

# NOTICE OF CLASS ACTION SETTLEMENT

SUPERIOR COURT FOR THE STATE OF CALIFORNIA, COUNTY OF ALAMEDA

TANOSHA BODIFORD, individually and on  
behalf of others similarly situated,

Plaintiff,

vs.

MARIE CALLENDER PIE SHOPS, INC., a  
California corporation, dba MARIE  
CALLENDER'S RESTAURANT AND  
BAKERY, and DOES 1 through 100, inclusive,

Defendants.

CASE NO. HG07337486

ASSIGNED FOR ALL PRETRIAL PURPOSES TO  
JUDGE STEVEN A. BRICK  
DEPARTMENT 17

NOTICE OF CLASS ACTION SETTLEMENT

## 1. Why Should You Read This Notice?

You should read this notice because you are entitled to claim money from a class action settlement.

## 2. What is the Case About?

On July 25, 2007, a class action lawsuit was filed by Plaintiff Tanosha Bodiford in the Alameda County Superior Court, Case No. HG07337486, against Marie Callender Pie Shops, Inc., dba Marie Callender's Restaurant and Bakery, on behalf of all non-management employees (i.e. servers and non-servers) employed by Marie Callender restaurants in California during the period of December 1, 2005, through April 30, 2008. The Class Action alleges that Maire Callender's failed to pay reporting time pay and as a result issued improper itemized statements.

## 3. The Proposed Settlement.

Without admitting any wrongdoing, Marie Callender's has agreed to pay \$400,000.00, which includes: (a) \$132,500.00 to non-management servers ("Servers") to be distributed as set forth below; (b) \$132,500.00 to non-management non-servers ("Non-Servers") to be distributed as set forth below; (c) Claims Administrator fees of \$25,000.00; (d) An enhancement to the named Plaintiff, Tanosha Bodiford, not to exceed \$5,000.00; and (e) Class Counsel's attorneys' fees and costs not to exceed \$105,000.00. Class Counsel's attorneys' fees and costs, and Plaintiff's enhancement, remain subject to Court approval.

With respect to Servers, each Server who submits a Claim Form will receive a pro rata share of \$132,500.00 based on the number of months of employment credited to that person. **If 50% of all Servers submit a Claim Form, it is estimated that they will receive approximately \$10.50 for each month of their employment between December 1, 2005, and April 30, 2008, less applicable payroll deductions.**

With respect to Non-Servers, each Non-Server who submits a Claim Form will receive a pro rata share of \$132,500.00 based on the number of months of employment credited to that person. **If 50% of all Non-Servers submit a Claim Form, it is estimated that they will receive approximately \$3.50 for each month of their employment between December 1, 2005, and April 30, 2008, less applicable payroll deductions.**

The reason the expected monthly payout to Servers is higher than the expected monthly payout to Non-Servers is because the survey of records showed a higher percentage of alleged reporting time pay violations for Servers. The exact amount of the settlement payment could vary, up or down, depending upon (1) the number of Claim Forms submitted; (2) disputes regarding the number of months worked; (3) additions or deletions to the Class; and (4) whether the Court approves the full amount requested for Plaintiff's enhancement and Class Counsel's attorneys' fees and costs.

#### ***4. What Do I Need To Do To Collect Money?***

**To get money from the Settlement, you must complete the Claim Form which was mailed to you, sign it under penalty of perjury, and mail it to Marie Callender's, Inc., Settlement Administrator, CPT Group, Inc., 16630 Aston, Irvine, CA 92606.**

All Claim Forms must be postmarked no later than February 12, 2009. If for some reason you cannot locate your Claim Form, you may call CPT Group, Inc., at (877) 359-4408 and request a Claim Form be re-mailed to you.

The Claim Form states the number of months you were employed by Marie Callender's as Server or Non-Server at a Marie Callender's restaurant in California during the period of December 1, 2005, through April 30, 2008. If you believe that the information shown in the Claim Form is incorrect, you must return your Claim Form to the Claims Administrator and provide documentation that establishes that Marie Callender's records are in error. The Claim Form must be signed and postmarked no later than February 12, 2009. In the event of a dispute about the dates you were employed, the Parties will attempt to resolve the dispute, and if they cannot, the Settlement Administrator will make the final determination.

**If you are a current employee of Marie Callender's, your decision as to whether or not to submit a Claim Form will not affect your employment with Marie Callender's.**

#### ***5. What Happens If I Do Nothing?***

**If you do nothing, you will not receive any money.** You will still be deemed part of the Class Action, and you will be releasing all claims you may have related to the allegations in the case.

