

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

JOYSEL LOPEZ, *on behalf of himself and all  
others similarly situated,*

Plaintiff,

-v-

OVERTIME 1ST AVENUE CORP., *d/b/a*  
PRIME ONE 16,

Defendant.

**COURT-AUTHORIZED NOTICE**

No. 15-cv-820 (RJS)

**NOTICE OF COLLECTIVE ACTION LAWSUIT REGARDING WAGES**

**If you worked for OVERTIME 1ST AVENUE CORP., d/b/a PRIME ONE 16, between February 4, 2012 and the present as a bartender, server, waiter, and/or busboy, a collective action lawsuit may affect your legal rights.**

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

- The purpose of this Notice is to advise you of the lawsuit that has been filed against OVERTIME 1ST AVENUE CORP., d/b/a PRIME ONE 16 (“Defendant”), and to advise you of your legal rights in connection with that suit.
- The lawsuit claims that Defendant failed to pay its bartenders, servers, waiters, and/or busboys (collectively, “wait staff”) minimum wage and overtime pay as required under the federal Fair Labor Standards Act (“FLSA”) and New York State Labor Law (“NYLL”). The lawsuit seeks to recover money owed in back wages for unpaid minimum wage and overtime compensation.
- The named Plaintiff in this lawsuit, Joysel Lopez (“Plaintiff”), is a former server for Defendant. Plaintiff is bringing this lawsuit against Defendant on behalf of himself and all other current and former similarly situated wait staff employees who worked for Prime One 16 between February 4, 2012 and the present day. Plaintiff claims that he worked in excess of forty hours per week and was not paid overtime for the hours he worked over forty hours each week at the rate of 1.5 times his normal rate of pay or at the minimum wage rate for every hour worked.

- Defendant denies any wrongdoing and/or liability and maintains that it paid their wait staff in compliance with federal law.
- The Court has authorized the parties to send out this notice of the lawsuit. The Court does not express any opinion regarding the merits of the claims.
- This notice should not be taken as an indication that you should or should not join the lawsuit.

## I. WHAT THE LAWSUIT IS ABOUT

As mentioned above, this lawsuit is about whether Defendant properly paid wait staff workers in accordance with federal and state labor laws. In particular, this notice relates to claims that the Defendant violated federal law by failing to pay employees overtime at a rate not less than 1.5 times their regular rates of pay for any hours worked exceeding forty hours in a workweek. The lawsuit also alleges that Defendant violated federal and state law by failing to pay employees minimum wage for all hours worked.

Plaintiff is seeking to recover unpaid wages, liquidated damages, attorneys' fees, and costs.

## II. COMPOSITION OF THE COLLECTIVE ACTION

In a collective action lawsuit, one or more persons can bring a lawsuit on behalf of others who may have similar claims. Here, the named Plaintiff seeks to sue on behalf of himself and on behalf of other employees who may wish to join the lawsuit and who are similarly situated to him.

You are getting this notice because Prime One 16's records show that you may have worked as a member of its wait staff at some point between February 4, 2012 and the present.

## III. YOUR OPTIONS REGARDING THIS LAWSUIT

You may elect to join this lawsuit, bring your own separate lawsuit, or do nothing.

If you choose to join this lawsuit, it is important that you read, sign, and promptly return the enclosed consent form described below. In addition, if you join this lawsuit, you may be required to provide information, appear for a deposition, or testify. Furthermore, you will be bound by any ruling, settlement, or judgment in this case. You will also be entitled to share in any proceeds from a settlement or judgment if those bringing the claims are successful and you have a valid claim for unpaid minimum wage or overtime, but you give up any rights to separately sue the Defendant about the same legal claims asserted in this lawsuit.

If you choose not to join this lawsuit, you may choose to bring your own lawsuit or do nothing. In either event, you will not be included in this lawsuit for the purpose of asserting a minimum wage or overtime claim under federal law, and you will not be bound by any ruling, settlement, or judgment in

this case.

