

**UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA**

**VANESSA CHAVEZ, AMY BERLAK,
BROOKE GRAHAM, and MELISSA
VARNER on behalf of themselves and all
others similarly situated,**

Plaintiffs,

vs.

**T & B MANAGEMENT, LLC and T & B
CONCEPTS OF HICKORY, LLC, each
d/b/a HICKORY TAVERN,**

Defendants.

Case No. 1:16-CV-1019

LEGAL NOTICE

**NOTICE OF CONDITIONAL CERTIFICATION IN A PENDING LAWSUIT TO
RECOVER UNPAID WAGES FROM T & B MANAGEMENT, LLC, and T & B
CONCEPTS OF HICKORY, LLC, each d/b/a HICKORY TAVERN**

TO: All current and former tipped server and bartender employees at any Hickory Tavern Restaurant from June 23, 2014 to May 31, 2016.

FROM: Paul R. Dickinson, Jr.
Law Offices of Michael A. DeMayo, LLP
Counsel for Plaintiffs

RE: A federal lawsuit filed against T & B Management, LLC, and T & B Concepts of Hickory, LLC, each d/b/a Hickory Tavern (collectively “Hickory Tavern”) for unpaid wages under the Fair Labor Standards Act and your right to participate in the lawsuit.

DATE: **October 12, 2018**

The purpose of this Notice is to inform you of the existence of a Collective Action lawsuit brought under the federal Fair Labor Standards Act (“FLSA”) against Hickory Tavern in which you may be a member of the plaintiff class. This Notice is to advise you of your rights and how they may be affected by this suit. This Notice also instructs you on the procedure for joining and participating in this lawsuit against Hickory Tavern if you so desire.

DO NOT CONTACT THE COURT REGARDING THIS LAWSUIT

A group of Hickory Tavern employed tipped servers and bartenders have brought a lawsuit pursuant to the FLSA in the United States District Court for the Middle District of North Carolina. The name and case number of the lawsuit are *Vanessa Chavez, Amy Berlak, Brooke Graham, and Melissa Varner (Plaintiffs), v. T & B Management, LLC and T & B Concepts of Hickory, LLC, each d/b/a Hickory Tavern, (Defendants)*, Case No. 1:16-cv-01019.

The Plaintiffs seek to sue on behalf of themselves and other Hickory Tavern employees with whom they are similarly situated. Specifically, Plaintiffs seek to sue on behalf current and former tipped server and bartender employees at all Hickory Tavern restaurants throughout North Carolina, South Carolina, Alabama, Tennessee, and any other state in which a Hickory Tavern restaurant is located, from June 23, 2014 to May 31, 2016. If you were employed by Hickory Tavern as a tipped server and/or bartender between June 23, 2014 and May 31, 2016, you fit this description and you may join this lawsuit. In order to join this lawsuit, you must complete and file a Consent to Join form. You cannot be a part of this lawsuit unless you complete and file a Consent to Join form and “opt-in” to the lawsuit. A Consent to Join form is enclosed with this Notice.

In this lawsuit, the Plaintiffs are suing under the FLSA (1) to recover for unpaid wages for a three (3) year period prior to the date the lawsuit was filed; (2) for attorney’s fees and costs; and (3) for an additional amount of liquidated “double” damages equal to any earned but unpaid wages. The Plaintiffs claim that while they were paid \$2.13 per hour, performing pre-shift and post-shift sidework duties that did not generate tips – and as such, are owed the minimum wage of \$7.25 per hour for that work. Hickory Tavern denies all of Plaintiffs’ claims.

SUMMARY

- The Court has conditionally certified this lawsuit as a collective action under the Fair Labor Standards Act (“FLSA”). The collective members consist of all tipped servers and bartenders who worked at any Hickory Tavern restaurant at any time from June 23, 2014 to May 31, 2016.
- The Court has not decided who is right and/or who is wrong. There is no money or settlement available now and, pending the outcome of this case, there is no guarantee that any money will be made available to those who join the collective action.
- Your legal rights may be affected, and you have a choice to make now. You cannot benefit from any recovery in this lawsuit unless you complete and file a Consent to Join form.
- It is unlawful for Hickory Tavern to retaliate against you for joining this lawsuit.

