

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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CARLOS MARIN, KENNY LEBRON, and MARTINA HANISCH, on behalf of themselves and all others similarly situated,

Plaintiffs,

- against -

APPLE METRO, INC., et al.,

Defendants.

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Case No. 12 Civ. 5274  
(ENV)(CLP)

-related to-

SHAUNTA DOVE, on behalf of herself and all others similarly situated,

Plaintiff,

- against -

APPLE METRO, INC., et al.,

Defendants.

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Case No. 13 Civ. 1417  
(ENV)(CLP)

**NOTICE OF COLLECTIVE ACTION LAWSUITS REGARDING WAGES**

If you worked at an Applebee's Restaurant managed by Apple-Metro, Inc. in Manhattan, the Bronx, Brooklyn, Queens, Staten Island, or in Westchester or Rockland Counties, PLEASE READ THIS NOTICE.

Two collective action lawsuits may affect your legal rights.

You are not being sued. This notice is not a solicitation from a lawyer. This notice was authorized by the Court. Please read this Notice carefully.

- The two collective action lawsuits are known as *Marin, et al. v. Apple-Metro, Inc., et al.*, No. 12 Civ. 5274 (ENV)(CLP) and *Dove, et al. v. Apple-Metro, Inc., et al.*, No. 13 Civ. 1417 (ENV)(CLP). The Honorable Eric N. Vitaliano, United States District Court Judge, and The Honorable Cheryl L. Pollak, United States Magistrate Judge, in the Eastern District of New York, are overseeing both cases.

- Plaintiffs Carlos Marin, Kenny Lebron, and Martina Hanisch are three former employees of Applebee’s Restaurants managed by Apple-Metro, Inc. (“Defendants”). Plaintiffs worked as non-managerial workers, which includes servers, hosts, bartenders, cooks, expeditors, runners, dishwashers, and maintenance workers. They have brought a lawsuit (the “*Marin* lawsuit”) against Defendants on behalf of themselves and all other current and former similarly situated, non-managerial workers. The *Marin* lawsuit alleges that Defendants violated federal and state law by: (1) clocking out non-managerial workers while they were working; (2) forcing non-managerial workers to work off the clock; and (3) not allowing non-managerial workers to clock in at the beginning of their scheduled shifts.
- Plaintiff Shaunta Dove, who is a former host and server of an Applebee’s Restaurant managed by Defendants, has brought a lawsuit (the “*Dove* lawsuit”) against Defendants on behalf of herself and all other current and former similarly situated tipped employees. The *Dove* lawsuit alleges that Defendants violated federal and state law by failing to pay tipped hourly employees: (1) the tips owed to them from the tip pool; and (2) enough in wages so that their hourly wage plus tips equaled the federal minimum wage.
- Defendants deny any wrongdoing and/or liability and maintain that all of their employees are paid in compliance with federal and state law.
- The Court has not decided if anyone is owed any minimum wages or overtime, and the Court is not endorsing the merits of these lawsuits or advising you to participate in these lawsuits.

**Your legal rights may be affected, and you have a choice to make now:**

<b>YOUR LEGAL RIGHTS AND OPTIONS IN THIS LAWSUIT</b>	
<b>ASK TO PARTICIPATE</b>	<p>If you choose to participate in either or both of these collective action lawsuits, you will be bound by any ruling, settlement, or judgment. You will also share in any proceeds from a settlement or judgment, but you give up any rights to separately sue the Defendants about the same legal claims in these lawsuits.</p> <p><b>If you wish to participate in either or both lawsuits, you must complete and submit the Consent to Join form at the end of this Notice by April 20, 2015.</b></p>

<b>DO NOTHING</b>	By doing nothing, you will not be included in these lawsuits. This means that you give up the possibility of getting money or benefits that may come from a trial or settlement of the minimum wage or overtime claims asserted in these lawsuits. Delay in joining these actions may result in some or all of your potential claims expiring as a matter of law because the limitations period on your claims continues to run.
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**1. Why did I get this notice?**

You are getting this notice because Defendants’ records show that you may have worked as a non-managerial worker in an Applebee’s Restaurant managed by Apple-Metro, Inc.

**2. What are Plaintiffs asking for?**

Plaintiffs in both lawsuits are seeking to recover unpaid wages (minimum wage and overtime pay), in addition to 100% (double) liquidated damages, attorney’s fees, and costs.

**3. Can I join this lawsuit?**

To be eligible to participate in the *Marin* lawsuit, you must have worked as a non-managerial worker at one of the Applebee’s restaurants managed by Apple-Metro, Inc. in the boroughs of Manhattan, the Bronx, Brooklyn, Queens, Staten Island, or in Westchester or Rockland counties, at any time from October 22, 2009 to the present.

To be eligible to participate in the *Dove* lawsuit, you must have worked as a tipped employee at one of the Applebee’s restaurants managed by Apple-Metro, Inc. in the boroughs of Manhattan, the Bronx, Brooklyn, Queens, Staten Island, or in Westchester or Rockland counties, at any time from March 18, 2010 to the present.

**4. What will I have to do if I join these lawsuits?**

While these lawsuits are pending, you may be required to respond to written questions, testify at a deposition, and/or testify in court in order to help the Court decide whether you are owed any money.

**5. Can I participate in these lawsuits even though, due to my immigration status, I am or was not working at Applebee’s legally?**

Your immigration status does not affect your entitlement to participate in these lawsuits.

**6. Can defendants retaliate against me if I join this lawsuit?**

It is a violation of federal law for Defendants to fire, discipline, or in any manner discriminate or retaliate against you for taking part in this case. If you believe that you have been penalized, discriminated against, or disciplined in any way as a result of your receiving this notification, considering whether to join this lawsuit, discussing the lawsuit with others, or actually joining the lawsuit, you may contact Plaintiffs' lawyers or any other lawyers of your choosing. If any of the Defendants or their agents try to discuss the lawsuit with you, you have the right not to discuss it with them.

**7. How do I ask the Court to include me in the case?**

If you choose to join either or both of these lawsuits, you must read, sign, and promptly return the Consent to Join form attached to this notice by **April 20, 2015**. If the signed Consent to Join form is not postmarked, faxed, or emailed by April 20, 2015, you may not be allowed to participate in the federal law portion of this lawsuit.

An addressed and postage-paid envelope is enclosed for your convenience. Should the envelope be lost or misplaced, the Consent to Join form must be sent to:

**Apple-Metro Collective Action  
c/o CAA  
PO Box 6877  
Broomfield, CO 80021  
(844) 360-8305**

You may also complete the Consent to Join form online at: [www.ApplebeesCase.com](http://www.ApplebeesCase.com)

You can fax the Consent to Join form to **(866) 540-4423**, or scan and email it to [Join@ApplebeesCase.com](mailto:Join@ApplebeesCase.com)

**8. Do I have a lawyer in these collective action lawsuits?**

The Plaintiffs in these lawsuits are represented by Robert W. Ottinger, Ariel Y. Graff, and other lawyers at The Ottinger Firm, P.C., and Michael J. Borrelli and other lawyers at Borrelli & Associates, P.L.L.C. If you have any questions about whether you can join these lawsuits, you may contact these lawyers free of charge. The contact information is listed in section 7 above.

You may choose to be represented by Plaintiffs' counsel in this case. However, you also have the right to retain an attorney of your own choosing about this matter, at your own expense.