

MARIANELLA VELASQUEZ, individually and on behalf of those
similarly situated

Plaintiffs,

- against-

SUNSTONE RED OAK, LLC d/b/a RENAISSANCE
WESTCHESTER HOTEL, SUNSTONE RED OAK LESSEE,
INC., SUNSTONE HOTEL TRS LESSEE, INC., HIGHGATE
HOTELS, L.P., JOHN V. ARABIA; PAUL R. WOMBLE;
RICKEY WHITWORTH; BRYAN A. GIGLIA; ROBERT
SPRINGER; and any other related entities,

Defendants.

Index No.: 51015/2016

**NOTICE OF WAGE & HOUR CLASS
ACTION LAWSUIT**

To: All individuals who performed work as servers, attendants, bussers, bartenders, food runners, captains, or in related service positions at Defendants' catered and banquet events from January 2010 to the present ("the Relevant Period"), including those at the facility commonly known as the Renaissance Westchester Hotel.

- This notice has been authorized by the Honorable Sam D. Walker, J.S.C. and may affect your legal rights. This is not a solicitation from a lawyer.
- Plaintiff Marianella Velasquez ("Plaintiff") performed work in food service positions at the hotel and banquet facility commonly known as the Renaissance Westchester Hotel, and has brought this lawsuit on behalf of herself and other current and former service employees to seek payment of alleged unpaid gratuities owed under New York Labor Law. This case is currently being scheduled for trial before Judge Walker with a date to be set in the immediate future – likely during 2021. You have the right to appear if you wish.
- Defendants deny any wrongdoing and/or liability.
- Receipt of this notice does not indicate that you are entitled to receive any monetary recovery. No determination has been made by the Court that you are owed any unpaid gratuities and the Court is not endorsing the merits of this lawsuit or the defenses at this time.

1. Why did I get this supplemental notice?

The purpose of this supplemental notice is to inform you of the status of this lawsuit, that the trial before a jury is scheduled in White Plains, New York, and to advise you of how your rights may be affected by this lawsuit.

2. What is a class action?

A class action is a lawsuit where persons sue not only for themselves, but also for other people who have similar claims. These other people are known as Class Members. In a class action, one court resolves the issues for all Class Members, except for those who exclude themselves from the Class. Honorable Sam D. Walker, J.S.C., of New York Supreme Court, Westchester County, is presiding over this case.

3. How do I join this lawsuit?

If you performed work at the Renaissance Westchester Hotel in West Harrison as a server, attendant, busser, bartender, runner, or in any other related service position for catered and banquet events at any time from January 2010 to the present you are a member of the Class, and do not need to do anything to join this lawsuit. It is suggested that you speak with a representative of Leeds Brown Law, P.C., the attorneys appointed as Class Counsel. Leeds Brown Law is located at One Old Country Road, Suite 347, Carle Place, New York, 11514, www.leedsbrownlaw.com and can be contacted via phone at (516) 873-9550. You have the right to consult with an attorney of your own choosing at your own expense and to initiate your own action if you do not wish to participate in this class action lawsuit. The attorneys working on the case are Michael A. Tompkins, Jeffrey K. Brown, and other attorneys at Leeds Brown Law, P.C. You can also email them at mtompkins@leedsbrownlaw.com or jbrown@leedsbrownlaw.com.

You are still eligible to be a member of this class action even if you worked for the Renaissance Westchester Hotel through a staffing agency.

4. How do I exclude myself from this lawsuit?

If you wish to opt-out and be excluded from the Class, then you must take steps to exclude yourself from this case. If you intend to exclude yourself, you must mail a written, signed statement to Class Counsel (for example, "I opt out of this lawsuit") by mail or facsimile sent to Michael Tompkins, Esq., of Leeds Brown Law, P.C., One Old Country Road, Suite 347, Carle Place, New York, 11514, or via fax at (516) 747-5024.

If you decide to exclude yourself from this lawsuit, you may not be eligible to receive any benefits in the event that a settlement or judgment is obtained.

5. If I don't exclude myself from this lawsuit, can I sue Defendants for the same thing later?

If you do not exclude yourself from this lawsuit, you give up any rights to sue Defendants for the New York Labor Law claims brought in this case or potentially those which could have been brought in this case, or in the future in the event there is a change in existing law.

However, if you exclude yourself from this lawsuit, you have the right to bring a similar lawsuit on your own behalf.

6. Do I need to appear at the Trial? Can I be retaliated against if I work at Renaissance Westchester?

No. You can appear at the trial without any fear of being retaliated against by your employer. If you would like to testify at the trial about your work experience then contact Class Counsel to arrange that, but there is no obligation that you testify or be present. Additionally, New York law prohibits Defendants from retaliating against you because you are a class member in this lawsuit or you tell the truth in a lawsuit or before a judge. If you feel threatened or harassed from participating, please contact Michael Tompkins at 516.873.9550.

7. Do I have a lawyer in this case?

The law firm of Leeds Brown Law, P.C., One Old Country Road, Suite 347, Carle Place, New York 11514 has been designated as legal counsel to represent you and the other Class Members. These lawyers are called Class Counsel.

Any attorney fees owed to Leeds Brown Law, P.C. will be paid out of any recovery that is obtained. If there is a recovery, 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 paid by the Defendants, or may be a combination of both. If you are represented by Leeds Brown Law, P.C. and Plaintiff does not recover anything in this lawsuit, **you will not have to pay any attorneys' fees.** You can elect to hire your own counsel if you would like, but you would need to make financial arrangements with that attorney.

Class Counsel will be making strategic decisions about the trial and the presentations of evidence, so that if you feel like you have relevant information pertaining to tips, gratuities, service charges, or the direction and control that takes place during catered events, please contact Michael Tompkins at 516.873.9550 such that arrangements can be made to ensure that your testimony or evidence can be considered as part of trial.

8. What is this lawsuit about?

This lawsuit is about alleged charges that were paid by catering customers for Defendants' catered events dating back to 2010. Plaintiffs assert that those charges are gratuities under Labor Law § 196-d and are owed to the service employees that worked those events. Defendants contend that they are not gratuities and that many of the service workers from those events are not employees. According to the law, there will be one legal test used for events that occurred prior to January 1, 2011, and there will be a slightly different legal test used for events that occurred after January 1, 2011. To the extent you have any questions about the legal claims or legal tests, you may contact Class Counsel at 516.873.9550.

Plaintiffs are not pursuing claims for liquidated damages under Labor Law § 198. Pursuant to CPLR § 902, penalties may not be sought in class actions. To the extent that you wish to seek additional information about liquidated damages or penalties and your rights under the Labor Law and its implementing regulations, you should contact Class Counsel at 516.873.9550.

9. What if I still have questions?

If you have any questions about this lawsuit, or would like further information about this notice, you can contact Class Counsel Michael Tompkins, Esq. of Leeds Brown Law, P.C. at **(516) 873-9550**.

You have a right to participate in this action even if you are an undocumented alien or if you were paid in cash.

PLEASE DO NOT CONTACT THE COURT WITH QUESTIONS INVOLVING THIS LAWSUIT