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CARDS

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The Shavertown, Pennsylvania, McDonald's forces workers to be paid only one way: with a payroll debit card that burdens workers with hefty fees to obtain their hard-

earned cash, according to a lawsuit filed Thursday on behalf of Gunshannon and

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Gunshannon, who worked at the Shavertown McDonald's for a month after being hired April 24, refused to activate the payroll card after reviewing the fee structure, quit the job and reached out to an attorney to see if the practice was legal.

Attorney Michael J. Cefalo of West Pittston and his law firm then drafted a class-action lawsuit against the Muellers, who own 15 other McDonald's locations throughout Northeastern Pennsylvania.

Filed in Luzerne County Court, the suit accused the Muellers and their limited partnership of violating the Pennsylvania Wage Payment and Collection Act and unlawfully boosting profits with the payroll card "scheme."

The suit seeks an unspecified amount of monetary damages on behalf of employees and asks a judge to award punitive damages against the company for its "ill-gotten gains contrary to justice, equity, good conscience and Pennsylvania law."

Beth Dal Santo, a spokeswoman for an association of McDonald's franchisees in the region, said the Muellers had not been served with the lawsuit Thursday and would not comment.

The couple, who immigrated to the U.S. from Germany separately in the 1950s, were honored by the Salvation Army in 2011 for their support of that organization and the Ronald McDonald House in Scranton. Their business practices, Gunshannon said, were much less charitable.

Gunshannon said the manager of the Muellers' Shavertown location refused to issue her a paper paycheck or pay via direct deposit, saying, "We only pay on the card." An executive working for the Muellers, she said, gave her an ultimatum: "If you don't activate the card, there is no way for us to pay you. You can activate the card or we can't pay you."

The J.P. Morgan Chase payroll card carries fees for nearly every type of transaction,

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were paid with payroll cards without being given the option of receiving their wages in cash or via a check. State law, he said, requires wages be paid in “lawful money” or with a check.

The definition of “lawful money” is unclear, but the state Department of Labor and Industry and state banking regulators have endorsed payroll cards as a legal form of wage payment, according to the American Payroll Association, an industry trade association.

In a 2008 letter to the association, Labor and Industry officials advised employers to obtain employee authorization before paying wages with payroll cards or through direct deposit. In 2005, the state Department of Banking concluded the use of payroll cards did not violate any laws within its jurisdiction.

The association, in a 2009 letter to state regulators, said it was not clear whether employers in the state could “implement purely electronic wage payment programs” without offering employees the option of a paper paycheck, but courts in the state have held that employers could make electronic wage payment a condition of employment.

A spokeswoman for the state Department of Labor and Industry said Thursday the department was researching the matter.

The use of payroll cards as a method of wage payment exploded over the last decade, after credit card giants Visa and MasterCard said in 2001 they would invest heavily in paperless pay systems, according to Office of the Comptroller of the Currency, a federal bank regulator. Electronic pay systems eliminate the need for printing paper checks and the processing fees associated with traditional payroll methods, cutting wage-related costs by as much as 50 percent, according to Automatic Data Processing Inc., the payroll processing firm.

The Federal Deposit Insurance Corporation estimated that \$60 billion in wages will

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convenient and cost effective way to access your pay than checks.” The benefits, the memorandum said, included convenience — wages are added automatically each payday — and the flexibility of accessing pay without having a bank account or paying check-cashing fees.

The memorandum, however, did not address the ATM withdrawal, balance inquiry and other fees associated with the payroll cards Gunshannon said she received in lieu of cash or a paper paycheck.

Gunshannon noted the ATM withdrawal fee would be \$1.50 if she used a Chase ATM.

The problem, she noted, is there isn't a Chase ATM for more than 60 miles of her home, the nearest being in Phillipsburg, N.J. If she used the card to withdraw money at a non-Chase ATM, the fee with be an additional several dollars, she said.

Gunshannon, who estimated the company owes her about \$200, said she pursued the lawsuit because she thinks workers should have a choice in how they are paid to avoid such fees.

“I tried to work with the company. They refused. I tried the main office in Clarks Summit. They refused,” Gunshannon said. “I never activated the card. I refused the fees. I just want it to be fair.”

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