

**STATE OF CONNECTICUT  
SUPERIOR COURT**

<b>RETURN DATE: MAY 7, 2019</b>	:	<b>SUPERIOR COURT</b>
	:	
<b>RYAN REUTENAUER</b>	:	<b>JUDICIAL DISTRICT OF</b>
<b>for himself and other similarly</b>	:	<b>HARTFORD</b>
<b>situated employees</b>	:	<b>AT HARTFORD</b>
	:	
<b>v.</b>	:	
	:	
	:	
<b>OUTBACK STEAKHOUSE OF</b>	:	
<b>FLORIDA, LLC, BLOOMIN' BRANDS, INC.</b>	:	
<b>and OSI RESTAURANT PARTNERS, LLC</b>	:	
<b>Defendant</b>	:	<b>APRIL 4, 2019</b>

**CLASS ACTION COMPLAINT**

1. Restaurants in Connecticut must pay their servers the full minimum wage unless they limit their work to service and closely related duties. If they do so, then they may take a partial credit on account of tips received by servers towards satisfaction of the minimum wage for servers. This partial credit is known as the "tip credit." If restaurants assign their servers non-service work to perform during their shifts they must segregate the time spent on that non-service work and pay the full minimum wage for that time.
  
2. If restaurants fail to segregate a server's non-service work but take the tip credit anyway, then they are liable to their servers in a civil action for back pay and penalty damages. *Stevens v. Vito's by the Water, LLC*, 2017 Conn. Super. LEXIS 4845, \*13 (Conn. Super. Ct. Nov. 9, 2017) (Bench trial resulting in award to server in the amount of \$22,455.94 in back wages, interest and penalty damages, plus attorneys' fees and costs. "Vito's did not segregate Steven's non-service work from her service work and thus was obliged to, but

did not, pay the service hours at the full minimum fair wage as required by Sec. 31-62-E4.”).

3. This rule prevents employers from taking advantage of servers by assigning them extensive non-service work like general cleaning and stocking, and paying for that work at less than the normal minimum wage.
4. In this case, Defendants Outback Steakhouse of Florida, LLC, Bloomin Brands Inc., and OSI Restaurant Partners, LLC, doing business as Outback Steakhouse (hereinafter “Outback”), like the defendant in *Stevens*, regularly assigned non-service work – “sidework” - to its servers, including Plaintiff, Ryan Reutenauer, but did not segregate that time and pay it at the full minimum wage. Accordingly, Defendants should have paid Plaintiff the full minimum wage for all of his work – including his service hours. Defendant paid Plaintiff the lower server minimum wage for all his time in violation of this law. By this illegal practice, Outback underpaid Plaintiff and all Connecticut servers by hundreds of thousands of dollars during the period of the claim.
5. Outback compounded its error by failing to make a “good faith” effort to learn and comply with our law, as required to avoid penalty damages. These regulations are clearly published in Connecticut’s “Mandatory Order No. 8” which is required to be hung in every restaurant in Connecticut where employees are able to see it. Outback had actual knowledge of these laws, but nevertheless violated them. Accordingly, Outback is liable to Plaintiff and the class of Connecticut servers for all of their back pay, interest, penalty damages, attorneys’ fees and costs.

## **I. The Parties.**

6. Plaintiff, Ryan Reutenauer, is an individual presently residing in Middletown, Connecticut. Reutenauer began working for Defendant as a Server in February 2017, at its Newington, Connecticut restaurant.
7. Defendant, Bloomin Brands, Inc., is a Corporation organized under the laws of the State of Delaware and having its corporate headquarters in Tampa, Florida.
8. Defendant owns and operates nine (9) Outback Steakhouse restaurants in the State of Connecticut including ones in Newington, Southington, Manchester, North Haven, Enfield, Orange, New London, Shelton and Danbury.
9. Defendant, OSI Restaurant Partners, LLC, is Bloomin' Brands, Inc.'s primary operating entity and is a wholly-owned subsidiary of Bloomin' Brands, Inc.
10. Defendant, Outback Steakhouse of Florida, LLC is a Limited Liability Corporation organized under the laws of Florida and having its corporate headquarters in Tampa, Florida.
11. Defendant OSI Restaurant Partners, LLC is the sole member of Outback Steakhouse of Florida, LLC.

