

**THIS IS A COURT-APPROVED NOTICE**  
**\*\*\*THIS IS NOT AN ADVERTISEMENT FROM A LAWYER\*\*\***

**UNITED STATES DISTRICT COURT**  
**SOUTHERN DISTRICT OF ALABAMA**

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TARA BOOTHE and JUTTA	)	
MAYLAND on behalf of themselves	)	
and all others similarly situated,	)	
	)	
Plaintiffs,	)	
	)	
v.	)	Civil Action No. 1:19-cv-00408-JB-M
	)	
DAUPHINS, LLC and ALOHA	)	
HOSPITALITY INTERNATIONAL,	)	
INC. d/b/a DAUPHINS, and	)	
ROBERT BAUMHOWER	)	
	)	
	)	
Defendants.	)	

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**NOTICE OF COLLECTIVE ACTION LAWSUIT**

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**TO: ALL SERVERS WHO WORKED AT THE DAUPHIN’S RESTAURANT LOCATED AT 107 ST. FRANCIS STREET, SUITE 3400, MOBILE, ALABAMA AT ANY TIME ON OR AFTER JULY 15, 2016.**

**RE: UNPAID BACK WAGES AND OVERTIME LAWSUIT AGAINST DAUPHIN’S LLC, ET AL.**

**DEADLINE TO FILE CONSENT FORM: JANUARY 24, 2020**

<b>1. Why Are You Getting This Notice?</b>
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You received this Notice because the Court in charge of this lawsuit has ordered this Notice be sent to persons who are identified by Dauphin’s records as current or former servers who worked at Dauphin’s, located at 107 St. Francis Street, Suite 3400, Mobile AL 36602 at any time on or after July 15, 2016 (together, “Plaintiffs”).

The Court has conditionally allowed or “certified” a collective action lawsuit that may affect you. This notice is intended to advise you of how your rights under the Fair Labor Standards Act (“FLSA”) may be affected by this lawsuit and describe how to participate in this suit if you want to.

## **2. What Is This Lawsuit About?**

Tara Booth and Jutta Mayland filed this lawsuit on behalf of themselves and other current and former servers, alleging that Dauphin’s violated the FLSA by violating the tip credit provisions of the FLSA and failing to pay overtime compensation for hours worked during a week in excess of 40.

In the lawsuit, Plaintiffs allege that they and other servers working for Dauphin’s were paid a tip credit wage of \$2.13 per hour, but should have been paid the full minimum wage required under the FLSA of \$7.25 because: (1) they were required to share tips with other employees of Dauphin’s including Dining Room Attendants (“DRAs”); (2) they were not provided notice of the tip credit requirements of Section 203(m) prior to being paid a tip credit wage below full minimum wage; (3) that they and other servers were paid a tip credit wage for non-tip earning work including being required to arrive approximately one hour before the restaurant opened to perform pre-shift work and often worked 30 minutes to one hour after the restaurant closed performing post-shift work; and (4) they worked more than 40 hours a week during some workweeks, but were not paid overtime compensation for all their hours worked over 40 in a workweek.

In addition to unpaid back wages and overtime, Plaintiffs are seeking liquidated (double) damages equal to their unpaid back wages and overtime, attorneys’ fees, and costs.

Defendants, Dauphin’s, LLC and Robert G. Baumhower, deny Plaintiffs’ allegations and contend that the Plaintiffs have been, and continue to be, properly paid under the FLSA.

The Court has not decided who is right but has authorized this Notice to inform you of your right to join this lawsuit.

## **3. Are You Eligible to Join This Lawsuit?**

You are eligible to join this lawsuit if:

1. You were employed by Dauphin’s as a server at any time three years prior to when you opt-in to this lawsuit; and
2. You believe you were not paid for all of the time you spent working at Dauphin’s.

## **4. What are Your Options?**

If you meet the criteria for this lawsuit, you have a choice to assert your legal rights in this case if you desire to do so. However, you are not required to do so and may choose to take no action without consequence to you.

If you want to become a party to this case, you must read, sign, and return the attached Consent to Join Form by **JANUARY 24, 2020**.

You may return your consent form by filling out the attached Consent form, mailing it to Plaintiffs' attorneys in the enclosed self-addressed stamped envelope, faxing it to (727) 823-2126, or emailing it to rep@burrandsmithlaw.com.

#### **5. Effect of Joining or Not Joining the Lawsuit.**

If you submit a Consent to Join Form, you will be part of the case. Therefore, if the Plaintiffs who filed this case win or settle the case, you may receive additional money from Dauphin's. If the Plaintiffs who filed this case lose the case, you will receive nothing and will be bound by the decision, but you will not have to pay anything either.

If you decide to join the lawsuit, you may be required to answer written questions under oath, produce documents relating to your claim, testify at an oral deposition under oath, and/or testify at trial with regard to your claims against Dauphins.

If you do not wish to be a part of the lawsuit, you do not need to do anything. The decision to join is entirely yours.

Because the FLSA only allows workers to recover up to the past 3 years of back wages, eligible workers who do *not* join this litigation, may lose their rights to recover overtime for work performed in the past for Dauphin's.

#### **6. You Cannot and Will Not Be Fired for Joining This Lawsuit.**

Many employees fear being terminated for making a wage claim. However, federal law prohibits Dauphin's, or any other employer, from firing, blackballing, or in any other manner discriminating against you because you join or otherwise participate in this case.

If you suspect any retaliation, you may contact the attorneys below at Burr & Smith, LLP, (813) 253-2010, and ask to speak with Attorney Loren B. Donnell.

#### **7. Your Legal Representation If You Join.**

If you choose to join this suit you may choose to hire your own attorney or you may agree to be represented by Plaintiffs' attorneys. Plaintiffs' attorneys in this case are Sam J. Smith and Loren B. Donnell of the law firm Burr & Smith LLP and Robert C. Epperson of Robert Epperson Law

Office. Their contact information is listed below.

**8. How Can You Receive More Information?**

If you have any questions about the collective action, your rights, or the basis on which the attorneys expect to be paid, you may contact them directly at:

BURR & SMITH, LLP  
Sam J. Smith  
Loren B. Donnell  
9800 4th St N., Suite 200  
St. Petersburg, FL 33702  
(813) 253-2010  
(727) 823-2126 Fax  
[ssmith@burrandsmithlaw.com](mailto:ssmith@burrandsmithlaw.com)  
[ldonnell@burrandsmithlaw.com](mailto:ldonnell@burrandsmithlaw.com)

ROBERT EPPERSON LAW OFFICE  
Robert C. Epperson  
P. O. Box 477  
Foley, AL 36536  
(251) 943-8870  
[repperson@rcelaw.com](mailto:repperson@rcelaw.com)

**9. You Have Sixty (60) Days to Join this Lawsuit.**

Your determination of whether or not to take action should be made promptly. Because the law only allows a person to recover up to three (3) years of back wages from the date the Consent to Join Wage Claim form is filed, time is of the essence in submitting this form if you wish to have the opportunity to make a full recovery.

All Consents must be filed no later than **JANUARY 24, 2020**, which is sixty (60) days after this Notice was mailed to you. A Consent form is enclosed with a self-addressed stamped envelope.

**\*\*\*YOU SHOULD NOT CONTACT  
DAUPHIN'S OR THE COURT TO DISCUSS THIS MATTER\*\*\***