

UNITED STATES DISTRICT COURT EASTERN DISTRICT OF MICHIGAN

Whitfield v. Trinity Restaurant Group, LLC

Case Number 18-10973

NOTICE OF SETTLEMENT

A federal court authorized this notice. It contains information that may affect your rights.

The Honorable David M. Lawson, United States District Court Judge, has authorized this Notice and its contents.

TO: All current and former servers who worked for Trinity Restaurant Group, LLC at any of its IHOP restaurants in Michigan between March 26, 2016 and March 26, 2019.

1. What is this notice about?

This notice is to tell you about a settlement of a collective action lawsuit filed against Trinity Restaurant Group (“Trinity”) that you are eligible to participate in. This is not a notice of a lawsuit against you or a solicitation from a lawyer. A federal court has authorized this notice. It summarizes the settlement and explains how you can claim money under the settlement.

2. Why did I get this notice?

You are getting this notice because Trinity’s records show that you worked at one of its IHOP Restaurants in Michigan as a server, waiter, or waitress during the “Relevant Period” between March 26, 2016 and March 26, 2019. The purpose of this notice is to notify you of your right to join this case and receive a settlement recovery.

Please note that Trinity denies that it violated the law and the Court has not ruled on the merits of the lawsuit.

The Honorable David M. Lawson, United States District Court Judge in the Eastern District of Michigan, is overseeing the settlement of this collective action. The lawsuit is known as Whitfield v. Trinity Restaurant Group, LLC, Case No. 2:18-cv-10973.

3. What is this lawsuit about?

This lawsuit was originally filed in March 2018. It alleges that Trinity violated the Fair Labor Standards Act (FLSA) by failing to pay servers the full minimum wage of \$7.25/hr. The Plaintiff alleges that Trinity violated the law in two ways. First, the Plaintiff alleges Trinity required servers at its IHOP Restaurants spend more than 20% of their time doing non-tip producing “side work.” Examples of this side work include stocking condiments, wiping the tables, rolling silverware, refilling the soda machine and cleaning the restaurant. Second, the Plaintiff alleges that Trinity required servers to share tips with expeditors who did not have sufficient customer interaction to qualify to receive some of the servers’ tips. The lawsuit seeks to recover unpaid wages related to these allegations for the past three years.

4. What is Trinity’s position?

Trinity denies the Plaintiff’s allegations and asserts that it complied with the FLSA in good faith. Among other things, Trinity denies that it violated federal or Michigan wage law; denies that the Plaintiff or others similarly situated were not paid all appropriate wages as proscribed by federal or Michigan wage law; denies that it required servers to spend more than 20% of their time doing non-tip producing “side work”; denies that the Plaintiff’s alleged “side work” claim is legally permissible under federal or Michigan wage law; and denies that it required servers to share tips with expeditors. Trinity denies that it is liable for any and all damages sought by the Plaintiff and others similarly situated.

5. Has the Court decided who is right?

No. The Court has not decided whether the Plaintiff is correct. The Court has simply approved the settlement that was reached between the parties following a full-day conference with a neutral third-party mediator.

6. How much money can I recover under this settlement?

Under the settlement, you can receive 17% of the Tip Credit under Michigan law for each hour worked as a server during the Relevant Period of March 26, 2016 and March 26, 2019. In addition, Trinity agreed to pay your attorney’s fees and costs as required under the law. During the Relevant Period, Trinity paid servers the tipped hourly wage allowed under the FLSA and Michigan law, which ranged between \$3.10/hr. and \$3.95/hr. The full minimum hourly wage under federal and Michigan law during the Relevant Period ranged between \$8.15/hr. and \$9.45/hr. The difference between these two hourly wages is called the “Tip Credit.”

EXAMPLE: If you worked as a server for Trinity in 2018 for a total of 509 hours, and you were paid the tipped minimum wage of \$3.52/hr., when the full minimum wage under Michigan law was \$9.25/hr., your settlement recovery will be calculated as follows:

$$[\text{Applicable Tip Credit Per Hour}] \times [\text{Number of Hours Worked}] \times [17\%]$$

OR

$$[\$9.25/\text{hr.} - \$3.52/\text{hr.}] \times [509 \text{ hours}] \times 17\% = \$495.81$$

This formula was approved by the federal judge overseeing this lawsuit.