## **II. The Law.**

12. Conn. Gen. Stat. Sec. 31-60(b) permits the Labor Commissioner to adopt regulations which "shall recognize, as part of the minimum fair wage, gratuities in an amount ... equal to thirty-six and eight-tenths percent of the minimum fair wage for persons, other than bartenders, who are employed in the hotel and restaurant industry, including a hotel restaurant, who customarily and regularly receive gratuities."

13. Regs., Conn. State Agencies Sec. 31-60-E2 defines a “service employee” as an employee “whose duties relate solely to the serving of food and/or beverage to patrons seated at tables or booths, and to the performance of duties incidental to such service.”
14. The Connecticut Department of Labor has published a guide which defines the terms “service (and closely related duties)” and the term “non-service duties.” By their definition, service and closely related duties are duties that occur at the tables or booths and in “their own **immediate service area**.” CONN. DEP’T OF LABOR, *Gratuities in the Restaurant Industry*, available at <https://www.ctdol.state.ct.us/wgwkstnd/wage-hour/restaurant.htm> (last visited Jan. 14, 2019) (emphasis in the original).
15. Regs., Conn. State Agencies Sec.31-62-E4 states that “[i]f an employee performs both service and non-service duties and the time spent on each cannot be definitely segregated and so recorded, or is not definitely segregated and so recorded, no allowances for gratuities may be applied as part of the minimum fair wage.”

### **III. Facts.**

16. Defendant hired Plaintiff, Ryan Reutenauer, in February 2017, as a server in its Newington, Connecticut, restaurant. He worked there as a server until the end of June, 2017.
17. Defendant routinely assigned Plaintiffs and other servers both “service duties” and “non-service” duties. Their service duties included waiting on customers at tables and booths. Their non-service duties included setting up before the restaurant was opened to the



public, and “side work” that they were required to do after they had been cut from their shifts.

18. This side-work included general cleaning and stocking duties such as stocking all paper cups and straws, condiments, to go items, restocking and polishing all silverware, cleaning the potato station, the soda machine, butters, sweeping the server alley and other similar activities.
19. Defendant did not segregate the time that Plaintiff performed “non-service” and “service” duties in his time records.
20. Defendant did not segregate the time that Plaintiff performed “non-service” and “service” duties in his wage records.
21. Defendant did not pay the Plaintiff the full minimum wage for the time he spent performing non-service duties.
22. Defendants took the tip credit for all the hours that Plaintiff worked as a server.
23. Defendants paid Plaintiff the server minimum wage for every hour he worked as a server.
24. Defendants took the tip credit for all the hours Plaintiff spent performing service work and the hours he spent performing non-service work.
25. Each day, Defendants assigned Plaintiff and all other servers approximately 30 to 60 minutes of sidework which was in the nature of general cleaning and stocking and did not occur at their tables or booths. Defendants paid Plaintiff \$6.38 per hour – the server rate in 2017. Defendants failed to segregate Plaintiff’s sidework and pay it at the full minimum wage. Accordingly, Defendant should have paid Plaintiff’s \$10.10 for all his server hours.

26. Defendants failed to make any good faith effort to learn and comply with this law.
27. Defendants posts "Mandatory Order No.8" in each of its restaurants in Connecticut.
28. "Mandatory Order No. 8" explains these rules, including Regs., Conn. State Agencies Sec. 31-62-E4, which explains the "segregation" of "service" and "nonservice" duties rule.
29. Defendants nevertheless violated these rules despite being on actual notice of them.
30. Defendants' conduct in failing to pay Plaintiff the full fair minimum wage for each shift in which he performed both "service" and "non-service" duties, was a violation of Connecticut's "tip credit" laws. Regs., Conn. State Agencies Sec. 31-62-E4, and Conn. Gen. Stat. Sec. 31-60.
31. Defendants' violation of Connecticut's tip credit law, as set forth above, entitles Plaintiff to payment for all hours he worked as a "server" at "twice the full amount of such minimum wage less any amount actually paid to ... [them] by the employer, with costs and such reasonable attorney's fees as may be allowed by the court." Conn. Gen. Stat. Sec. 31-68.

#### IV. CLASS ALLEGATIONS

32. Plaintiffs bring this action for themselves and on behalf of a class of similarly situated servers defined as:  
  
*All current and former servers at Outback who worked in any of its Connecticut locations from April 4, 2017, the date of final judgment in this case.*
33. Class certification for the claims is appropriate under Connecticut Practice Book Sections 9-7 and 9-8 because all of the requirements of those Rules are met:  
  
9-7(1). The class is so numerous that joinder of all members is impractical. The Defendant has operated nine (9) restaurants in Connecticut during the applicable time period.

