

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

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CRYSTALLE BROWN, *et al.*

v.

LYNDON CITY LINE DINER, INC.

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: 1:19-cv-01227-JEJ  
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**STIPULATION AND ORDER**

**NOW**, this 4th day of October 2019, Originating Plaintiff Crystalle Brown (“Brown”) and Defendant Lyndon City Line Diner, Inc. (“Defendant”)

**STIPULATE** as follows:

1. The following collective is conditionally certified pursuant Section 16(b) of the Fair Labor Standards Act (“FLSA”), 29 U.S.C. § 216(b): **All individuals who, during any time between October 4, 2016 and October 4, 2019, were employed at the Lyndon Diner in York, PA and were paid pursuant to the FLSA’s tip-credit provisions.**<sup>1</sup> These individuals will be referred to as “Putative Collective Members.”

2. Defendant reserves its right to move to decertify or modify the FLSA collective, or from asserting that the FLSA claims of certain Putative Collective

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<sup>1</sup> Notwithstanding the time period, the FLSA limitations period for Brown is tolled as of July 17, 2019, while the FLSA limitations period for each of the six current opt-in plaintiffs is tolled as of the date on which the opt-in plaintiff filed her consent form.

members are time-barred, or otherwise argue that collective litigation is wholly or partially inappropriate.

3. The Pennsylvania Minimum Wage Act (“PMWA”) claim, see Complaint at Count II, will not be pursued on a class action basis under Federal Rule of Civil Procedure 23, and all class action allegations, see id. at ¶¶ 19-24, are WITHDRAWN. However, the PMWA will be asserted individually on behalf of Plaintiff, the six current opt-in plaintiffs, and any Putative Collective Member who join this action pursuant to paragraph 6 below.

4. Within 21 calendar days of the Court’s entry of this Order, Defendant’s counsel will email to Plaintiffs’ counsel an Excel spreadsheet containing the name and last known mailing address of each Putative Collective Member.

5. Within 28 calendar days of the Court’s entry of this Order, Plaintiffs’ counsel will mail to all Putative Collective Members (other than Brown and the six current opt-in plaintiffs) finalized copies of the attached “Notice of Collective Action Lawsuit” form, “Consent to Join” form (“Consent Form”), and a postage-paid return envelope bearing Plaintiffs’ counsel’s address (together the “Notice Package”). Plaintiffs’ counsel will pay all postage and printing costs associated with the preparation and mailing of the Notice Packages. If any Notice Package is

returned as undeliverable, Plaintiffs' counsel will make all reasonable efforts to update the address information and re-send the Notice Package.

6. In order to participate in this action, a Putative Collective Member must complete his/her Consent Form and return it in an envelope postmarked on or before the deadline indicated in the Notice Package, which will be set at 35 calendar days after the initial mailing date.

7. Plaintiffs' counsel will file with the Court each completed and timely Opt-In Consent Form within 3 business days of receipt.

FOR PLAINTIFFS:

/s/ Peter Winebrake  
Pete Winebrake  
Winebrake & Santillo, LLC  
715 Twining Road, Suite 211  
Dresher, PA 19025  
(215) 884-2491

FOR DEFENDANT:

/s/ Joseph Shelby  
Joseph D. Shelby, Esq.  
Cipriani & Werner, P.C.  
45 East Orange Street  
Lancaster, PA 17602  
(717) 390-3020

**SO ORDERED:**

  
\_\_\_\_\_  
Hon. John E. Jones, III

10-7-19  
\_\_\_\_\_  
Date



[insert date]

## **NOTICE OF COLLECTIVE ACTION LAWSUIT**

*Brown v. Lyndon City Line Diner, Inc.*, 1:19-cv-01227-JEJ  
United States District Court, Middle District of Pennsylvania

**TO:** [INSERT NAME]

### **PLEASE READ THIS NOTICE CAREFULLY**

#### **INTRODUCTION**

This Notice informs you of the existence of a collective action lawsuit seeking unpaid wages on behalf of servers who worked at the Lyndon Diner in York, PA during any time since October 4, 2016. You have a right to participate in the lawsuit.

