

**SUMMARY NOTICE OF PENDENCY OF CLASS ACTION SETTLEMENT**

*Bodiford v. Marie Callender Pie Shops Inc.*, Alameda County Superior Court Case No. HG7337486

If you were employed as a non-management employee (i.e., a server or non-server) at a Marie Callender’s restaurant in California at any time from December 1, 2005, through April 30, 2008, you are eligible to participate in this settlement.

This “Summary Notice” informs you that: (1) You may submit the Claim Form below, postmarked on or before February 12, 2009, if you wish to receive a portion of the settlement payment; (2) You may submit a request for exclusion if you wish to be excluded from the settlement; and/or (3) You may object to the settlement. A Full Notice, which includes additional information about the settlement and the settlement process, may be viewed on-line at [WWW.WESTRUPKLICK.COM](http://WWW.WESTRUPKLICK.COM). In addition, you may request a copy of the Full Notice be mailed to you by calling the class action administrator at (877) 359-4408. **El rescímen de este aviso y el aviso complete pueden ser visto en Español, en línea, en [WWW.WESTRUPKLICK.COM](http://WWW.WESTRUPKLICK.COM).**

This lawsuit alleges, among other things, that non-management employees (i.e., servers and non-servers) at Marie Callender’s restaurants in California were not properly paid “reporting time pay”. Marie Callender’s denies that it has done anything wrong. Both Plaintiff and Marie Callender’s concluded that it is in their best interest to settle this case on the terms summarized in this Summary Notice.

On November 25, 2008, the Hon. Steven Brick granted preliminary approval of this class action settlement. A final approval hearing has been set for March 3, 2009, at 3:00 p.m. in department 17 of the Alameda County Superior Court, 1221 Oak Street, Oakland, California 94612. You do not need to appear at this hearing in order to receive your compensation.

Each Settlement Class Member who is a non-management employee (i.e., server and non-servers) who submits a timely, valid and approved Claim Form (your Claim Form is attached below) will be entitled to share in the settlement fund based on the number of months of employment credited to each Class Member. With respect to Servers who 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 who 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 violation for Servers. The exact amount of the settlement payment could vary, up or down, depending upon (1) the number of timely, valid and approved Claim Forms; (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. If you wish to submit a Claim Form, you must complete, sign and date the attached Claim Form below and return it, by first class U.S. mail or the equivalent, by February 12, 2009, to Marie Callendar’s Claims Administrator c/o CPT Group, Inc., 16630 Aston, Irvine, CA 92606.

If you do not wish to participate in the settlement, you may request to be excluded. To do so, you must submit your request to be excluded, in writing, no later than February 12, 2009, by mailing your request for exclusion to Marie Callendar’s Claims Administrator c/o CPT Group, Inc., 16630 Aston, Irvine, CA 92606. If you exclude yourself from the settlement you will not be entitled to receive compensation paid out under the settlement. You have the right to object to the terms of the settlement before final approval. To object, no later than February 12, 2009, you must file a written objection and a notice of intention to appear at the final approval hearing currently set for March 3, 2009, at 3:00 p.m., with the Clerk of the Court, of the Alameda County Superior Court, 1221 Oak Street, Oakland, California 94612. You must also send copies of your written objection to: Phillip Poliner, Esq. c/o **WESTRUP KLICK, LLP** 444 West Ocean Boulevard, Suite 1614, Long Beach, California 90802-4524 and William D. Claster, Esq. c/o **GIBSON, DUNN & CRUTCHER LLP** 3461 Michelson Drive, Irvine, California 92612-4412.

At the final approval hearing, the named Plaintiff, Tanosha Bodiford, will request a service enhancement for bringing this lawsuit on your behalf, in an amount, set by the Court, not to exceed \$5,000. Further, Class Counsel will request attorneys’ fees and costs incurred in prosecuting this lawsuit on behalf of Plaintiff and the Class Members, in an amount, set by the Court, not to exceed \$105,000.

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**MARIE CALLENDER’S CLASS ACTION CLAIM FORM**

**PLEASE FILL IN CHANGE OF ADDRESS BELOW**

CPT ID # \_\_\_\_\_  
[First Name, Last Name] \_\_\_\_\_  
[Address] \_\_\_\_\_  
[City, State Zip] \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(\_\_\_\_\_) \_\_\_\_ - \_\_\_\_ - \_\_\_\_  
**Daytime Telephone Number**

**TO RECEIVE A SETTLEMENT PAYMENT YOU MUST COMPLETE, SIGN, AND MAIL THIS CLAIM FORM POSTMARKED ON OR BEFORE FEBRUARY 12, 2009 to: Marie Callendar’s Claims Administrator c/o CPT Group, Inc., 16630 Aston, Irvine, CA 92606. Telephone: (877) 359-4408**

According to Marie Callender’s records, you were employed as a non-management employee (i.e. a server or non-server) and worked a total of <<**TotalMonthsWorked**>> months during December 1, 2005, through April 30, 2008. **NOTE:** Marie Callender’s records will control **unless you provide documentation** that establishes that Marie Callender’s records are in error. If there is a dispute about the number of weeks you worked, the Parties will attempt to resolve the dispute, and if they cannot, the Settlement Administrator will make the final determination.

As part of a settlement payment, you agree to the release of claims as described more fully in the Full Notice and in the Settlement Agreement on file with the Court.

The Internal Revenue Service requires this information. Failure to provide it will result in rejection of your claim.

Social Security Number: \_\_\_\_\_ - \_\_\_\_\_ - \_\_\_\_\_

I have read the Notice and agree to the terms and conditions of the settlement. Executed on the date shown below.

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

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date