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Class-action set in timeshare suit

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Attorneys representing salespersons who claim they were wrongly paid as independent contractors for selling timeshares at several resorts in the Poconos have convinced a judge to certify the case as a class-action lawsuit.

Attorney Mark Kearney said the ruling issued Thursday by a Philadelphia County judge will allow approximately 275 people to join together in a single lawsuit that will seek reimbursement for taxes they contend were overpaid, as well as compensation for lost benefits.

The case was filed on behalf of the lead plaintiffs, Albert Whitehead and Austin Miller-Orteneau of Philadelphia, against Vacation Charters Ltd. and W. Jack Kalins, owner of the Split Rock Resort in Lake Harmony and several other timeshare resorts.

The men were paid as independent contractors for timeshare sales at the resorts, which meant they paid all their own federal income taxes with no contribution from Kalins, and were not provided any benefits, such as medical coverage.

The lawsuit contends the men should have been treated as employees, which would have entitled them to benefits and would have obligated Kalins to pay part of their federal tax contributions, Kearney said.

Kearney, of the law firm Elliott Greenleaf in Blue Bell, said Thursday's ruling by Judge Idee C. Fox is important because it will allow all salespersons to join in a single lawsuit, versus having to file individual suits on their own. Kearney estimates the salespersons are owed a combined total of roughly \$2.1 million.

The ruling impacts persons who were employed from June 1, 2005, to December 31, 2008. Kearney said Vacation Charters changed its policy in January 2009 and began paying salespersons as employees.

Attorney Steven Leventhal, attorney for Vacation Charters, said the company maintains it properly paid its salespersons based on state law, which allows persons whose salary is commission-based and who hold a real estate license to be treated as contractors, rather than employees.

The case will now proceed to court for trial on the merits of the case.