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ATM Repairer Sues Co. Over Biweekly Payments

By **Abby Wargo**

Law360 (January 17, 2023, 1:52 PM EST) -- A former ATM repairwoman for an ATM software company accused it of paying her and other technicians biweekly despite their being classified as manual laborers in a proposed class action in New York federal court.

Titilayo Olubowale filed a New York Labor Law **suit** Friday against NCR Corp., alleging it unlawfully paid customer engineers and mechanics such as herself every other week rather than weekly as the law requires.

As a result, Olubowale said, she "has suffered financial harm, including late payment penalties on her bills, due to defendant's failure to pay her wages in a timely manner."

Olubowale is seeking to represent a class of more than 100 manual workers employed by NCR in New York state over the last six years who were subject to the same pay practices. She wants to recover liquidated damages and interest on behalf of herself and the class.

She was a customer engineer at NCR from September 2015 until November 2022, tasked with maintaining and repairing ATMs across New York City, according to her complaint. Olubowale would respond to work orders at banks and retail stores in Manhattan and physically open the machines to diagnose mechanical issues, make repairs and replace broken parts, which she said deems her a manual laborer.

She said more than 25% of her job responsibilities were physical tasks — using tools, manipulating internal mechanisms, repairing jams and fixing loose screws, for example — but despite that, she was paid biweekly in violation of the New York Labor Law.

Olubowale said the late payment of her wages forced her to incur late payment penalties on her rent because she was often unable to pay it on time, and she also incurred late payment charges from utility providers due to her inability to pay her gas and electric bills. She said that other members of the class have had similar issues.

"Plaintiff and the class have all been similarly injured because defendant's policy and practices affected everyone in the class, undoubtedly causing other class members to fall behind on bills, incur interest fees on loans and suffer other financial damage based on the defendant's policy of delayed payment of earned wages," Olubowale said.

Brendan Sweeney of the Law Office of Christopher Q. Davis, who is representing Olubowale, said he looks forward to vindicating her rights and recovering her lost wages.

"I know from many years of representing and advising employers that companies save money by processing payroll biweekly, instead of weekly. While this may seem like a minor issue to many people, it is not a minor issue for low wage workers," Sweeney told Law360.

"While the employer saves money, its low wage employees often incur credit card fees, late payment penalties on bills, and similar financial harm. New York law clearly requires employers to pay manual workers weekly."

A representative for NCR Corp. did not immediately respond to a request for comment Tuesday.

Olubowale is represented by Brendan Sweeney of the Law Office of Christopher Q. Davis PLLC.

Counsel information for NCR Corp. was not immediately available Tuesday.

The case is Olubowale v. NCR Corp., case number 1:23-cv-00338, in the U.S. District Court for the Southern District of New York.

--Editing by Khalid Adad.

Update: This article has been updated with a response from Olubowale's counsel.

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