

WEISSMAN & MINTZ LLC

ATTORNEYS AT LAW

ONE EXECUTIVE DRIVE
SUITE 200
SOMERSET, NEW JERSEY 08873
(732) 563-4565
FAX (732) 560-9779

www.weissmanmintz.com

65 BROADWAY
SUITE 827
NEW YORK, NEW YORK 10006
(212) 509-0918

JOEL N. WEISSMAN (1957-1998)
MARK ROSENBAUM (1955-2002)

STEVEN P. WEISSMAN
ANNMARIE PINARSKI
WILLIAM G. SCHIMMEL
IRA W. MINTZ
JASON L. JONES
SARAI K. KING
CHARLETTE MATTS-BROWN

Of Counsel
ROSEMARIE CIPPARULO
ADAM M. GORDON

Counsel
DAVID A. MINTZ*

* ADMITTED TO PRACTICE ONLY IN NEW YORK



January 12, 2017

Via Fax and Regular Mail

Charlene Rachor, District Director
Southern NJ District Office
US Department of Labor
ESA Wage & Hour Division
3131 Princeton Pike, Bldg. 5 Rm. 216
Lawrenceville, NJ 08648

Re: FLSA Complaint Rutgers University – Communications Workers of America, AFL-CIO (CWA) and American Association of University Professors-BHSNJ (AAUP-BHSNJ)

Dear Ms. Rachor:

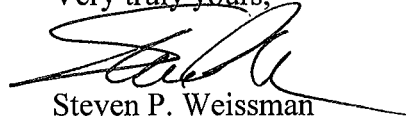
By letter dated November 2, 2016, Teamsters Local 97 filed an FLSA complaint with your office against Rutgers, the State University, alleging that the University failed to pay employees for time worked in October 2016. (A copy of the complaint filed by Teamsters Local 97 is enclosed). CWA and AAUP-BHSNJ seek to join the complaint filed by Teamsters Local 97. CWA is the exclusive bargaining representative for supervisors who had been employed by the University of Medicine and Dentistry prior to June 30, 2013 and who since July 1, 2013 have been employed by Rutgers. AAUP-BHSNJ is the exclusive bargaining representative for faculty members who had been employed by UMDNJ at the New Jersey Medical School and Robert Wood Johnson Medical School prior to June 30, 2013 and who since July 1, 2013 have been employed at the two medical schools by Rutgers.

Just as Rutgers failed to pay employees represented by Teamsters Local 97 a week of pay when the University switched payroll systems from the Banner Human Resources Payroll System to the PeopleSoft system in October 2016, the University also failed to pay the Rutgers employees represented by CWA and the AAUP-BHSNJ for a week of work in October 2016.

Please let me know what additional information you may need to investigate this complaint on behalf of the members of CWA and the AAUP-BHSNJ employed by Rutgers.

Your cooperation in this matter is appreciated.

Very truly yours,



Steven P. Weissman

c. David Cohen, Esq.



METS SCHIRO
McGOVERN
& PARIS LLP
WORKING FOR LABOR

msmlaborlaw.com
555 U.S. HWY One South, Suite 320, Iselin, NJ 08830
T 732-636-0040 F 732 636 5705



November 2, 2016

Charlene Rachor, District Director
Southern New Jersey District Office
U.S. Department of Labor
ESA Wage & Hour Division
3131 Princeton Pike, Bldg. 5, Rm. 216
Lawrenceville, New Jersey 08648

*Re: Teamsters Local 97 - and- Rutgers University
FLSA Complaint*

Dear Ms. Rachor:

This firm is counsel to the International Brotherhood of Teamsters, Local 97 (hereinafter, "Local 97"). Local 97 is the exclusive bargaining representative for certain employees employed by Rutgers, the State University of New Jersey ("Rutgers" or "Employer"). A list of Local 97 unit members is attached hereto as Exhibit A. As set forth more fully below, Rutgers has failed to pay Local 97 unit members for time worked in violation of the Fair Labor Standards Act ("FLSA" or "Act"). In addition, issues have arisen with regard to the payment of overtime. Accordingly, Local 97 respectfully requests that the Department of Labor investigate this matter and issue a complaint.

The affected Local 97 unit members were formally employed by the University of Medicine and Dentistry of New Jersey. The New Jersey Medical and Health Sciences Restructuring Act of 2012 transitioned the former University of Medicine and Dentistry of New Jersey ("UMDNJ") into Rutgers. Pursuant to N.J.S.A. 18A:65-98, "employees shall, upon transfer to Rutgers, the State University, retain all of their rights and benefits under existing collective negotiations agreements until such time as new or revised agreements or contracts are agreed to...the State University shall assume all obligations under existing or expired collective negotiations agreements that covered employees of the University of Medicine and Dentistry of New Jersey on the effective date of this Act."

