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HCI Mission - Assist Large Employers with ACA Group Health Compliance required by ERISA, IRS and DOL



HCI Compliance Corner

January 2020

Employees WIN ACA lawsuit - \$7.425 Million First ERISA Lawsuit related to the ACA

ER ACA Mistake: Reduced Employee hours to avoid offering Group Health
EE Response: Filed and won a lawsuit in the amount of \$7.425 Million

After many years, *Marin v. Dave & Buster's, Inc.*, a class action lawsuit filed in federal courts in New York's Southern District against the entertainment and restaurant chain is finally over. The judge in the case approved a proposed \$7.425 million monetary settlement with injunctive relief in June of 2019. The settlement is substantially similar to the one previously rejected by the court.

The settlement resolves the case and provides compensation to the roughly 1,200 current and former full-time employees of Dave & Buster's Inc., who are part of the class action lawsuit in two sub-classes; (1) those that lost hours & benefits, and (2) those that lost hours & benefits eligibility. In addition to the monetary compensation, Dave & Buster's will be enjoined from the activity that was the central charge of the suit.

The class action lawsuit charges Dave & Buster's with reducing employees' hours to avoid the Affordable Care Act's (ACA) Employer Mandate, which requires employers with at least 50 full-time or full-time equivalent employees (called Applicable Large Employers or ALEs) to either offer Minimum Essential Coverage (MEC) to their full-time workforce and their dependents and make the coverage "affordable" and provide "Minimum Value" to the full-time employees, or potentially make an employer shared responsibility payment (ESRP) to the IRS.

The plaintiffs (Employees) in the case claim that by having their hours cut by their employer Dave & Buster's, lost their full-time work status, denying them the opportunity to receive healthcare benefits. The plaintiffs claim that this is in direct violation of Section 510 of The Employee Retirement Income Security Act of 1974 (ERISA), which prevents employers from intentionally taking actions that might abridge or impair an employee from collecting benefits. The plaintiffs alleged that management advised during at least two separate meetings that the ACA Employer Mandate would present an added cost to the company in excess of \$2 million. That exposure now pales in comparison to the settlement of \$7.425 million.

Please Contact the HCI Team for More Information

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