

A case involving celebrity chef Mario Batali's restaurants and unpaid overtime and tips for employees was settled for \$5.2 million. And earlier this year, Swiss drugmaker Novartis AG agreed to settle a class action overtime suit for \$99 million brought by its sales representatives. Overtime cases brought by the U.S. Department of Labor jumped to 11,990 in 2011 and netted \$140 million in overtime wages, up from 8,788 cases and about \$107 million in wages in the previous year, the agency reported Tuesday. And such lawsuits filed in federal courts rose 15 percent in 2011, compared 2010, according to Richard Alfred, an employment attorney with Seyfarth Shaw, adding that wage and hour suits overall have jumped 325 percent since early 2000. Show-me-the-overtime-money fever seems to be raging across the country. "There's been more pressure on workers to work more hours," said Letty Mederos, vice president of work and family programs for the National Partnership for Women & Families. At the same time, she added, there's been a deterioration of overtime protections and more employers are putting workers in job categories that are overtime exempt, sometimes thwarting the law. Mederos believes workers are just looking to get what they're owed in an economy that has seen productivity rise but pay stagnate. "Employees have been getting the short end of the stick," she stressed. Not everyone agrees the push back is mainly driven by worker ire. Confusion regarding overtime laws -- covered under Fair Labor Standards Act, or FLSA, enacted in 1938 -- is a big contributor, maintained Alfred, who mainly represents employers. "The laws are difficult to apply in the modern workplace," he said. To such claims, Nancy J. Leppink, deputy administrator of the labor department's wage and hour division, countered: "The primary principle of the Fair Labor Standard Act is that workers must be paid for the hours that they work. As technology and work environments have evolved, the Department of Labor has worked to ensure this tenet stands strong and that workers receive the pay they have earned." Not getting what you're owed today may be a function of tough economic times, said Karen Tramontano, an expert in employment law and the chief executive officer at business consultancy Blue Star Strategies. "Companies have been trying to figure out how to cut costs and maximize productivity and one of the ways they cut costs was figuring out how to get around the Fair Labor Standards Act," she explained. Another factor contributing to an uptick in suits, and general awareness of the issue, agreed both Mederos and Alfred, is increased enforcement of overtime laws on the part of the Labor Department. Indeed, the agency has added 300 new investigators since 2009, and Labor Secretary Hilda Solis has made no secret of her desire to fight wage and hour violations. In December, the Obama administration proposed revising the FLSA to include, for the first time, in-home care workers, who are not legally entitled to overtime pay, a right domestic worker advocacy groups have been fighting for. "My department is committed to fighting for good jobs for everyone, jobs that enable workers to earn a living wage, afford health insurance and save for retirement," said Solis at the time the proposal was introduced. Another proposal that would strengthen overtime laws is the Rebuild America Act, introduced by Sen. Tom Harkin, D-Iowa, last month. The Act would raise the income level for those entitled to overtime no matter what their job classification. Right now, the cap is \$455 a week, or about \$24,000 a year. Harkin's legislation would index the cap to inflation, putting it at about \$54,000 a year, said Mederos. "The Act will also address the continuing erosion of overtime protection," wrote Lawrence Mishel, an economist and president of the Economic Policy Institute, and Ross Eisenbrey, the Institute's vice president, in a blog post last month, calling it "the best defense workers have against abusive schedules and worsening work-family conflicts." High profile cases such as the one before the high court this week involving pharmaceutical reps at GlaxoSmithKline could also change the playing field. "If the Court rules that sales reps in this case are not exempt outside salespersons and the other exemptions are also rejected this could have a dramatic financial impact on pharma companies," said

Lee Schreter, co-chair of the wage and hour practice at Littler Mendelson. “Not only could they be required to issue back pay to 90,000 sales reps, potentially costing billions, but the continuing costs to pay overtime would change the structure of the industry and ultimately the cost would likely be passed down to the consumer.” Blue Star’s Tramontano doesn’t buy that argument. “Employers always talk about how costs in the labor sector are going to be overwhelming for them and they always manage,” she pointed out. “There’s a reason we have a 40-hour work week as a matter of labor market policy in the United States; it’s good public policy,” she said, adding that “if you’re working beyond that and are entitled to compensation employers have to pay.” It’s unclear how many U.S. workers are entitled to overtime today. Eisenbrey said about 105 million were eligible for overtime in 2004, based labor department estimates at the time.