If you wish to participate in the settlement and recover a payment, you must take the steps described in Section 7 below. If you participate, you will receive your settlement payment sometime in **February, 2020**.

Importantly, half of this gross settlement payment will be in the form of a payroll check that will be reduced to account for all taxes and wage withholdings ordinarily incurred by employees. You will receive an IRS W-2 form reflecting this portion of the settlement payment and all withheld taxes. The second half of your gross settlement payment will be in the form of a non-payroll check that will not have any taxes withheld. You will receive an IRS 1099 form reflecting this portion of your settlement payment. While no taxes will be withheld from this second half of your settlement payment, you are individually responsible for reporting your entire settlement amount on your tax returns and for paying all taxes associated with this income. We would encourage you to consult your tax professional regarding this income.

Please call one of the law firms listed in Section 11 below if you have any questions about your individual payment amount or the settlement in general.

7. How do I participate in the settlement?

Enclosed is a "Settlement Claim Form." If you did not join the case before and wish to participate in this settlement, it is very important that you read, sign, and promptly return the Settlement Claim Form. An addressed and postage-paid envelope is enclosed for your convenience. The Settlement Claim Form must be sent to:

Whitfield v. Trinity Restaurant Group, LLC
P.O. Box 26170
Santa Ana, CA 92799
Telephone: 888-428-6631

The completed and signed Settlement Claim Form must be postmarked by **December 12, 2019**. You may also electronically sign and submit the Settlement Claim Form by using the following link: <https://rightsignature.com/forms/Settlement-Claim--f161e7/token/054bc05fd24>. If your signed Settlement Claim Form is not postmarked or received by then, you will not be allowed to participate in this settlement and you will not release any claims against Trinity.

8. What happens if I do not return a Settlement Claim Form?

If you do not return a timely Settlement Claim Form, and you did not previously timely submit a consent form, you will not receive a settlement payment and you will not waive or release any legal claims against Trinity.

9. What do I give up by participating in the settlement?

If you return a timely Settlement Claim Form, you will waive certain legal rights against Trinity in exchange for your settlement payment. Specifically, you will release Trinity from all applicable claims for unpaid wages, overtime, retaliation or other compensation, fees/costs, liquidated damages, penalties, and all other relief under the FLSA and all other state and local wage/hour and wage payment laws and common law theories arising or accruing prior to March 29, 2019 against Trinity concerning your work as a server for Trinity.

If you have questions about the above release, please call one of the law firms identified in Section 11.

10. Will I be retaliated against by either party for participating or not participating?

No. Consistent with its legal obligations, Trinity will not retaliate against any individual who chooses to participate in this settlement. Likewise, Trinity management is not permitted to discuss this settlement with you, make negative comments about the settlement, or otherwise pressure or dissuade servers from participating in this settlement. If a Trinity manager nevertheless approaches you about the settlement or otherwise makes negative comments regarding the settlement, please document the incident and call one of the law firms identified in Section 11.

11. Do I have a lawyer in this case?

If you choose to participate in this settlement by returning a Settlement Claim Form, you will be represented by the named Plaintiff through her attorneys. They are:

MIGLIACCIO & RATHOD LLP

Nicholas A. Migliaccio, Esq.
Jason S. Rathod, Esq.
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WINEBRAKE & SANTILLO

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Dresher, PA 19025
Telephone: (215) 884-2491
Email: asantillo@winebrakelaw.com

If you want further information about this lawsuit, or have questions about the procedure or deadline for submitting a "Settlement Claim Form" please contact one of these law firms.

12. How will the lawyers be paid?

The law firms identified in Section 11 have worked on this lawsuit to date without being paid. The Judge has awarded the law firms' fees and expenses totaling up to \$315,000. These legal fees and expenses are being paid by Trinity in addition to the payments to you and the other participating servers described in Section 6. You are not required to pay any legal fees from your share of the settlement, as described in Section 6 above.

DO NOT CONTACT THE COURT ABOUT THIS NOTICE