

Kilmer v. Burntwood Tavern Holdings LLC d/b/a Chef Art Pour Restaurant Group LLC, et al.
Case No. 1:19-CV-02660-PAB (N.D. Ohio)

COURT-AUTHORIZED
NOTICE

(THIS IS NOT AN ADVERTISEMENT FROM A LAWYER)

If you are or were employed by Chef Art Pour Restaurant Group LLC or any Burntwood Tavern, M Italian, Rose Italian Kitchen, and/or Leo’s Italian Social restaurant working as a salary-paid Sous Chef, at any time since April 28, 2017, please read this Notice.

- Plaintiff Johnathan Kilmer, a former employee who worked as a salary-paid Sous Chef, claims that Sous Chefs, or the equivalent reporting level back of house position, however variously titled (“Sous Chefs”), should have been paid overtime compensation for all hours worked over 40 in a week. Even though you were paid a salary and may have believed salaried employees were not entitled to overtime, you may join this case. If you join this lawsuit, and the court determines that the case should proceed as a class or collective action, and Plaintiffs prevail, you may be entitled to overtime wages and other damages.
- Defendants deny that they have done anything wrong and intend to defend themselves against this lawsuit.
- The Court has allowed this Notice to be sent under the Fair Labor Standards Act (“FLSA”) to all persons who are or were employed as Sous Chefs at any Chef Art Pour Restaurant Group LLC restaurant, including any Burntwood Tavern, M Italian, Rose Italian Kitchen, and/or Leo’s Italian Social restaurant, at any time from April 28, 2017 to the present.
- Although the Court has authorized this Notice, it has not yet decided whether Defendants have complied with federal and state law or whether any Sous Chef is entitled to money or other relief.
- Your legal right to participate in the lawsuit is subject to the choice that you must now make.

YOUR LEGAL RIGHTS AND OPTIONS IN THIS LAWSUIT	
JOIN THE CASE	<p>If you would like to participate in this case and share in a monetary recovery, if any, that might come from a judgment or a settlement in this lawsuit, you must fully complete, sign and timely submit a Consent to Join Form no later than July 27, 2020, to Burntwood Tavern FLSA, c/o Notice Administrator, PO Box 23680, Jacksonville, FL 32241.</p> <p><u>You may sign and submit the Consent to Join Form in the following ways:</u></p>

	<p>(1) You may electronically sign and return the “Consent to Join” form, which can be accessed at www.burntwoodtavernflsalawsuit.com, and submitted no later than July 27, 2020, or</p> <p>(2) You can complete and sign the form included with this Notice and mail it in the enclosed addressed, postage paid envelope so that it is postmarked no later than July 27, 2020, or</p> <p>(3) You may complete, sign and send the enclosed form by fax to 877-430-1941, or email it to so that the notice administrator receives it no later than July 27, 2020, to info@burntwoodtavernflsalawsuit.com.</p> <p>Filing the Consent to Join Form does not guarantee that you will ultimately be a participant in this lawsuit if the Court at a later date determines certain claims are time-barred.</p>
DO NOTHING	<p>By doing nothing, you give up the possibility of a monetary recovery that may come from a trial or settlement of the FLSA claims if those bringing the lawsuit are successful. You would not be bound by any judgment. You will, however, have the right to bring your own claims. If you do not join, the statute of limitations on your claim will continue to run and you may lose some or all of your rights if you do not act.</p>

I. Why Did I Get This Notice and What Is the Lawsuit About?

This Notice was sent to tell you of the existence of the lawsuit and inform you of your rights. According to the Defendants’ records, you worked as a Sous Chef in one of their restaurants on or after April 28, 2017, and you are eligible to join and become a party to the lawsuit. The choice to join or not to join this lawsuit is yours.

The Lawsuit. Johnathan Kilmer brought a lawsuit entitled *Kilmer v. Burntwood Tavern Holdings LLC d/b/a Chef Art Pour Restaurant Group LLC, et al, Case No. 1:19-CV-02660-PAB (N.D. Ohio)*. Two additional individuals have joined the lawsuit by filing their opt-in Consents. In this lawsuit, Plaintiff claims that he, and other salary-paid Sous Chefs, were misclassified as managers exempt from overtime, but instead they should have been paid overtime compensation in all weeks in which they worked more than 40 hours. Specifically, the lawsuit alleges that their primary duties did not involve substantial managerial discretion and did not differ substantially from those performed by hourly associates, including, among others, tasks such as manual labor and food, beverage, and customer service restaurant duties. As a result, Plaintiff claims they, and all other Sous Chefs, are entitled to overtime pay.