BASIC INFORMATION

1. Why did I get this Notice?

Hickory Taverns’ records show that you have worked at a Hickory Tavern restaurant as a tipped server and/or bartender at some time between June 23, 2014 and May 31, 2016. This Notice explains that the Court has authorized Plaintiffs to proceed with a collective action lawsuit under the FLSA.

You have legal rights and options that you may exercise. A trial may be necessary to determine whether the claims being made against Hickory Tavern on your behalf are correct, or whether the various defenses to those claims are correct. The lawsuit is known as *Vanessa Chavez, Amy Berlak, Brooke*

DO NOT CONTACT THE COURT REGARDING THIS LAWSUIT

Graham, and Melissa Varner (Plaintiffs), v. T & B Management, LLC and T & B Concepts of Hickory, LLC, each d/b/a Hickory Tavern, (Defendants), Case No. 1:16-cv-01019.

2. What is this lawsuit about?

This lawsuit is about whether Hickory Tavern properly paid tipped servers and bartenders in accordance with federal labor laws. In particular, this notice relates to claims that Hickory Tavern violated federal law by failing to pay tipped workers the proper minimum wage by: (1) requiring tipped workers to spend a substantial amount of time performing pre-shift and post-shift non-tip producing preparatory and cleaning sidework; and (2) requiring tipped workers to perform pre-shift and post-shift preparatory and cleaning sidework without paying the full minimum wage rate of \$7.25 per hour.

3. What is Hickory Tavern's position?

Hickory Tavern denies all of Plaintiffs' claims. Hickory Tavern maintains that it has fully complied with all of the federal wage and hour laws at issue, and that no current or former employees are legally entitled to any additional compensation.

4. What is a collective action and who is involved?

In a collective action lawsuit, one or more persons sue on behalf of other people who have similar claims under the FLSA. All tipped workers who decide to participate in this case must file the attached Consent to Join form and become "opt-in" plaintiffs. T & B Management, LLC and T & B Concepts of Hickory, LLC, each d/b/a Hickory Tavern are the Defendants. One court will resolve the issues for everyone who decides to join the case as opt-in-plaintiffs. The court is the United States Middle District of North Carolina. You cannot benefit from this lawsuit unless you choose to "opt-in."

5. Has the Court decided who is right?

The Court has not decided whether Hickory Tavern or the Plaintiffs are correct. By issuing this Notice, the Court is not suggesting that the Plaintiffs will win or lose the case.

6. Is there any money available now?

No money or benefits are available now because the Court has not yet decided whether Hickory Tavern did anything wrong, and the two sides have not settled the case. There is no guarantee that money or benefits will ever be obtained. If they are, and if you join the FLSA collective action, you will be notified how to obtain a share.

WHO IS IN THE FLSA COLLECTIVE?

7. Am I part of the FLSA Collective?

The Court has decided that any individual employed by Hickory Tavern as a tipped server and/or bartender at any time between June 23, 2014 and May 31, 2016 is eligible to join the FLSA Collective lawsuit. You are not a member of the FLSA Collective lawsuit unless and until you return the Consent to Join form, which will be filed with the Court.

8. I'm still not sure if I am included.

If you are still not sure whether you are included, you can get free help by calling or writing Class Counsel, Law Offices of Michael A. DeMayo, LLP at (704) 333-9398 or ccline@demayolaw.com.

DO NOT CONTACT THE COURT REGARDING THIS LAWSUIT

9. Can Hickory Tavern fire me or take other action against me because I am part of this case?

No. Federal law prohibits Hickory Tavern from discharging or, in any other manner, discriminating or retaliating against any worker for joining this lawsuit. If you have any questions about this, contact Class Counsel, Law Offices of Michael A. DeMayo, LLP at (704) 333-9398 or ccline@demayolaw.com.

