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Brobeck Staffer Hires Top Labor Attorney

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Brobeck, Phleger & Harrison employees have hired a prominent labor lawyer who has won millions of dollars in overtime pay for Starbucks and Pacific Bell employees to handle claims over unpaid severance and vacation.

A former Brobeck staffer known by his online name, Broke Beck, has hired Mark Thierman, a Reno, Nev.-based employment attorney. Thierman would not reveal his client's name. The former staffer has forwarded the lawyer's name to dozens of staff and associates who expressed interest in suing Brobeck.

Thierman said he's considering filing suit, but is still "waiting to see what happens."

"Some people haven't gotten their paid time off, but were told they will," he said. "Other people had severance payments over time and these were cut off."

Thierman said there were also issues regarding employees' access to their 401(k) retirement funds, although he declined to specify the source of the problem. He said he is waiting to file suit in part to avoid cutting off the penalties that could accrue against Brobeck.

Under California labor law, a company may be forced to fork over 30 days of salary to employees as a penalty for failing to pay all that is owed at the time of termination.

It's uncertain, however, whether employees will ultimately file suit. Citibank released \$5 million to cover paid time off for Brobeck employees. And staffers who were at the firm Feb. 14, its final day of operations, said they received a separate paycheck for their paid time off.

Peter Gilhuly, a partner at Latham & Watkins who is representing Brobeck in its liquidation, could not be reached for comment. But on Feb. 18 he said employees would receive their paid time off.

As for the issue of severance payments, employment lawyers said whether employees have a right to them depends on the terms of the severance agreement.

"If the agreement vests them with a guaranteed severance for a period of time" they would have a claim, said Brian Ashe, a partner at Seyfarth Shaw's San Francisco office. But if it gives the employer the right to stop severance, "they may be out of luck."

Thierman has been successful battling for employees' overtime pay. Among several class action settlements, he won \$35 million for Pacific Bell outside plant engineers and \$18 million for California Starbucks managers and assistant managers.

Thierman said he has no idea how many Brobeck employees he will be representing.

So far, he said, "it's more than one and less than 400."