

# EXHIBIT 1

**IN THE UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF MISSOURI  
CENTRAL DIVISION**

**GERALD A. FAST, TALISHA  
CHESHIRE and BRADY GEHLING,  
on behalf of themselves  
and as class representatives for  
all others similarly situated,** )  
)  
)  
)  
)  
)  
)  
**Plaintiffs,** )

**CASE NO. 06-4146-CV-C-NKL**

**vs** )

**APPLEBEE'S INTERNATIONAL, INC. )  
d/b/a APPLEBEE'S NEIGHBORHOOD )  
GRILL & BAR, )  
)  
)  
**Defendant.** )**

**NOTICE OF LAWSUIT AGAINST APPLEBEE'S INTERNATIONAL, INC.  
d/b/a APPLEBEE'S NEIGHBORHOOD GRILL & BAR**

**TO:** All current and former employees who worked at an Applebee's restaurant at any time from July 14, 2003 to the present as a **server and/or a bartender.**

**FROM:** Charles A. Gentry  
Brian K. Stumpe  
CARSON & COIL, P.C.  
515 East High Street  
P.O. Box 28  
(573) 636-2177  
(573) 636-7119 (facsimile)

Matthew A. Clement  
Timothy VanRonzelen  
Kari A. Schulte  
COOK, VETTER, DOERHOFF & LANDWEHR, P.C.  
231 Madison  
Jefferson City, Missouri 65101  
(573) 635-7977  
(573) 635-7414 (facsimile)

**DATE:** \_\_\_\_\_

**RE:** Right to join lawsuit against Applebee's International, Inc. d/b/a Applebee's Neighborhood

Grill & Bar for its alleged failure to pay proper wages as required by the Fair Labor Standards Act.

**THIS NOTICE AND ITS CONTENTS HAVE BEEN AUTHORIZED BY THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF MISSOURI, BY THE HONORABLE NANETTE K. LAUGHREY. THE COURT HAS TAKEN NO POSITION IN THIS CASE REGARDING THE MERITS OF THE PARTIES CLAIMS OR DEFENSES.**

## **I. INTRODUCTION**

The purpose of this Notice is (1) to inform you of a lawsuit against Applebee's International, Inc. d/b/a Applebee's Neighborhood Grill & Bar (Applebee's) which you may have the right to join, (2) to advise you of how your rights may be affected by this suit, and (3) to instruct you on how to participate in this suit.

## **II. DESCRIPTION OF THE LAWSUIT**

Plaintiffs Gerald A. Fast, Talisha Cheshire and Brady Gehrling brought this lawsuit on behalf of themselves and other current and former employees who worked at an Applebee's restaurant at any time from July 14, 2003 to the present as a server and/or a bartender.

Plaintiffs allege that they are entitled to recover because Applebee's failed to pay them proper wages as required by the Federal Fair Labor Standards Act ("FLSA"). Specifically, Plaintiffs allege that Applebee's directed and/or permitted them to perform duties that would not generate tips such as general maintenance and/or preparatory work without paying proper wages for such work.

Plaintiffs seek to recover unpaid wages, liquidated damages, pre-judgment and post judgment interest, attorneys' fees and court costs.

Applebee's denies that it has improperly paid any current or former employee, and denies that any current or former employee is entitled to any additional compensation or other relief.

## **III. WHO IS INCLUDED IN THIS LAWSUIT?**

All similarly situated current and former servers and/or bartenders who were at any time employed at an Applebee's restaurant from July 14, 2003 to the present. Specifically, Plaintiffs seek to represent any and all current or former servers and/or bartenders at an Applebee's restaurant employed at any time from July 14, 2003 to the present who also believe they were not properly compensated as described above.

## **IV. YOUR RIGHT TO PARTICIPATE IN THIS LAWSUIT**

If you are a current or former server and/or bartender at an Applebee's restaurant, employed at any time from July 14, 2003 to the present, and believe you fit the description above, you may join this lawsuit (that is, you may "opt-in"). Enclosed is a form called

"Consent to Join." If you choose to join this lawsuit, **it is extremely important that you read, sign and promptly return the Consent to Join Form.** An addressed and postage paid envelope is enclosed for your convenience. Should the enclosed envelope be lost or misplaced, the Consent to Join Form must be sent to:

Charles A. "Chip" Gentry  
CARSON & COIL, P.C.  
515 East High Street  
P.O. Box 28  
Jefferson City, Missouri 65102

The signed Consent to Join form must be postmarked by \_\_\_\_\_.  
If you prefer, you can join by completing the form on the www. \_\_\_\_\_.

