

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

JOSE HERNANDEZ, on behalf of himself,
individually, and on behalf of all others similarly-
situated,

Plaintiff,

-against-

EL BANDIDO RESTAURANT INC., d/b/a EL
BANDIDO MEXICAN RESTAURANT & LOUNGE,
and ESTATE OF SANTIAGO M. TELLO,
individually, and ANGELICA TELLO, individually,

Defendants.

Docket No.:
22-cv-00927-KMK-JCM

COURT AUTHORIZED NOTICE OF LAWSUIT

If you worked for EL BANDIDO RESTAURANT INC., which does business as EL BANDIDO MEXICAN RESTAURANT & LOUNGE, and/or SANTIAGO M. TELLO, and/or ANGELICA TELLO (together as “Defendants”), at any time between February 2, 2019 and the present, *please read this Notice.*

*Important: You are not being sued. This Notice is not a solicitation from a lawyer.
The Court authorized this Notice.*

- Jose Hernandez (“Plaintiff”) is a former employee of Defendants who worked as a non-managerial waiter in Defendants’ restaurant located 196 Route 59, Spring Valley, New York 10977.
- Plaintiff brought this collective action lawsuit against Defendants on behalf of himself and all other current and former employees who worked for Defendants as non-managerial front of the house employees - - which includes servers, bussers, hostesses, and waiters - - at any time between February 2, 2019 , and the present. Plaintiff claims, among other things, that he worked in excess of forty hours per week and that Defendants did not pay him overtime pay at the rate of one and one-half times his regular hourly rate of pay for all hours that he worked over forty each week, in violation of the federal Fair Labor Standards Act and the New York Labor Law. Defendants deny all claims against them and maintain that they have complied with the FLSA and New York Labor Law. Defendants deny that you are entitled to any of the damages, back pay, court costs, or attorney's fees sought.
- The Court has authorized Plaintiff to send out this Notice. The Court has not yet made any determination as to the merits of the claims or your right to recover any sum of money from the Defendants. However, your legal rights may be affected, and you have a choice to make now.

YOUR LEGAL RIGHTS AND OPTIONS IN THIS LAWSUIT	
ASK TO BE INCLUDED	If you choose to be included in this collective action, you must complete and return the “Consent to Join Lawsuit” form at the end of this Notice. You may then share in any proceeds from a settlement or judgment if those bringing the claims are successful, but you give up any rights to separately sue the Defendants for the same legal claims in this lawsuit.
DO NOTHING	By doing nothing, you will not be included in this lawsuit at this time.

1. Why did I get this notice?

You are getting this notice because Defendants’ records show that you may have worked for Defendants at some point between February 2, 2019 and the present as a non-managerial front of the house employee at Defendants’ restaurant.

2. What is a collective action and who is involved?

In a collective action lawsuit, one or more persons can bring a lawsuit on behalf of others who have similar claims. The individual who brought this lawsuit is called the Plaintiff. The corporate entity and the individuals who are being sued are called the Defendants. One court resolves the issues for everyone who decides to join the case.

3. What is this collective action lawsuit about?

Plaintiff alleges that Defendants’ compensation practices violated federal and New York law. Plaintiff claims that he and others who worked for Defendants are entitled to unpaid overtime wages, liquidated damages, attorneys’ fees, and costs.

Defendants deny all claims against them and maintain that they have complied with the FLSA and New York Labor Law. Defendants deny that you are entitled to any of the damages, back pay, court costs, or attorney's fees sought.

4. What is the purpose and effect of this notice?

This notice is for the sole purpose of determining those persons who wish to be involved in this case.

If you elect to join this proceeding, and Plaintiff successfully obtains a settlement or a judgment, you may be entitled to some portion of the recovery if you qualify under the law. There are no assurances that any recovery will be awarded.

You should be aware that a claim under the Fair Labor Standards Act must be brought within two years of the date that the claim accrues, unless you can prove that your employer’s violation was willful, in which case the claim must be brought within three years.

5. How do I join this collective action lawsuit?

To participate in this lawsuit, you need to fill out the enclosed form entitled “Consent to Join Lawsuit” and mail it, in the enclosed, postage-paid envelope, to Plaintiff’s lawyers, Borrelli & Associates, P.L.L.C. Should the enclosed envelope be lost or misplaced, the Consent to Join Lawsuit form must be sent to:

Borrelli & Associates, P.L.L.C.
910 Franklin Avenue, Suite 200
Garden City, New York 11530
Tel: (516) 248-5550

You can also: fax the Consent to Join Lawsuit form to (516) 248-6027; or scan and email it to mjb@employmentlawyernewyork.com

The signed Consent to Join Lawsuit form must be filed with the court by [MONDAY, AUGUST 8, 2022]. If your signed Consent to Join Lawsuit form is not filed with the Court by [MONDAY, AUGUST 8, 2022], you may not be allowed to participate in this lawsuit.

