

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

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RANDY SICKLESMITH, on behalf of	:	
himself and similarly situated employees,	:	
Plaintiff,	:	1:19-cv-01675-JEJ
v.	:	
	:	
HERSHEY ENTERTAINMENT &	:	
RESORTS COMPANY,	:	
Defendant.	:	

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**STIPULATION AND ORDER**

**AND NOW**, this 27th day of May 2020, Plaintiff and Defendant hereby

**STIPULATE** as follows:

1. The following collective is conditionally certified pursuant to Section 16(b) of the Fair Labor Standards Act (“FLSA”), 29 U.S.C. § 216(b): All individuals who were employed during any time since September 27, 2016 as servers at Defendant’s “Houlihan’s” restaurant located at 27 West Chocolate Avenue, Hershey, PA. Individuals falling within this definition are referred to as “Putative Collective Members.”

2. Nothing herein prevents Defendant from taking future steps to decertify or modify the collective defined in Paragraph 1.

3. Within fourteen (14) calendar days of the Court’s entry of this Order, Plaintiff’s counsel will use the addresses previously produced by Defendant in

response to interrogatories and document requests (“Addresses”) to mail to all Putative Collective Members finalized copies of the attached “Notice of Collective Action Lawsuit” form, “Consent to Join” form (“Consent Form”), and a postage-paid return envelope bearing Plaintiff’s counsel’s address (collectively the “Notice Package”). Plaintiff’s 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, Plaintiff’s counsel will make all reasonable efforts to update the address information and re-send the Notice Package.

4. Plaintiff’s counsel agrees that it has not and will not use the Addresses for affirmative outreach to Putative Collective Members outside of the process provided in paragraph 3. However, nothing herein prevents Plaintiff’s counsel from responding to communications initiated by Putative Collective Members.

5. In order to participate in this the FLSA claim asserted 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 forty-nine (49) calendar days after the initial mailing date.

6. Plaintiff’s counsel will file with the Court each completed Consent Form within two (2) business days of receipt. Prior to filing, the parties’ counsel will confer in good faith to amicably resolve any disputes concerning the completeness or timeliness of any form.

7. Within seventy (70) calendar days of the Court's entry of this Order, the parties will provide the Court with a proposed schedule for the remainder of this litigation.

8. Discovery is **STAYED** pending the completion of the above-described notice and opt-in process.

/s/ R. Andrew Santillo  
Counsel for Plaintiff

May 27, 2020  
Date

/s/ Rick L. Hackman  
Counsel for Defendant

May 27, 2020  
Date

**SO ORDERED:**

s/ John E. Jones III  

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Hon. John E. Jones, III  
United States District Judge

5/28/20  

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Date

[insert date]

**NOTICE OF COLLECTIVE ACTION LAWSUIT**

*Sicklesmith, et al. v. Hershey Entertainment & Resorts Company*, 1:19-cv-01675-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 under federal law. You may have the right to participate in the lawsuit.

**DESCRIPTION OF THE LAWSUIT**

In September 2019, Randy Sicklesmith (“Plaintiff”) started this lawsuit on behalf of servers who worked at the “Houlihan’s” restaurant located at 27 West Chocolate Avenue, Hershey, PA (the “Restaurant”) operated by Defendant Hershey Entertainment & Resorts Company (“HE&R”). The lawsuit is proceeding in the United States District Court in Scranton, PA and is assigned to United States District Judge John E. Jones, III.

The lawsuit alleges that HE&R violated federal and state wage law by failing to pay servers at the Restaurant the full minimum wage of \$7.25 per hour. The Plaintiff alleges that this is a result of HE&R requiring servers, waiters, and waitresses at the Restaurant to spend more than 20% of their time doing non-tip producing “side work,” while still paying them below the \$7.25 per hour minimum wage. The examples of this side work set forth in the lawsuit include rolling silverware; setting up drink stations, cleaning the soda machine, filling sauce containers, setting-up the salad cooler, preparing food, slicing fruit, sorting silverware and ramekins, and cleaning the Restaurant. The lawsuit seeks to recover approximately \$4.00 for each hour worked by servers, waiters, and waitresses who performed side work since September 27, 2016. The lawsuit also seeks the recovery of liquidated damages and attorney’s fees and expenses.

HE&R denies liability, disputes the validity of the allegations, and asserts that its pay practices are legal.

The Federal Court has not yet decided who will win.

**RETALIATION PROHIBITED**

If you join the lawsuit, federal law prohibits HE&R from retaliating against you as a result of your participation.

**HOW TO JOIN THE LAWSUIT**

You may 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.

**EFFECT OF JOINING THE LAWSUIT**

If you join the lawsuit, you will be bound by the judgment of the Federal Court on all issues, including the reasonableness of any settlement. If the Federal Court finds in favor of the servers, you will receive a money payment. If the Federal Court finds in favor of HE&R, you will receive nothing.

**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), its phone number is (215) 884-2491, and a contact email address is [asantillo@winebrakelaw.com](mailto:asantillo@winebrakelaw.com).

You will not be 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 Federal Court to award legal fees separate and apart from your recovery.

Please call the above law firm if you have any questions or desire any additional information about 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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_____	:	
RANDY SICKLESMITH, on behalf of	:	
himself and similarly situated employees,	:	1:19-cv-01675-JEJ
Plaintiff,	:	
v.	:	
HERSHEY ENTERTAINMENT &	:	
RESORTS COMPANY,	:	
Defendant.	:	
_____	:	

**CONSENT TO JOIN**

I hereby consent, pursuant to Section 16(b) of the Fair Labor Standards Act (“FLSA”), 29 U.S.C. § 216(b), to become a party plaintiff in this FLSA action. I agree to be represented by the law firm of Winebrake & Santillo, LLC (Dresher, PA) in this case. 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 IN ENVELOPE POSTMARKED BY [INSERT DATE] ADDRESSED TO:**

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

Fax: (215)-844-2492/Email: [asantillo@winebrakelaw.com](mailto:asantillo@winebrakelaw.com)