As a result of the merger, Local 97 and other former UMDNJ employees transferred to Rutgers were paid using the Banner Human Resources payroll system ("Banner"), while employees continuing to be employed by Rutgers were paid using the PeopleSoft payroll system ("PeopleSoft"). During negotiations for a collective negotiations agreement ("CNA"),¹ Rutgers indicated its intention to merge all employees into the PeopleSoft system. This was no easy task, however, as former UMDNJ employees in the Banner system were paid biweekly one week after the end of the payroll end date, while Rutgers employee in the PeopleSoft system are paid biweekly on the payroll end date. That is, Rutgers employees are effectively paid in advance for the last day of the pay period. During negotiations, Rutgers ensured Local 97 that no unit member would lose pay or time as a result of merging the payroll systems.

¹ Collective bargaining agreements for public employees in New Jersey are called "collective negotiations agreements."

Rutgers did not comply with its promise. Local 97 unit members were paid on October 7, 2016 for the pay period September 18, 2016 through October 1, 2016. On October 21, 2016, unit members were paid for period October 8, 2016 through October 21, 2016. Thus, Local 97 unit members were not compensated for the week of October 2, 2016 through October 7, 2016. At a meeting held on October 24, 2016, Rutgers admitted that it owed Local 97 unit members for the week of October 2, 2016 through October 7, 2016, but refused to make immediate payment. This is a violation of the FLSA and we respectfully request that the DOL conduct an investigation and issue a complaint in this matter.

The FLSA, 29 U.S.C. §201 *et. seq.*, requires that “every employer shall pay to each of his employees...who in any workweek is engaged in commerce or in the production of goods for commerce...not less than the minimum wage...” 29 U.S.C. §206(b) (2016). The Act also requires prompt payment of wages. See Brooklyn Savings Bank v. O’Neil, 324 U.S. 697, 707 (1945), *rev’d on other grounds*, Solis v. A-1 Mortgage Co., 934 F.Supp.2d 778,796-97 (W.D.Pa. 2013).

Here, there is no doubt that the Employer has violated the Act. Unit members worked for one week but were not compensated. These employees did not receive at least the minimum wage for October 2, 2016 through October 7, 2016. Rutgers has admitted as much. Although each unit member received pay on October 21, 2016, that pay did not encompass the missing week. Thus, at the end of the year, Local 97 unit members will only receive 51 weeks of pay for 52 weeks of work.

Rutgers contends that it was simply changing the pay day. By making such a change, the employer may not create an unreasonably long delay in payment or violate the minimum wage or overtime provisions of the Act. Rogers v. City of Troy, 148 F.3d 52, 55 (1998). Rutgers has refused to promptly pay Local 97 unit members for the missing week and has instead offered a payment plan that would require Local 97 unit members to wait until September 2017 to be paid in full. Such a repayment plan is both unacceptable and repugnant to the Act. Accordingly, we respectfully request that the DOL investigate this matter and issue a Complaint against Rutgers.

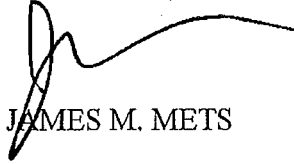
In addition, Rutgers has failed to pay overtime wages to certain employees. Since the merger, former UMDNJ employees have been paid overtime wages from Rutgers on the pay date for the pay period in which the overtime was earned. However, Rutgers has not paid employees for overtime for the period September 23, 2016 through October 7, 2016. Pursuant to 29 C.F.R. §778.106, “[t]he general rule is that overtime earned in a particular workweek must be paid on the regular pay day for the period in which such workweek ends.” Rutgers has failed to comply with this regulation and Local 97 respectfully requests that the matter be investigated and that a complaint be issued.

Charlene Rachor, District Director
November 2, 2016
Page -3-

Thank you for your attention to this matter. If you require any further information, please contact our office at the above number.

Respectfully submitted,

METS SCHIRO MCGOVERN & PARIS, LLP

A handwritten signature in black ink, appearing to read 'JAMES M. METS', is written over the printed name.

JAMES M. METS

BJM/sw

cc: John Gerow, President, Teamsters Local 97
George Burr, Business Agent, Teamsters Local 97
Abdel Kanan, Director of Labor Relations, Rutgers University