

## Morgan Stanley settles overtime claims for \$42.5 mln

By Evelyn Juan

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**NEW YORK (MarketWatch) -- Morgan Stanley (MS) has agreed to pay up to \$42.5 million to settle a class-action suit over unpaid overtime wages of California brokers.**

The settlement, reached in late January, is applicable to more than 4,000 class members of a suit filed by Linda Garrett and Erik Hoyer, said Mark Thierman, who represented the lead plaintiffs.

The suit, filed in July, alleged that Morgan Stanley failed to pay its brokers and financial advisor trainees in California overtime wages, and made improper deductions from their salary.

"It means the industry has to start treating brokers more as advisors whose primary duty must be advising clients and not as salespeople if they want to avoid paying overtime," Thierman said.

He expects more settlements to come from other Wall Street firms that have yet to settle similar suits, such as Citigroup Inc. (C) unit Smith Barney, Wachovia Corp. (WB) unit Wachovia Securities, and Bear Stearns Cos. (BSC).

"There's more to come," Thierman warned.

Morgan Stanley, which has a similar case pending in New York, said the California settlement has no bearing on other cases. "Each state's laws are unique," said Andrea Slattery, a spokeswoman at Morgan Stanley.

She said the firm maintains its position that financial advisors are exempt professionals under the law and shouldn't be paid on an hourly basis or be forced to keep track of their work time.

"However, we have settled this litigation to put the matter behind us," Slattery said.

Aside from Morgan Stanley, two other firms - UBS AG (UBS) unit UBS Financial Services and Merrill Lynch & Co. (MER) - have agreed to settle over unpaid wages claims.

UBS agreed in February to pay up to \$89 million to settle class-action wage and hour claims nationwide, while Merrill Lynch agreed in August to pay up to \$37 million to settle claims in California.

Brokerage firms generally have argued that their brokers are exempt from overtime pay, because they are compensated almost entirely through commissions and fees rather than salary.

Merrill's August settlement in a California case didn't include an admission to the contrary but nevertheless appeared to acknowledge arguments that a federal labor law exempting commissioned employees from overtime applies only to workers at traditional retail sales establishments, such as clothing stores, not financial firms.

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