10. I previously met with Hickory Tavern attorneys and signed a declaration or statement. Can I still join the lawsuit?

Yes. If you have previously met with Hickory Taverns' attorneys about this case and/or provided a statement and/or declaration you can still become a party in this action. Hickory Taverns' attorneys do not represent you and you have the right to join this lawsuit.

YOUR RIGHTS AND OPTIONS

11. How do I join the FLSA Collective Lawsuit?

If you choose to join this FLSA Collective lawsuit, you have to read, sign and promptly return the Consent to Join form at the end of this Notice. Class Counsel will file the form with the Court on your behalf. The form must be sent to Class Counsel, Law Offices of Michael A. DeMayo, LLP in any manner as follows:

Regular Mail:	Facsimile:	E-mail:
Hickory Tavern Lawsuit c/o	(704) 333-6677	ccline@demayolaw.com
Law Offices of Michael A. DeMayo, LLP		
Post Office 34426		
Charlotte, NC 28234		

You may also visit www.hickorytavernlawsuit.com to review and print a copy of this Notice and the Consent to Join form.

If you want to join the lawsuit, your Consent to Join form must be postmarked or received by facsimile or e-mail no later than **January 10, 2019**.

If your signed Consent to Join form is not postmarked, e-mailed, or faxed by January 10, 2019, you may not be allowed to participate in this lawsuit.

12. What happens if I do nothing at all?

If you choose not to join this lawsuit, you will not be affected by any settlement or judgement rendered in this case, whether favorable or unfavorable. You will also not receive any money, or other relief, granted in this action if the Plaintiffs prevail.

THE LAWYER REPRESENTING YOU

13. Do I have a lawyer in the case?

If you join this lawsuit, you will become a "party plaintiff" and, unless you inform Plaintiffs' counsel or the Court in writing, will be represented by Class Counsel, Paul R. Dickinson, Jr. of Law Offices of Michael A. DeMayo, LLP, Post Office Box 34426, Charlotte, North Carolina 28234.

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14. Should I get my own lawyer?

If you elect to participate in the FLSA Class, you do not need to hire your own lawyer because Class Counsel will be working on your behalf. Of course, if you do want to hire your own lawyer, you may do so.

15. How will the lawyers be paid?

If you choose to be represented by Class Counsel, you will not be charged any attorneys' fees up front. Attorneys' fees will be charged on a contingent basis, which means that the Plaintiffs' attorneys will receive a portion of any judgment or settlement entered in favor of the Class, or the Court may make a specific award of attorneys' fees to be paid by Hickory Tavern. The Plaintiffs have sued Hickory Tavern for all attorney's fees and expenses.

THE TRIAL

16. How and when will the Court decide who is right?

As long as the case is not resolved by a settlement, Class Counsel will have to prove the Plaintiffs' claims at trial. Any trial would take place in the United States District Court for the Middle District of North Carolina which is located in Greensboro, North Carolina. During the trial, a Jury or the Judge will hear all of the evidence to help them reach a decision about whether the Plaintiffs or Defendants are right about the claims in the lawsuit. There is no guarantee that Plaintiffs will win, or that they will get any money for any Hickory Tavern tipped employees.

17. Do I have to come to the trial?

You do not need to attend the trial unless you are called as a witness by either Plaintiffs or Defendants. Class Counsel will present the case for the Plaintiffs and Hickory Tavern's counsel will present the case for the Defendants. If you are not called as a witness, you are still welcome to come if you wish.

18. Are there more details available?

Yes. If you have any questions or require additional information, please contact:

Paul R. Dickinson, Jr.
Law Offices of Michael A. DeMayo, LLP
Post Office Box 34426
Charlotte, North Carolina 28234
Telephone: (704) 333-9398
Facsimile: (704) 333-6677
E-mail: pdickinson@demayolaw.com
www.hickorytavernlawsuit.com

REMEMBER: IF YOU WANT TO BE INCLUDED IN THIS LAWSUIT, YOU MUST COMPLETE AND RETURN THE ATTACHED CONSENT TO JOIN FORM (ATTACHMENT A) BY JANUARY 10, 2019.

DO NOT CONTACT THE COURT REGARDING THIS LAWSUIT