**If your signed Consent to Join form is not postmarked or received electronically by \_\_\_\_\_, \_\_\_\_\_, you will not participate in any recovery obtained against Applebee's in this lawsuit.**

#### V. EFFECT OF JOINING THIS LAWSUIT

If you choose to join this lawsuit, you will be bound by the final judgment, whether favorable or unfavorable. You will also be bound by, and will share in, any settlement that may be reached on behalf of the class. By joining this lawsuit, you designate the named Plaintiffs as your representatives, and to the fullest extent possible, to make decisions on your behalf concerning the case and the method and manner of conducting the case. These decisions and agreements made and entered into will be binding on you if you join this lawsuit.

The named plaintiffs have entered into a contingency fee agreement with plaintiffs' counsel, which means that if there is no recovery, there will be no attorneys' fees or costs chargeable to you. Under the fee agreement, in the event there is a recovery, plaintiffs' counsel will receive a percentage of any settlement obtained or money judgment entered in favor of all members of the class. The Court may also be asked to determine the amount of fees. The fees may be part of a settlement obtained or money judgment entered in favor of plaintiffs, or may be ordered by the Court to be separately paid by Applebee's, or may be a combination of the two.

#### VI. NO LEGAL EFFECT IN NOT JOINING THIS LAWSUIT

If you choose not to join this lawsuit, you will not be affected by any judgment or settlement rendered in this case on this claim, whether favorable or unfavorable to the class. You will not be entitled to share any amounts recovered by the class as part of this lawsuit. You also

will be free to file your own individual lawsuit, subject to any defenses that might be asserted, including but not limited to, the applicable statute of limitations. The statute of limitations continues to run until you either join into this lawsuit or you file your own lawsuit.

## **VII. NO RETALIATION PERMITTED**

It is a violation of federal law for Applebee's to terminate your employment, or in any other manner discriminate or retaliate against you for taking part in this case or otherwise exercising your rights under the FLSA. If you believe you have suffered retaliation as a result of your receiving this Notice, your considering whether to join this lawsuit, or the fact you actually did join this lawsuit, you should contact Plaintiffs' counsel immediately.

## **VIII. YOUR LEGAL REPRESENTATION IF YOU JOIN**

If you choose to join this suit, your interests will be represented by the named plaintiffs through their attorneys listed below. If you have any questions, comments or require additional information contact any of the following individuals:

Charles A. "Chip" Gentry  
Brian K. Stumpe  
CARSON & COIL, P.C.  
515 East High Street  
P.O. Box 28  
(573) 636-2177  
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COOK, VETTER, DOERHOFF & LANDWEHR, P.C.  
231 Madison  
Jefferson City, Missouri 65101  
(573) 635-7977  
(573) 635-7414 (facsimile)

You may also visit the website [www \\_\\_\\_\\_\\_](http://www._____) or send e-mail to \_\_\_\_\_.

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WESTERN DISTRICT OF MISSOURI  
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**GERALD A. FAST, TALISHA  
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**on behalf of themselves** )  
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**GRILL & BAR,** )  
**Defendant.** )

**CONSENT TO JOIN**

I WANT TO JOIN THIS LAWSUIT pending in the United States District Court for the Western District of Missouri. By joining this lawsuit, I designate the plaintiffs Gerald A. Fast, Talisha Cheshire, and Brady Gehrling, as my representatives, and to the fullest extent possible, to make decisions on my behalf concerning the case, and the method and manner of conducting the case. I understand that while I have the right to choose other counsel and to pursue my claims on my own behalf, I choose to be represented by Class Counsel and other attorneys with whom they choose to associate.

Date: \_\_\_\_\_

\_\_\_\_\_  
Signature

**YOUR CONTACT INFORMATION**

Print Name: \_\_\_\_\_

Location of Applebee's Employment:

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Dates of Employment: \_\_\_\_\_

Home Address: \_\_\_\_\_

Telephone Numbers: (home) \_\_\_\_\_ (work) \_\_\_\_\_  
(cell) \_\_\_\_\_ (other) \_\_\_\_\_

E-mail address: \_\_\_\_\_