

# Utz agrees to pay \$2.5 million in overtime suit

Lillian Reed, lreed@eveningsun.com 7:10 p.m. ET April 4, 2017



(Photo: File Photo - The Evening Sun)

Utz Quality Foods Inc. has agreed to pay \$2.5 million to settle a labor lawsuit, but will not be required to change the overtime policy that prompted employees to file the complaint.

The lawsuit, which was filed September 2015 in the U.S. District Court for the Middle District of Pennsylvania, claims Utz's route sales professionals, who are responsible for delivering products to customers, including chain retail grocery stores, are being incorrectly classified under the Federal Labor Standards Act as outside salespersons. Under the federal law, outside salespersons are exempt from being paid overtime for any hours worked over 40 per week.

The suit alleges that Utz's route sales professionals did not qualify as outside salespersons and should be paid for overtime — effectively challenging Utz's entire compensation system for those employees.

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Hans Nilges of Nilges Draher LLC, and Anthony Lazzaro, of The Lazzaro Law Firm, LLC — two of the attorneys representing the workers in the suit — believe this practice of classifying route drivers that deliver goods as outside salespersons is a widespread industry norm. The two say they have heard of and represented similar cases in the past.

"I think historically route drivers had been more classic door-to-door salesmen," Nilges said Tuesday. "Everything changed over the years, but the industry did not respond appropriately to re-classify their employees. There are, we believe, hundreds of companies that are not compensating employees properly. Ultimately our goal is to change the policies so people are getting paid appropriately."

About 1,800 current and former Utz employees from the past three years are listed in the settlement as eligible for compensation, though there are different processes for opting in or out of the suit depending on various federal and state laws, the attorneys said.

Still, the settlement, which came about with the assistance of a mediator, does not require Utz to change its business practices or the route sales compensation system, according to an [April 3 news release \(http://www.businesswire.com/news/home/20170403006114/en/Utz%C2%AE-Quality-Foods-Settles-Lawsuit\)](http://www.businesswire.com/news/home/20170403006114/en/Utz%C2%AE-Quality-Foods-Settles-Lawsuit) from the company.

The settlement is not an admission of guilt or wrongdoing, court documents state. Utz believes its compensation system is "fair and lawful," the release states.

"We were fully prepared to try this case with a jury in Harrisburg, and we fully expected to have been vindicated," said Dylan Lissette, Utz's chief executive officer, in the release. "However, when we budgeted how much it would cost us to take the case to trial, we realized that it would have cost us considerably more in legal fees than the amount we could settle the case for even though we fully believed we would prevail."

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