

# Cannabis Cos. Agree To Proposed Deal In Workers' Wage Suit

By [Jonathan Capriel](#) ·

*Law360* (April 3, 2024, 4:59 PM EDT) -- A New Mexico federal judge has given preliminary approval to a \$525,000 deal that would end a cannabis-employee-led lawsuit accusing dispensary owners of taking a large portion of tips meant for retail workers and giving them to store managers and supervisors.

As part of the settlement, two cannabis dispensary chains — R. Greenleaf Organics Inc. and [Medicine Man Technologies Inc.](#), which does business in the state as Schwazze — agreed to pay more than half-a-million dollars to end claims that they violated the New Mexico Minimum Wage Act.

U.S. District Judge William P. Johnson gave early approval to the deal and noted in a Monday order that a fairness hearing still needed to be scheduled.

Under the settlement, about \$322,000 would go to the 250 proposed class members, which the litigation identifies as "budtenders" and others who worked during some point between April 1, 2022, and March 2, 2024, at the companies' New Mexico retail stores. Class counsel — attorneys at Youtz & Valdez PC and [McGillivray Steele Elkin LLP](#) — would get \$171,000 in attorney fees and nearly \$12,000 in litigation expenses.

About \$10,000 will be spent on administering the settlement. And another \$10,000 would be given to Justin Fowler, the lead plaintiff in the lawsuit. The employers will also deposit an additional sum to cover the workers' share of payroll taxes, according to the settlement terms.

The lawsuit was initially filed in [August 2023](#). It claimed that the cannabis retailers had developed a policy to pool tips and divide them among the budtenders and supervisors. Each employee's share would be determined based on how many hours they worked, with more hours meaning a larger share of the tips, the lawsuit said.

"Because of how defendants' retail stores are staffed, when the tips are distributed through the mandatory tip pool based on total hours worked, supervisors receive a larger portion of the tips than do budtenders, even though the budtenders perform the customer-facing work," the lawsuit claimed. "Plaintiff and the class are entitled to retention of all of the tips paid to them by customers."

Additionally, in at least one location, managers would occasionally order catered lunches for the entire staff, paying for the meals with the tip money.

Counsel for the employees and companies didn't immediately respond to a request for comment Wednesday.

The proposed class is represented by Stephen Curtice, Shane Youtz and James Montalbano of Youtz & Valdez PC and Molly Elkin, Sarah Block and Rachel Lerner of McGillivray Steele Elkin LLP.

Schwazze and R. Greenleaf Organics are represented by David B. Jordan, Kelli C. Fuqua and Kimberly Kauffman of [Littler Mendelson](#).

The case is Fowler v. Medicine Man Technologies Inc. et al., case number [1:23-cv-00640](#), in the [U.S. District Court for the District of New Mexico](#).