

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
CIVIL ACTION NO. 3:21-cv-290**

MIRANDA HATHAWAY, by and through biological mother, natural guardian, next friend and guardian ad litem ANGELA HATHAWAY, and on behalf of herself and all others similarly situated,

Plaintiff,

v.

SMALLCAKES STEELE CREEK, LLC,
SMALLCAKES BALLANTYNE, LLC, IAN
BOWLEG and AYANNA BOWLEG,

Defendants.

NOTICE OF COLLECTIVE ACTION LAWSUIT

TO: All current and former non-exempt hourly tipped employees who are or were employed by Smallcakes Steele Creek, LLC, Smallcakes Ballantyne, LLC, Ian Bowleg and/or Ayanna Bowleg beginning June 16, 2018 to the present.

I. INTRODUCTION

A lawsuit, captioned *Miranda Hathaway by and through biological mother, natural guardian, next friend and guardian ad litem Angela Hathaway, and on behalf of herself and all others similarly situated Smallcakes Steele Creek, LLC, Smallcakes Ballantyne, LLC, Ian Bowleg and/or Ayanna Bowleg*, has been filed in the United States District Court for the Western District of North Carolina, Case No. 3:21-cv-290. You are receiving this Notice because you are alleged to be “similarly situated” to the Plaintiff and are thus eligible to join this lawsuit. This letter advises you how this lawsuit may affect your rights and instructs you on how to join if you choose.

II. DESCRIPTION OF THE LAWSUIT

On June 16, 2021, Plaintiff filed this lawsuit alleging Smallcakes Steele Creek, LLC, Smallcakes Ballantyne, LLC, Ian Bowleg and/or Ayanna Bowleg violated the FLSA by regularly keeping all credit card tips. Smallcakes Steele Creek, LLC, Smallcakes Ballantyne, LLC, Ian

Bowleg and Ayanna Bowleg contest all claims that have been asserted and deny any wrongdoing or liability.

Nothing in this Notice is intended as an expression of the Court's opinion about the merits of Plaintiff's claims or about whether you should join this lawsuit.

III. WHO CAN JOIN THIS LAWSUIT

Plaintiff has filed this lawsuit on behalf of:

1. herself; and
2. all current and former non-exempt hourly tipped employees who are or were employed by Smallcakes Steele Creek, LLC, Smallcakes Ballantyne, LLC, Ian Bowleg and/or Ayanna Bowleg beginning June 16, 2018 to the present.

IV. YOUR RIGHT TO PARTICIPATE IN THIS LAWSUIT

You may join this lawsuit by completing and sending a signed copy of the attached "Consent to Join" form to Miranda Hathaway's lawyer via e-mail, facsimile, or U.S. mail to the following:

GESSNERLAW, PLLC
ATTN: Smallcakes Lawsuit
602 East Morehead Street
Charlotte, NC 28202
Phone: (704) 234-7442; Fax: (980) 206-0286
Email to: michelle@mgessnerlaw.com

If you choose to join the lawsuit, this form must be returned on or before **November 22, 2021**.

V. EFFECT OF JOINING THIS LAWSUIT

If you choose to join in this lawsuit, you will be bound by the judgment or settlement, whether it is favorable or unfavorable. Opt-in plaintiffs may be required to participate in the discovery process by producing documents, participating in oral depositions, and testifying at a hearing or trial. The attorneys representing you in this lawsuit are being paid on a contingency fee basis, which means that if there is no recovery, there will be no attorneys' fee. If there is a recovery, the attorneys representing you will receive a part of any settlement obtained or money judgment entered in favor of all members of the class. Should Plaintiff be unsuccessful, you may be required to pay a pro-rata share of Defendants' costs in defending the lawsuit.

If you join the lawsuit, you will designate Miranda Hathaway as your agent to make decisions on your behalf concerning the litigation, the method and manner of conducting this litigation, the entering of an agreement with Miranda Hathaway's counsel concerning attorney's

fees and costs, and all other matters pertaining to this lawsuit. These decisions and agreements made and entered into by Miranda Hathaway will be binding on you if you join this lawsuit.

VI. NO LEGAL EFFECT IN NOT JOINING THIS LAWSUIT

If you choose not to join this lawsuit, you will not be affected by any judgment or settlement rendered in this case. If you choose not to join in this lawsuit, you are free to file, or not to file, your own lawsuit. The statute of limitations will continue to run on your claim until you join this lawsuit or file your own.

VII. NO RETALIATION PERMITTED

If you choose to join this lawsuit, federal law prohibits Smallcakes Steele Creek, LLC, Smallcakes Ballantyne, LLC, Ian Bowleg, and Ayanna Bowleg from retaliating against you or in any manner discriminating against you because you have done so.

VIII. YOUR LEGAL REPRESENTATIVE IF YOU JOIN THIS LAWSUIT

If you join this lawsuit, counsel for Miranda Hathaway listed below will represent your interests:

**L. Michelle Gessner
GESSNERLAW, PLLC
602 East Morehead Street
Charlotte, NC 28202
Phone: (704) 234-7442; Fax: (980) 206-0286
Email to: michelle@mgessnerlaw.com**

IX. FURTHER INFORMATION

Further information about the lawsuit or this notice may be obtained by contacting Miranda Hathaway's attorney at the address or phone number provided above.

***You must timely return this form in order to opt-in to the collective action filed by Miranda Hathaway. If you do not want to participate in the collective action filed by Miranda Hathaway, you should not return this form.**