

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF GEORGIA  
ATLANTA DIVISION**

**If you are or were a delivery driver employed by DELI MANAGEMENT, INC. d/b/a “JASON’S DELI” between December 18, 2014 and the present, please read this notice. A collective action lawsuit may affect your rights.**

*A federal court authorized this notice. This is not a solicitation from a lawyer.*

**NOTICE OF COLLECTIVE ACTION LAWSUIT**

Re: Lawsuit Regarding Claims for Alleged Unreimbursed Expenses/Unpaid Wages

- ) **Delivery drivers** Nial Benton and Hutton Graham (Named Plaintiffs) have sued Deli Management, Inc. (Defendant) claiming it failed to fully reimburse its delivery drivers for automobile expenses, which reduced the wages paid by Defendant to its delivery drivers below the federal minimum wage.
- ) The Court has authorized mailing this notice to current and former delivery drivers who worked for Defendant between December 18, 2014, and the present.
- ) You have been identified as a person potentially eligible to join this lawsuit.

<b>YOUR LEGAL RIGHTS AND OPTIONS IN THIS LAWSUIT</b>	
<b>ASK TO BE INCLUDED</b>	If you choose to be included in this case, you have the possibility of getting money or benefits from a trial or a settlement of this federal wage and hour claim, and you give up any rights to separately sue Defendant about the same claim in this lawsuit. <u>If you wish to be included, you must complete the Consent to Join form at the end of this Notice.</u>
<b>DO NOTHING</b>	If you choose not to join this lawsuit, you will not be bound or affected by any judgment or settlement rendered in this lawsuit, whether favorable or unfavorable to the class.

**1. Why did I get this notice?**

Records show that you currently or previously worked for the Defendant as a delivery driver. The Court has authorized mailing of this notice regarding a collective action lawsuit that may affect you. You have legal rights and options that you may exercise in this case. The lawsuit is titled *Nial Benton, et al. v. Deli Management, Inc. d/b/a “Jason’s Deli”*, Case No: 1:17-cv-00296-WSD, and is filed in federal court in the Northern District of Georgia.

## **2. What is this lawsuit about?**

In this lawsuit, the Named Plaintiffs claim that Defendant failed to pay them and other delivery drivers the minimum wage by not fully reimbursing them for automobile expenses. They claim that, after deducting vehicle expenses, they and other delivery drivers were paid less than the federal minimum wage (not counting tips).

## **3. What is a collective action and who is involved?**

In a collective action lawsuit, one or more people sue on behalf of other people who have similar claims. The Named Plaintiffs who sued – and all those who return the attached Consent to Join form – are called “the Plaintiffs.” Deli Management, Inc. is called “the Defendant.” The Court resolves the issues for everyone who joins the case.

## **4. Why is this lawsuit a collective action?**

The Named Plaintiffs who filed this lawsuit allege there is a group of “similarly situated” current and former delivery drivers employed by the Defendant.

## **5. What is Defendant’s position?**

Defendant denies any wrongdoing or liability and vigorously contests all claims that have been asserted. Defendant asserts that delivery drivers were always paid an hourly wage at or above the federal minimum wage, as well as reasonable and lawful vehicle reimbursements and tips.

## **6. Has the Court decided who is right?**

The Court has not decided whether Defendant or the Named Plaintiffs are correct. By authorizing this notice, the Court does not take any position on the merits of the claims asserted by the Named Plaintiffs.

## **7. What is the Named Plaintiff asking for?**

The Named Plaintiffs are seeking to recover unpaid minimum wages, or, in other words, the difference between what they were paid (excluding tips, but after deducting automotive expenses) and the minimum wage. The Named Plaintiffs also seek “liquidated damages” in an amount equal to the unpaid wages and recovery of costs and attorneys’ fees.

## **8. Can I join this lawsuit?**

You have been identified as potentially eligible to join this lawsuit. Current and former delivery drivers who worked for Defendant from December 18, 2014 to the present are eligible to join.

## **9. What happens if I join the lawsuit?**

If you choose to join this lawsuit, and are ultimately determined by the Court to be an Opt-In Plaintiff, you will be bound by any ruling, settlement, or judgment, whether favorable or unfavorable, on the claim asserted. You will also be bound by, and will share in, to the extent appropriate, any settlement of the claim that may be reached on behalf of the Plaintiffs. 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, the method and manner of conducting the case, the entering of an agreement with Plaintiffs’ counsel regarding payment of attorneys’ fees and court costs, the approval of settlements, and all other matters pertaining to this

lawsuit. While this suit is pending, you may be required to submit documents and written answers to questions and potentially testify under oath at a deposition, hearing or trial.

#### **10. What happens if I do nothing at all?**

If you choose not to join this lawsuit, you will not be affected or bound by any ruling, judgment, or settlement rendered on the federal claim asserted in this case, whether favorable or unfavorable. You should be aware that Fair Labor Standards Act claims are limited to a two- or three-year statute of limitations, and delay in joining this case, or proceeding separately, may result in some or all of your claims expiring as a matter of law.

#### **11. How do I ask to be included in the case?**

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 return envelope is enclosed for your convenience. Should the enclosed envelope be lost or misplaced, return the Consent to Join form to:

Deli Management, Inc. Litigation  
PAUL LLP  
601 Walnut Street, Suite 300  
Kansas City, MO 64106

The signed Consent to Join form must be postmarked by March 14, 2018. **If your signed Consent to Join form is not postmarked by March 14, 2018, you may be prohibited from participating in this case.**

#### **12. Do I have a lawyer in this case?**

If you choose to join this lawsuit you will be represented by Rick Paul of PAUL LLP, Mark Potashnick of Weinhaus & Potashnick, and Andrew Weiner of The Weiner Law Firm.

#### **13. Should I get my own lawyer?**

If you choose to opt-in to the lawsuit by promptly returning a signed Consent to Join form, you do not need to hire your own lawyer because Plaintiff’s counsel will be working on your behalf. But if you want your own lawyer, you may have to pay that lawyer and you will have to file your own separate lawsuit.

#### **14. How will the lawyers be paid?**

The Named Plaintiffs have entered into a contingency fee agreement with Plaintiffs’ counsel. 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 Opt-In Plaintiffs. Alternatively, the Court may 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 Defendant, or may be a combination of the two. If the Named Plaintiffs do not win, there will be no attorneys’ fees chargeable to them or anyone who joins the lawsuit. A copy of the contingency fee agreement executed by the Named Plaintiffs may be obtained upon request from Plaintiffs’ counsel identified below.

**15. Are there more details available?**

If you have any questions or require additional information, please contact any of the following individuals who are counsel to the Plaintiffs in this lawsuit:

Rick Paul, Attorney

PAUL LLP

601 Walnut Street, Suite 300

Kansas City, Missouri 64106

Toll Free: (855) 984-8100

Pat@PaulLLP.com

Mark Potashnick, Attorney

Weinhaus & Potashnick

11500 Olive Blvd., Suite 133

St. Louis, Missouri 63141

(314) 997-9150 ext. 2

markp@wp-attorneys.com

**16. Please keep your address current.**

To assist the Court and the parties in maintaining accurate lists of Plaintiffs, you are requested to mail notice of any changes in your address to the attorneys listed above. If the notice was forwarded to you by the postal service, or if it was otherwise sent to you at an address that is not current, you should immediately contact the attorneys listed above and provide them with your current address. If counsel does not have your correct address, you may not receive notice of important developments in this action.

**PLEASE DO NOT CONTACT THE COURT REGARDING THIS MATTER**