#### **DESCRIPTION OF THE LAWSUIT**

In July 2019, Crystalle Brown (“Plaintiff”) started this lawsuit against Lyndon City Line Diner, Inc. (“the Diner”). Since then, six additional individuals have joined the lawsuit. The lawsuit is proceeding in the United States District Court in Harrisburg, PA (“the Court”) and is assigned to Judge John E. Jones, III.

Here is what the lawsuit is about: Federal and state wage laws generally require employers to pay employees a minimum wage of \$7.25/hour. However, restaurants are allowed to pay servers \$2.83/hour plus tips. This is called taking a “tip credit” because the restaurant is using tips as a “credit” against its minimum wage obligations to the servers.

Under the law, a restaurant using the “tip credit” must follow certain rules. For example, the restaurant must provide servers with certain information about the tip credit. Also, while the restaurant may not allow certain types of “non-tipped” employees to share in the tips, other types of “non-tipped” employees may share in the tips. In addition, while restaurants sometimes must pay \$7.25/hour for the time servers spend performing certain non-tip-producing tasks, there are other circumstances when non-tip-producing tasks may be paid at a rate less than the minimum wage.

This lawsuit alleges that the Diner violated the rules and should be required to pay, among other damages, the full \$7.25 wage for some or all of the hours worked by Plaintiff and other servers.

The Diner denies all of the lawsuit’s allegations and asserts that its pay practices are lawful.

The lawsuit is in its early stages. The Court has not decided who will win this lawsuit.

#### **RETALIATION PROHIBITED**

If you join the lawsuit, federal law prohibits The Diner from retaliating against you as a result of your participation.

**EFFECT OF JOINING THE LAWSUIT**

If you join the lawsuit, you will be bound by the judgment of the Court on all issues, including the reasonableness of any settlement. If the Court finds in favor of Plaintiff and other individuals who join the lawsuit, you will receive a money payment. If the Court finds in favor of the Diner, you will receive nothing.

If you join the lawsuit, you may be required to participate in the “discovery” process by, for example, gathering and producing any work-related documents, answering written questions, and, possibly, sitting for a deposition. The law firm identified below will represent you throughout the discovery process.

**EFFECT OF NOT JOINING THE LAWSUIT**

If you do not join the lawsuit, you will not be affected by any judgment or settlement resulting from the lawsuit.

**YOUR LEGAL REPRESENTATION IF YOU JOIN**

If you join the lawsuit, you will be represented by Winebrake & Santillo, LLC, 715 Twining Road, Suite 211, Dresher, PA 19025. The firm’s website is [www.winebrakelaw.com](http://www.winebrakelaw.com), and its phone number is (215) 884-2491.

You are not required to pay any fees to the above law firm. The firm has taken this case on a “contingency” basis. If the lawsuit is unsuccessful, the firm will receive nothing. If the lawsuit results in a recovery, the firm will ask the Judge to award legal fees separate and apart from your individual recovery.

Please call the above law firm if you have any questions or desire any additional information about the lawsuit.

**HOW TO JOIN THE LAWSUIT**

You can join the lawsuit by completing the enclosed “Consent to Join” form and returning it in the enclosed envelope to Plaintiff’s lawyers at the following address:

Winebrake & Santillo, LLC  
715 Twining Road, Suite 211  
Dresher, PA 19025

Your return envelope must be postmarked by *[insert date]*. If you fail to meet this deadline, you will not be allowed to participate in the lawsuit.

**THIS NOTICE HAS BEEN AUTHORIZED BY UNITED STATES DISTRICT JUDGE JOHN E. JONES, III. THE COURT HAS TAKEN NO POSITION REGARDING THE LAWSUIT’S MERITS.**



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**CONSENT TO BECOME PARTY PLAINTIFF**

I have read the form entitled "Notice of Collective Action Lawsuit" and consent to become a party plaintiff to this action pursuant to 29 U.S.C. § 216(b). I agree to be represented by Winebrake & Santillo, LLC (Dresher, PA). I understand that I will be bound by the judgment of the Court on all issues in this action, including the fairness of any settlement.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Name (Please Print Neatly)

\_\_\_\_\_  
Address

\_\_\_\_\_  
City, State, Zip Code

\_\_\_\_\_  
Phone Number

\_\_\_\_\_  
Email Address

**RETURN BY [INSERT DEADLINE] TO:**

Winebrake & Santillo, LLC  
715 Twining Road, Suite 211  
Dresher, PA 19025