#### ***6. What Do I Need To Do If I Want To Request Exclusion From the Settlement?***

You may request exclusion from the Settlement. Class Members who request exclusion from the Settlement will NOT receive any money, nor will they have released their claims. Your request for exclusion must be in writing and must be signed, dated and returned by first class U.S. mail, or the equivalent, to Marie Callender's, Inc., Settlement Administrator, CPT Group, Inc., 16630 Aston, Irvine, CA 92606. All requests for exclusions from the settlement must be postmarked no later than February 12, 2009.

#### ***7. What Must I Do To Object To the Settlement?***

Any Class Member may object to the Settlement, or to Class Counsel's request for attorneys' fees, or to any other settlement term. Class Members may object in writing, or by appearing at the final approval hearing either in person or through an attorney at their own expense (provided they notify the Court of their intent to do so), or by both a writing and appearance. All written objections, supporting papers and/or notices to the Court of intent to appear at the final approval hearing, must (a) clearly identify the case name and number (Bodiford v. Marie Callender Pie Shops, Inc., Case No. HG07337486); (b) be submitted to the Court either by mailing to the: Clerk of Court, Superior Court of California, County of Alameda, Administration Building, 1221 Oak Street, Oakland, California 94612, or by filing in person at any location of the Superior Court, County of Alameda that includes a facility for civil filings; (c) also be mailed to the law firms identified below in Section 9; and (d) be filed or postmarked on or before February 12, 2009.

## ***8. Background of Settlement.***

Plaintiff and her counsel believe that the claims asserted in the Action have merit. However, Plaintiff's counsel recognizes the expense, length and uncertainty of continued litigation. Although Marie Callender's denies that it committed any wrongdoing, it believes that further litigation would be protracted, expensive, and contrary to its best interests. Thus, the parties agreed to a mediation which resulted in the settlement. Judge Steven A. Brick has determined on a preliminary basis that the settlement is fair, reasonable, and adequate and in the best interests of the Class.

## ***9. Who are the Attorneys and the Claims Administrator?***

Attorneys for Plaintiffs and the Class Members are:

**WESTRUP KLUICK, LLP**

Phillip Poliner, Esq.  
444 West Ocean Boulevard, Suite 1614  
Long Beach, California 90802-4524  
Phone: (800) 374-9916  
Fax: (562) 435-4856

Attorneys for Marie Callender are:

**GIBSON, DUNN & CRUTCHER LLP**

William D. Claster, Esq.  
3461 Michelson Drive  
Irvine, California 92612-4412  
Phone: (949) 451-3800  
Fax: (949) 451-4220

The Claims Administrator is CPT Group, Inc.:

Marie Callender's Class Action Settlement  
c/o CPT Group, Inc.  
16630 Aston  
Irvine, California 92606  
Phone: (877) 359-4408

## ***10. Notice of Hearing on Final Approval and Objections to Class Action Settlement.***

A Final Fairness Hearing will be held before Judge Steven A. Brick on March 3, 2009, at 1221 Oak Street, Oakland, California 94612, in Department 17 of the Alameda County Superior Court, located at 1221 Oak Street, Oakland, California 94612, to determine whether the proposed Settlement is fair, reasonable, and adequate.

Once final approval is granted by the Court, all Class Members who have not requested exclusion will be deemed to have waived and released any and all claims, rights, demands, debts, obligations, guarantees, liabilities, costs, expenses, attorneys' fees, damages, interest, actions and causes of action of every nature and description, whether known or unknown, related to reporting time pay violations, including claims for reporting time pay pursuant to Section 5 of Wage Order 5-2001, violation of Labor Code Section 1194 (minimum wages), violation of Labor Code Section 226 (accurate itemized statements), and California Business and Professions Code Section 17200 (unfair business practices) during the period from December 1, 2005 to April 30, 2008.

## ***11. Examination of Papers and Inquiries.***

For the precise terms of the Settlement, you may review the Settlement Agreement. The pleadings and other records in this litigation, including the Settlement Agreement, may be examined (a) online on the Alameda County Superior Court's website, known as "DomainWeb," at [www.alameda.courts.ca.gov/domainweb](http://www.alameda.courts.ca.gov/domainweb), or (b) in person in Room 109 at the Rene C. Davidson Courthouse at 1225 Fallon Street, Oakland, California 94612, between the hours of 9:00 a.m. and 4:00 p.m., Monday through Friday, excluding Court holidays, or you may contact Class Counsel or the Claims Administrator.