#### IV. HOW DO I JOIN THIS LAWSUIT

To participate in this lawsuit, you need to fill out the enclosed form called “Consent to Join” and mail it in the enclosed, postage-paid envelope to Plaintiff’s lawyers. Should the enclosed envelope be lost or misplaced, the Consent to Join form must be submitted to Plaintiff’s lawyers at the following address or by fax or email:

Borrelli & Associates, P.L.L.C.  
Re: Prime One 16 Case  
1010 Northern Boulevard, Suite 328  
Great Neck, New York 11021  
Tel. (516) 248-5550

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

Your signed Consent to Join form must be postmarked, faxed, or e-mailed by October 29, 2015. If your signed Consent to Join form is not postmarked, faxed, or e-mailed by October 29, 2015, you may not be allowed to participate in the federal law portion of this lawsuit.

#### V. EFFECT OF JOINING THIS LAWSUIT

As noted above, if you choose to join this lawsuit, you will be bound by any ruling, settlement, or judgment, whether favorable or unfavorable. If there is a favorable resolution, either by settlement or judgment, and you qualify under the law, you will be entitled to some portion of the recovery. While this lawsuit is pending, you may be asked to provide documents or information relating to your employment at Prime One 16, which may include responding to written questions. For this reason, if you join the lawsuit, you should preserve all documents relating to your employment at Prime One 16 currently in your possession. You may also be required to testify under oath at a deposition (prior to trial) and/or at trial. If you do opt into this lawsuit and you are asked to give information, testimony, or otherwise participate in this action, Plaintiff’s attorneys will assist you.

By joining this lawsuit, you designate the named Plaintiff, Joysel Lopez, and to the fullest extent possible, his counsel, Borrelli & Associates, P.L.L.C., 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 the lawsuit will be binding on you if you join the lawsuit. If you choose to join this lawsuit, Borrelli & Associates, P.L.L.C. will represent you on a contingency fee basis, meaning you will not owe any attorneys’ fees unless Plaintiff is successful and wins the case or obtains a settlement.

#### VI. EFFECT OF NOT JOINING THIS LAWSUIT

As noted above, if you do not join this action, you will not be included in this lawsuit for the purpose of asserting a minimum wage or overtime claim under federal law. Therefore, you will not be entitled to any recovery in this case should there be any for those claims, nor will you be bound by any ruling, settlement, or judgment in this lawsuit. The statute of limitations period on your claims will continue to run.

## VII. IMMIGRATION STATUS

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

## VIII. IMPACT ON YOUR EMPLOYMENT

It is a violation of law for Defendant or any other employer to fire, discipline, or in any manner discriminate against you for joining this lawsuit. Federal law prohibits Defendant from discharging or in any other way retaliating against you because you join this case or otherwise exercise your rights under the FLSA.

DATED: September 28, 2015

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

JOYSEL LOPEZ, *on behalf of himself and all others similarly situated,*

Plaintiff,

-v-

OVERTIME 1ST AVENUE CORP., *d/b/a*  
PRIME ONE 16,

Defendant.

**CONSENT TO JOIN FORM**

No. 15-cv-820 (RJS)

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 OCTOBER 29, 2015.

Borrelli & Associates, P.L.L.C.  
Re: Prime One 16 Case  
1010 Northern Boulevard, Suite 328  
Great Neck, New York 11021

YOU CAN ALSO FAX THE CONSENT TO JOIN FORM TO (516) 248-6027,  
OR SCAN AND EMAIL IT TO: [mjb@employmentlawyernewyork.com](mailto:mjb@employmentlawyernewyork.com) or  
[td@employmentlawyernewyork.com](mailto:td@employmentlawyernewyork.com)

I consent to join the collective action as a party plaintiff against Defendant Overtime 1st Avenue Corp. (d/b/a Prime One 16) in order to seek redress for violations of the Fair Labor Standards Act, pursuant to 29 U.S.C. § 216(b).

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SIGNATURE

\_\_\_\_\_  
PRINT NAME

\_\_\_\_\_  
Address

\_\_\_\_\_  
City, State, Zip Code

\_\_\_\_\_  
Telephone Number

\_\_\_\_\_  
Employment Start Date at Prime One 16

\_\_\_\_\_  
Employment End Date at Prime One 16