

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

DIONNY ESPINAL, on behalf of himself,  
individually, and on behalf of all others  
similarly-situated,

Plaintiff,

-against-

VICTOR'S CAFÉ 52nd STREET, INC., and  
SONIA ZALDIVAR, individually, and  
CHRISTIAN BETERE, individually,

Defendants.

**Docket No.:**  
**1:16-cv-8057-VEC**

**COURT AUTHORIZED NOTICE OF LAWSUIT**

If you worked for VICTOR'S CAFÉ, 52<sup>ND</sup> STREET, INC., or for SONIA ZALDIVAR, individually, or CHRISTIAN VITERA, individually, (all, together as "Defendants"), at any time between October 14, 2013 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.*

- Plaintiff, Dionny Espinal, is a former busser employee of Victor's Café.
- Plaintiff brought this lawsuit against Defendants on behalf of himself and all other current and former busser employees who worked for Defendants at any time between October 14, 2013 and the present. Plaintiff claims that he was directed to work off the clock to roll napkins and silverware before his shift, which resulted in him not being paid at least the minimum wage for all hours worked, and also resulted in him not being paid all overtime due, in violation of the Fair Labor Standards Act and New York law. Defendants deny any wrongdoing, and specifically deny directing any employee to work off the clock. Defendants further assert that they paid all employees in accordance with the Fair Labor Standards Act and New York law.
- The Court has authorized the parties to send out this Notice. The Court has not decided who is right or who is wrong.

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 the consent 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. Inclusion in this lawsuit does not necessarily mean you are entitled to monetary relief.
DO NOTHING	By doing nothing, you will not be included in this lawsuit relating to claims under the Fair Labor Standards Act.

1. Why did I get this notice?

You are getting this notice because Defendants' records show that you may have worked at Victor's Café at some point between October 14, 2013 and the present, in a busser job similar to the one held by Plaintiff.

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 individuals that 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, specifically directing employees to work off the clock, violated federal and state law. Plaintiff claims that he and others who worked for Defendants are entitled to unpaid minimum wages, overtime wages, liquidated damages, other wage-related penalties, attorneys' fees, and costs.

Defendants deny any wrongdoing and/or liability and maintain that all of their employees were paid in accordance with federal and state law, and further deny that any employees were ever directed to work off the clock.

4. How do I join this collective action lawsuit?

To participate in this lawsuit, you need to fill out the enclosed form called "Consent to Join Lawsuit" and mail it in the enclosed, postage-paid envelope to the Clerk of the Court for the United States District Court for the Southern District of New York. Should the enclosed envelope be lost or misplaced, the Consent to Join form must be sent to:

Ruby J. Krajick, Clerk of Court  
Daniel Patrick Moynihan U.S. Courthouse  
500 Pearl Street  
New York, New York 10007

The signed Consent to Join form must be postmarked by July 31, 2017. If your signed Consent to Join form is not postmarked by July 31, 2017, you may not be allowed to participate in this lawsuit.

5. What happens if I join the collective action 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 may be entitled to some portion of the recovery. This Notice does not mean you are entitled to monetary recovery. Any such determination must be made by the Court. By joining this lawsuit, you designate Plaintiff, or his counsel, to the fullest extent possible, 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 and/or his counsel relating to the lawsuit will be binding on you if you join the lawsuit.

While this lawsuit is pending, you may be asked to provide documents or information relating to your employment with Defendants. You may also be required to respond to written questions under oath and may be required to appear for a deposition in person, under oath. You may also have to testify in court as part of a trial. Inclusion in this lawsuit means you may also be responsible for costs associated with this litigation. For this reason, if you join the lawsuit, you must preserve any and all documents and communications relating to your employment with Defendants currently in your possession.

6. 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 potential claims continues to run.

7. 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.

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

Federal and New York law prohibits Defendants from discharging or in any other manner retaliating against you because you join this case.

9. Do I have a lawyer in this case?

Plaintiff is represented by Borrelli & Associates, P.L.L.C. Defendants are represented by Greenberg Traurig, LLP.

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 determine the amount of attorney's fees to be paid.

You do not have to be represented by Borrelli & Associates, P.L.L.C. and may instead hire another attorney of your choosing, at your own expense, 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.

10. This Notice has been authorized by the Court

This notice and its contents have been authorized by District Judge Valerie E. Caproni of the United States District Court for the Southern District of New York, located in New York, New York. The Court has not yet ruled on whether Plaintiff's claims or Defendants' defenses have any merit. Receipt of this Notice does not necessarily entitle you to monetary recovery.

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, 1010 Northern Boulevard, Suite 328, Great Neck, New York 11021, or by email at [mjb@employmentlawyernewyork.com](mailto:mjb@employmentlawyernewyork.com).

Defendants are represented by the law firm Greenberg Traurig, LLP, located at 200 Park Avenue #14, New York, New York 10166 and may be contacted at (973) 443-3295 or in writing at Greenberg Traurig, LLP, Met Life Building, 200 Park Avenue, New York, New York 10166, or by email at [gonnellad@gtlaw.com](mailto:gonnellad@gtlaw.com).

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

DIONNY ESPINAL, on behalf of himself,  
individually, and on behalf of all others  
similarly-situated,

Plaintiff,

-against-

VICTOR'S CAFÉ 52nd STREET, INC., and  
SONIA ZALDIVAR, individually, and  
CHRISTIAN BETERE, individually,

Defendants.

**Docket No.:**  
**1:16-cv-8057-VEC**

**CONSENT TO JOIN FORM**

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 JULY 31, 2017.

Ruby J. Krajick, Clerk of Court  
Daniel Patrick Moynihan U.S. Courthouse  
500 Pearl Street  
New York, New York 10007

**I consent to join the collective action; and I elect to be represented by [choose ONE]:**

\_\_\_\_ Borrelli & Associates, P.L.L.C.  
I authorize Plaintiff Dionny Espinal 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.

\_\_\_\_ 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 the Clerk of the Court, 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 Dionny Espinal and Borrelli & Associates, P.L.L.C. to act on your behalf in all matters relating to this action, including any settlement of your claims. You are permitted to proceed with alternative counsel of your own choosing at your own expense or to represent yourself *pro se* without the assistance of an attorney.

\_\_\_\_\_  
**SIGNATURE**

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

\_\_\_\_\_  
**Address**

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

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

\_\_\_\_\_  
**Email Address**