Defendants deny the claims Plaintiff is making.

II. How Do I Join & What Happens If I Do?

Enclosed is a “Consent to Join” form. If you want to participate in this lawsuit, you must read, sign, fill it out and return it. There are several ways to return it:

- (1) You may electronically sign and submit it online at www.burntwoodtavernflsalawsuit.com by July 27, 2020;
- (2) You can fax it to the below fax number or email it to the below email address by July 27, 2020; or,
- (3) You can mail it back in the enclosed addressed prepaid envelope, or in another envelope, so that it is postmarked by July 27, 2020 to the following:

Burntwood Tavern FLSA
c/o Notice Administrator
PO Box 23680
Jacksonville, FL 32241
Fax: 877-430-1941
Telephone: 844-755-5801
Email: info@burntwoodtavernflsalawsuit.com

Should you lose or misplace the enclosed Consent to Join form, please contact Burntwood Tavern FLSA at 1-844-755-5801. If you have questions, you may contact the Plaintiff's lawyers listed below.

If you submit the enclosed Consent to Join Form by July 27, 2020, the lawyers listed below will represent you at no out of pocket cost to you and work to obtain any unpaid overtime wages you may be owed. By joining this lawsuit, you designate the named Plaintiff as your representative, and to the fullest extent possible, you designate the named Plaintiff and his counsel to make decisions on your behalf concerning the case, the method and manner of conducting the case, and all other matters pertaining to this lawsuit. Decisions made and agreements entered into by Plaintiff relating to this lawsuit will bind you if you join the lawsuit. While this suit is proceeding, you may be required to respond to written questions, produce documents, and/or provide testimony at a deposition and/or trial.

The Court or a jury will determine your rights to any money. You will be bound by and share in any ruling, settlement or judgment in this lawsuit, whether it is favorable or unfavorable. Filing the Consent to Join Form does not guarantee that you will ultimately be a participant in this lawsuit or recover any amount if the Court at a later date determines certain claims are time-barred or the case should not proceed as a collective action.

Plaintiff is represented by:

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By returning the Consent to Join form, you will join this lawsuit and these attorneys will represent you.

III. Will My Participation Cost Me Anything? How Will the Lawyers Get Paid?

The Plaintiff's attorneys listed above will pay all the costs associated with this case and will only receive fees and reimbursement of costs if there is a settlement or judgment. If there is no recovery, they will get nothing and you will owe them nothing. Any contingent legal fees will be paid to the attorneys from any funds paid to satisfy a judgment or settlement of the case. The specifics of this fee arrangement are memorialized in a fee agreement and if you join the case, you may obtain a copy of the fee agreement by requesting it from the Plaintiff's attorneys.

If you join this lawsuit and the Court ultimately concludes that Defendants are the prevailing party, you may be liable for a portion of Defendants' costs in this matter—not including Defendants' attorneys' fees.

IV. And If I Do Not Join?

If you do not join, you will not be bound by any judgment issued or settlement approved by the Court in this case – whether it is favorable or unfavorable. You will not be entitled to share in the amounts recovered in this lawsuit, if any, but you will have the right to separately bring your own claims. If you do not join, the statute of limitations on your claim will continue to run and you may lose some or all of your rights if you do not act quickly.

V. No Retaliation Permitted

Federal law prohibits Defendants or any of its agents from firing or in any way retaliating against you because you have joined this Lawsuit.

VI. How Can I Get More Information?

Additional information can be obtained from the Plaintiff's attorneys at the above addresses and telephone numbers. You may also learn more about the claims in the Complaint and review relevant documents by contacting Burntwood Tavern FLSA at 1-844-755-5801 or going to the website: www.burntwoodtavernflsalawsuit.com. No inquiries concerning this case should be directed to the Court.

The Notice has been authorized by the Court. This Notice is not an expression by the Court of any opinion concerning the alleged claims. This Notice simply informs you of the pendency of this litigation and your rights to join, or not join, the lawsuit.