

# Cheddar's Casual Cafe Plagued with FLSA lawsuits filed by Servers

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Recently, Cheddar's Casual Cafe has been plagued by minimum wage lawsuits brought by current and former servers for violations of the Fair Labor Standards Act. In consolidated lawsuits filed by former employee/servers of Cheddar's Casual Café in Tampa Florida federal court, it was alleged that the national chain violated the Florida Minimum Wage Act ("FMWA") and the Fair Labor Standards Act ("FLSA") by: (1) failing to pay them for all hours that they worked; (2) improperly utilizing the tip credit; (3) failing to pay them overtime; and (4) improperly engaging in tip pooling. The former employees also alleged that that Cheddar's Casual Café improperly took a tip credit from their wages for time spent performing related, non-tipped work. The former servers listed various examples of the related, non-tipped work that they were required to do, which they referred to as "side work." The former employees also alleged that Cheddar's Casual Café regularly and consistently required them to perform "side work" including restocking supplies, stocking ice, sweeping floors, stocking food/condiments on the expo line, brewing tea and coffee, running food to tables for other servers, wiping down/washing trays, stocking lemonade mix, unclogging drains, cleaning soft perform side work before, during, and after their shifts and that the side work exceeded 20% of the time spent working.

In addition to the side work, the workers alleged that Cheddar's Casual Café required them to perform tasks belonging to an entirely different category of employment that was unrelated to and not incidental to tipped service. The former employees referred to this type of work as "dual occupation" work, which includes maintenance, cooking, and cleaning. As a result, the former employees contend that Cheddar's Casual Café owes the full minimum wage (without regard to a tip credit) for the time that they spent performing the dual occupation work.

Following an earlier investigation by the U.S. Department of Labor's Wage and Hour Division, Cheddar's Casual Cafe Inc. paid \$99,168 in back wages and \$62,417 in liquidated damages to 268 current and former employees of Cheddar's restaurants in Oklahoma City, Okla., and Lubbock, Texas, under the terms of a consent judgment. The chain will pay an additional \$166,620 in civil money penalties for child labor violations, as well as for willfully and repeatedly violating the Fair Labor Standards Act's minimum wage and record-keeping provisions.

An investigation led by the Wage and Hour Division's Dallas District Office found that managers recorded fewer hours in the payroll system than employees actually worked, tipped employees did not take home the required federal minimum wage, and managers did not compensate employees for attendance at mandatory meetings and training.

Cynthia Watson, the Wage and Hour Division's regional administrator in the Southwest, stated: "The Labor Department will hold employers accountable when they do not properly pay their workers and put young employees in danger by allowing them to perform hazardous jobs."

The consent judgment was filed with the U.S. District Court for the Northern District of Texas, Dallas Division. In addition to requiring back wages and damages, the judgment will enjoin the company from future FLSA violations.

Employees who are covered by the FLSA must receive at least the federal minimum wage of \$7.25 for all hours worked. In Florida, the current minimum wage is \$7.93. Tipped employees must be paid a cash wage of at least \$2.13 per hour, and the cash rate when combined with their tips must total at least \$7.25 per hour. Additionally, employers must maintain accurate time and payroll records for all workers.

## **Do you have a claim for unpaid wages against Cheddar's Causal Cafe?**

Call us for a free consultation.