at four different Chicago Jewel-Osco stores since February 2019 and claims she averaged 50 to 60 hours of work per week.

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U.S. District Judge Mary Rowland, in a Feb. 3 ruling, denied the company’s motion to dismiss the case. She granted conditional certification of a collective action, which means Piazza’s attorneys may notify current and former Jewel-Osco employees about the lawsuit and give them a chance to join if they wish.



Jason Conway, a Philadelphia attorney who is representing Piazza, estimates there could be 500 to 600 potential plaintiffs. Eligible employees are those who worked as assistant store directors from May 28, 2017, through the date of final judgment in the case.

Jewel-Osco, based in Itasca, has 188 stores across Illinois, Indiana and Iowa. It is owned by Albertsons, based in Boise, Idaho, which also owns Safeway, Vons and other major grocery chains.

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The suit “can have broader ramifications across Albertsons properties,” Conway said. “They could be held accountable with regard to how they classify ASDs.”

Jewel-Osco said it does not comment on pending litigation.

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Employers can exempt salaried employees from overtime laws if they earn more than \$35,568 and they primarily perform office or nonmanual managerial work, plus exercise discretion or independent judgment in their jobs. In retail, roles such as assistant store director raise questions because those employees can end up shouldering extra work after overtime-eligible hourly workers are sent home at the

end of their shifts — a burden magnified early in the pandemic, when stores were especially busy and short-staffed, Conway said.

Conway's firm has sued numerous grocers over overtime exemptions and has cases pending against four Kroger-owned grocery brands in other states.

These cases rarely go to trial, instead resulting in settlements after they are granted conditional collective action certification and other plaintiffs join, Conway said. Companies typically have not reclassified the disputed positions, he added, sometimes resulting in more lawsuits later.

In addition to Jewel Food Stores, Piazza's suit names as defendants New Albertsons and American Drug Stores, which it says are both wholly owned subsidiaries of Albertsons that co-own and operate Jewel-Osco stores.

In its motion to dismiss the case, New Albertsons argued it wasn't Piazza's employer. Piazza claims it is a joint employer.

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A Jewel-Osco grocery store is seen March 27, 2019, at the intersection of 61st Street and South Cottage Grove Avenue in Chicago. (Zbigniew Bzdak / Chicago Tribune)



Alexia Elejalde-Ruiz
Chicago Tribune



FEEDBACK

Alexia Elejalde-Ruiz covers the food industry for the Chicago Tribune's business section. Prior beats include workplace issues, the retail sector and lifestyle features, plus stints at RedEye, the Daily Herald and the City News Service. Alexia grew up in Washington, D.C., and has her degree in international relations from Brown University.

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