The Defendant has, on information and belief, several hundred former and/or current employees and/or participants meeting the class definitions set forth above throughout the State of Connecticut. While the exact number and identities of class members are unknown at this time, and can only be ascertained through appropriate discovery, the named Plaintiff is informed and believe that hundreds of putative class members, if not more, worked for the Defendant without receiving appropriate pay under Connecticut law.

9-7(2). There are questions of law and fact common to the class, especially, the questions of whether Defendant assigned non-service work to its servers and failed to pay them the full minimum wage as required by Connecticut law.

9-7(3). The named Plaintiff's claims are typical of those of the class members. The named Plaintiff's claims encompass the challenged practices and course of conduct of the Defendant. Furthermore, the named Plaintiffs' legal claims are based on the same legal theories as the claims of the putative class members. The legal issues as to whether the CMWA and the applicable regulations of the State of Connecticut Department of Labor are violated by such conduct apply equally to the named Plaintiffs and to the class.

9-7(4). The named Plaintiff will fairly and adequately protect the interests of the class. The named Plaintiff's claims are not antagonistic to those of the putative class and he has hired counsel skilled in the prosecution of class actions.

9-8. Common questions of law and fact predominate over questions affecting only individuals, and a class action is superior to other available methods for the fair and efficient adjudication of this controversy. While the individual compensatory damage suffered by each class member is not insignificant, it is not substantial enough to justify the expense and burden of individual litigation. To conduct this action as a class action under Practice Book Sections 9-7 and 9-8 presents few management difficulties, conserves the resources of the parties and the court system, protects the rights of each class member, and maximizes recovery to them.

34. Defendants' conduct in failing to pay Plaintiff and other servers the full fair minimum wage for each shift in which they performed both "service" and "non-service" duties, was a violation of Regs., Conn. State Agencies Sec. 31-62-E4 and the CMWA.

35. Defendants' violation of Regs., Conn. State Agencies Sec. 31-62-E4 and the CMWA, as set forth above, entitles Plaintiff and all other servers in the class, to payment for all hours

worked at “twice the full amount of such minimum wage less any amount actually paid to [them] by the employer, with costs and such reasonable attorneys’ fees as may be allowed by the court.” Conn. Gen. Stat. Sec. 31-68.



**DEMAND FOR RELIEF**

WHEREFORE, the Plaintiffs claim:

1. Certification of this action as a class action pursuant to Connecticut Practice Book Section 9-7 and 9-8;
2. Designation of Plaintiff as class representative and Plaintiff's counsel as class counsel;
3. Damages in the amount of unpaid wages and liquidated damages calculated at "twice the full amount of such minimum wage less any amount actually paid [] by the employer."  
C.G.S. Sec. 31-68.
4. Interest;
5. Reasonable attorneys' fees and costs as may be allowed by the court. C.G.S. Sec. 31-68;
6. Such other relief as the court deems just and proper..

PLAINTIFF, RYAN REUTENAUER, for himself  
and other similarly situated employees

By: 

Thomas J. Durkin  
Richard E. Hayber  
The Hayber Law Firm, LLC  
750 Main Street, Suite 904  
Hartford, CT 06103  
Juris No. 426871  
Tel: (860) 522-8888  
Fax: (860) 218-9555  
[tdurkin@hayberlawfirm.com](mailto:tdurkin@hayberlawfirm.com)  
[rhayber@hayberlawfirm.com](mailto:rhayber@hayberlawfirm.com)  
Attorney for Plaintiff

**SUPERIOR COURT**

**JUDICIAL DISTRICT OF  
HARTFORD**

**AT HARTFORD**

**APRIL 4, 2019**

**STATEMENT OF AMOUNT IN DEMAND**

WHEREFORE, the Plaintiffs claim a cause of action seeking damages of not less than \$15,000, exclusive of interest and costs, which cause is within the jurisdiction of the Superior Court.

PLAINTIFF, RYAN REUTENAUER, for  
themselves and other similarly situated employees

By:

Thomas J. Durkin  
Richard E. Hayber  
The Hayber Law Firm, LLC  
750 Main Street, Suite 904  
Hartford, CT 06103  
Juris No. 426871  
Tel: (860) 522-8888  
Fax: (860) 218-9555  
[tdurkin@hayberlawfirm.com](mailto:tdurkin@hayberlawfirm.com)  
[rhayber@hayberlawfirm.com](mailto:rhayber@hayberlawfirm.com)  
Attorney for Plaintiff