6. If I choose to join this lawsuit, will I have to participate in any legal proceeding?

Most likely, if you choose to join this lawsuit, you will be required to provide information and answer questions relating to your employment with Defendants. You may be required to testify at a deposition or at a trial, respond to written questions, and/or produce documents relevant to the case. For this reason, if you join the lawsuit, you should preserve all documents relating to your employment with the Defendants that are currently in your possession. Plaintiff’s attorneys will assist you with these requirements if you elect for them to represent you, as explained below in section 10 below.

If you join this lawsuit, you will be bound by any ruling, settlement, or judgment, whether favorable or unfavorable.

7. What happens if I do nothing at all?

You will not be included in this lawsuit and you will not be affected by any settlement or judgment rendered in this case, whether favorable or unfavorable. The limitations period on your claims will, however, continue to run.

8. Can I participate in this collective action lawsuit regardless of my immigration status?

Yes. You have a right to participate in this lawsuit regardless of your immigration status.

9. If I join, will there be any impact on my employment?

No. Federal and New York law both prohibit Defendants from discharging or in any other manner retaliating against you because you have joined this case or have in any other way exercised your rights under federal and New York law.

10. Do I have a lawyer in this case?

Plaintiff is represented by Borrelli & Associates, P.L.L.C. If you choose to join this lawsuit, Borrelli & Associates, P.L.L.C. will represent you on a contingency fee basis, meaning that you will not owe any attorneys' fees unless Plaintiff is successful and wins the case or obtains a settlement, in which case the Court will likely determine the amount of attorneys' fees to be paid from any such judgment or settlement.

You do not have to be represented by Borrelli & Associates, P.L.L.C. and may instead hire another attorney of your choosing or represent yourself *pro se* without the assistance of a lawyer. If you intend to retain your own lawyer or to represent yourself, you should indicate this on the Consent to Join Lawsuit form. If you send back your form but do not indicate that you intend to retain your own lawyer or to represent yourself, the Court will assume that you want Borrelli & Associates, P.L.L.C. to represent you.

11. This Notice has been authorized by the Court

This notice and its contents have been authorized by District Judge Kenneth M. Karas of the United States District Court for the Southern District of New York, located in White Plains, New York. The Court has not yet ruled on whether Plaintiff's claims or Defendants' defenses have any merit.

PLEASE DO NOT WRITE OR CALL THE COURT OR THE CLERK OF THE COURT ABOUT THIS NOTICE.

Although the Court has approved the sending of this Notice, the Court expresses no opinion on the merits of the lawsuit. If you have any questions, you may contact Plaintiff's attorneys, Borrelli & Associates, P.L.L.C., by telephone at (516) 248-5550, or in writing at Borrelli & Associates, P.L.L.C., 910 Franklin Avenue, Suite 200, Garden City, New York 11530, or by email at mjb@employmentlawyernewyork.com.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

JOSE HERNANDEZ, on behalf of himself,
individually, and on behalf of all others similarly-
situated,

Plaintiff,

-against-

EL BANDIDO RESTAURANT INC., d/b/a EL
BANDIDO MEXICAN RESTAURANT & LOUNGE,
and ESTATE OF SANTIAGO M. TELLO,
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Defendants.

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**CONSENT TO JOIN
LAWSUIT**

IF YOU RECEIVED THIS FORM AND WANT TO JOIN THIS LAWSUIT, PLEASE COMPLETE THESE TWO STEPS:

1. COMPLETE AND SIGN THIS “CONSENT TO JOIN LAWSUIT” FORM; AND
2. USE THE ENCLOSED ENVELOPE TO RETURN THIS FORM TO THE ADDRESS BELOW NOT LATER THAN [MONDAY, AUGUST 8, 2022].

Borrelli & Associates, P.L.L.C.
910 Franklin Avenue, Suite 200
Garden City, New York 11530

You can also: fax this Consent to Join Lawsuit form to (516) 248-6027; or scan and email it to mjb@employmentlawyernewyork.com

I CHOOSE TO BE REPRESENTED BY:

_____ Borrelli & Associates, P.L.L.C. I authorize Plaintiff and Borrelli & Associates, P.L.L.C. to act on my behalf in all matters relating to this action, including any settlement of my claims brought under federal and state laws.

_____ Another attorney of my choosing, who shall promptly file a notice of appearance on my behalf.

_____ Myself, *pro se*, without the assistance of an attorney.

If you do not select any of the representation options above but send back your form to Borrelli & Associates, P.L.L.C., you will automatically be represented by Plaintiff’s lawyers, Borrelli & Associates, P.L.L.C. Moreover, failure to select a representation option above will authorize Jose Hernandez and Borrelli & Associates, P.L.L.C., to act on your behalf in all matters relating to this action, including any settlement of your federal and state law claims. You are permitted to proceed with alternative counsel of your own choosing or to represent yourself *pro se* without the assistance of an attorney.

SIGNATURE

PRINT NAME

Address

City, State, Zip Code

Telephone Number

Email Address

Start Date of Employment

End Date of Employment