

**IN THE U.S. DISTRICT COURT OF MARYLAND
FOR DISTRICT OF MARYLAND**

Todd Arnold, *

*On behalf of himself and
others similarly situated* *

Plaintiffs *

v. *

Case No. 15-3001 BPG

Acappella, LLC, et al. *

Defendants *

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF MARYLAND

**If you have worked at “Acappella” in Fallston, Maryland as a
server, a collective action lawsuit may affect your rights to receive
additional wages.**

A Court authorized this notice. This is not a solicitation from a lawyer.

- ☞ A former employee of Acappella, LLC (t/a “Acappella Italian Restaurant”) has filed an opt-in notice and has brought a lawsuit, *Arnold, et al. v. Acappella, LLC*, Case No. BPG-15-3001. The former employee alleges that they and other servers failed to receive the minimum wage in proper amounts. The case has been brought under the Fair Labor Standards Act, 29 U.S.C. § 201 *et seq.* (the “Law”).
- ☞ The U.S. District Court for the District of Maryland (the “Court”) has entered an order allowing this case to proceed as a “collective” action, which is a form of a class action. You are receiving this notice because you may be eligible to join this case.
- ☞ The former employees contend that the Law requires that servers be informed that Acappella is taking a tip credit against the regular minimum wage and that they be allowed to retain all of their tips (except in a valid tip pooling arrangement) before a lesser sub-minimum wage (“tipping wage”) can be paid. The former employees contend that Acappella did not inform them or other servers that it was taking a tip credit, and that servers work pursuant to a practice where they were required to pay a “tip out,” which they claim was retained by management. The former employees contend that such a tip out practice violates the tip credit provisions of the FLSA, providing alternative basis as to their claims for the full minimum wage.

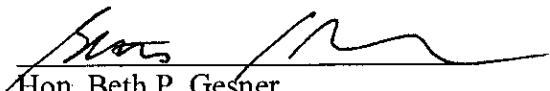
- ☞ In addition to the alleged underpayment of wages, the former employees also seek double damages to the extent allowed by Law.
- ☞ You do not have to be a former employee to participate in this case. If you worked as a server at Acappella, you may be eligible to participate in this lawsuit. The amount of tips that you may have earned has nothing to do with whether you may be potentially owed additional wages by Acappella.
- ☞ Federal law prohibits Acappella, or any other individual acting in its behalf, from discharging you or taking any other retaliatory actions against you because you have exercised your legal right to join this lawsuit or because you have otherwise exercised your rights under the Law. Your right to be free of retaliation does not require that you be currently employed by the Acappella.
- ☞ The Defendants, Acappella, LLC and Mihallaq (“Mike”) Rapo deny the claims and deny all liability for unpaid minimum wage compensation.
- ☞ The Court has not decided whether Acappella or Mihallaq (“Mike”) Rapo have done anything wrong. There is no money available now and no guarantee that there will be. However, your legal rights are affected, and you have a choice to make now:

YOUR LEGAL RIGHTS & OPTIONS	
DO NOTHING	ASK TO BE INCLUDED
<p>Get No Benefits From Lawsuit But Retain Legal Rights.</p> <p>Under this option, if you do nothing you lose nothing (except a potential claim due to the passage of time). By doing nothing, you retain your legal rights to bring a separate suit against Acappella, LLC and Mihallaq (“Mike”) Rapo for unlawful wage/hour violations. If money or benefits are later awarded in this case, you will not share in them.</p>	<p>Join The Lawsuit. Await the outcome. Give up the right to sue separately.</p> <p>Complete and return an Opt-In Consent Form by December 23, 2016. By "opting in," you gain the possibility of getting money or benefits that may result from a trial or settlement, but you give up your right to separately sue Acappella, LLC and Mihallaq (“Mike”) Rapo for the same legal claims brought in this lawsuit. Moreover the statute of limitations will continue to run until you file it with the appropriate court. You may be required to participate in the discovery process and testify at Trial. You will be bound by any judgment or settlement in the case.</p>

- ☞ If you choose to join this suit, you agree to be represented by the named Plaintiffs through their attorneys: Howard B. Hoffman, Esq. and Bradford W. Warbasse, Esq., who each have separate independent legal practices.

- ☞ To ask to be included in this lawsuit, you must return the attached opt-in consent form before December 23, 2016 to: Howard B. Hoffman, Esq., 600 Jefferson Plaza, Suite 304, Rockville, Maryland 20852, (301) 251-3753 (fax), hhoffman@hoholaw.com.
- ☞ Acappella, LLC and Mihallaq (“Mike”) Rapo are represented by Kevin C. McCormick, Esq. of Whiteford, Taylor, & Preston, LLP, located in Baltimore, Maryland. You have no obligation to contact him.
- ☞ The Law provides that a prevailing employee may recover his/her attorneys’ fees. You will not be asked to pay any costs or attorneys’ fees. A letter of representation exists, and you may ask for a copy in advance of joining the case.
- ☞ **Any questions? Contact class counsel, Howard B. Hoffman, Esq. at (301) 251-3752 or Bradford W. Warbasse, Esq. at (410) 337-5411.**
- ☞ **You may consult with an attorney of your own choosing in deciding whether or not to opt into this lawsuit. You have the right to be represented by counsel of your choosing. If you wish to be represented by other counsel, you will be responsible for agreeing on an attorneys’ fee arrangement with that counsel.**
- ☞ **This Notice has been authorized by the United States District Court for the District of Maryland, The Honorable Beth P. Gesner, United States Magistrate Judge. The Court takes no position regarding the merits of the Plaintiffs’ claims or Defendants’ defenses.**
- ☞ **Please do not telephone the Court regarding this Notice.**

Date: 9-29-16


Hon. Beth P. Gesner
U.S. Magistrate Judge, District of Maryland