

Q: I thought I signed up for this case years ago, why am I not part of it?

A: We had several proceedings involving the Wynn since 2008. Many people are confusing their participation in the Labor Commissioner proceedings (which required actively filling out forms) with this lawsuit. This lawsuit was filed in 2013. We made an attempt to contact EVERYONE we had a mailing address for to notify them in 2013 about this lawsuit. Over 200 people responded by joining. Many did not, probably because they moved and did not update their address with us.

Q: What is the deadline for joining this case? My friend told me the deadline is today.

A: There is NO deadline- but there is a possibly only a two year statute of limitations which means if you file today you can only stand to collect what has been taken from you since two years before today's date.

Q: I am a day one dealer. Can I collect everything that has been taken from me?

A: No. The maximum time covered by this suit is May 5, 2011 forward. But, each person can only go back two years from the date THAT PERSON filed. If you joined this lawsuit in April 2013 when it was filed, you are covered since the change of the law in May 2011. If you join today, you may only be able to collect from two years prior to today.

Q: Why does the representation agreement say I will be responsible to pay \$1000 if we lose?

A: It says you MAY be responsible for the costs of the Wynn if we lose. That must be ordered by the Court. The \$1000 figure is an ESTIMATE of what the Wynn's current costs may be. This is the same liability you would face in a typical personal injury case. If the Court awards costs, it would likely be spread amongst all 700+ persons that joined this case, although we cannot promise anything in terms of how costs may be awarded, if at all. Often, costs awards are not sought by defendants because it requires them to pay their attorneys substantial money to make the request for costs, and the attorneys' fees for doing so often exceed the costs award they stand to collect.

Q: Why does the representation agreement require me to pay you 25% of what you collect for me if you can also get attorneys' fees from the Wynn?

A: Those are the terms of our agreement. The Court has jurisdiction to modify our agreement if it believes such agreement is improper. We will be seeking fees from the Wynn as provided by law if we are successful. Those fees, if awarded, will be paid to us SEPARATELY by the Wynn from any money collected from you. Again, all fees are subject to the Court's approval.

Q: Why do I have to sign an agreement? Why can't I just participate in the case?

A: We will not agree to represent anybody who does not agree in writing to be represented by us subject to the terms of the agreement. You do NOT have to join this lawsuit if you are not happy with the terms of our agreement.

Q: What if I don't want to join this lawsuit?

A: You do not have to. If you do not, you will not stand to collect anything from this lawsuit. If you do not file your own lawsuit, you will not be able to collect any tips that may be owed to you under federal law from the Wynn.

Q: I signed a waiver when I got hired agreeing to the tip pooling policy. Is that going to affect my chances in this case?

A: No. Employers do not have the ability to force employees to waive their rights under federal law. The waiver is irrelevant.

Q: I work at Encore and am not covered by the union. Can I be fired?

A: Retaliation laws protect you from being fired for joining this lawsuit. Over 700 persons have joined to date. We have not heard from any dealer who said he/she was fired for joining the lawsuit. Remember, you can be fired for any reason, and it would be up to you to prove that you were fired in retaliation.

Q: Why hasn't the Wynn stopped this tip pooling policy?

A: We do not have standing to seek an injunction (forcing the Wynn to stop the policy). The tip pooling policy will likely continue until the Wynn is forced by the Court to change it.

Q: Will Wynn know if I join this lawsuit?

A: Yes, the lawsuit is public record. Consents are filed electronically, and Wynn receives a notification as people are joined. There is no way to participate anonymously.

Q: How long will this take until we get our money back?

A: We have no time frame. After we get a decision from the Appeals Court on the ORLA petition, Wynn will have one additional appeal step left to the U.S. Supreme Court. We will update the website if this appeal step is taken.

Q: What if I decide later on I do not want to be part of this suit?

A: You may do so by notifying us IN WRITING that you wish to withdraw from participation in this lawsuit. That written notification must be signed and dated and contain an acknowledgment that by withdrawing from the lawsuit you understand you will not be eligible to collect anything if the lawsuit is successful.

Q: How do I sign up for the case?

A: We have posted the forms on www.wynnlawsuit.com. You can download them there, print them out and either mail or drop them off to us. WE CANNOT ACCEPT FORMS BY EMAIL OR FAX. We need originals.

Q: How much are we going to collect? What is the amount that has been taken so far? How do you determine who gets what?

A: No money has been collected yet. We have not yet had an opportunity to review the records from the Wynn because our case was dismissed from the outset. If Wynn loses all its appeal attempts, the case will be sent back to the District Court for further proceedings. We will have an opportunity to access the records at that point. If money is collected, the Court will determine how it is to be divided. Typically, this is done on an hours/shifts/days worked basis, but we have no idea how it will be determined in this case.

Q: Why can't this case proceed as a true "class action" lawsuit in which class members are not required to "act" in order to participate in the lawsuit?

A: Claims under the federal Fair Labor Standards Act ("FLSA") are NOT permitted to proceed in the typical "class action" context. Instead, they operate under a "collective action" procedure which requires anyone who wishes to benefit from a successful outcome in a case to "act" by filing a "consent to join" such case. There is no way to assert a claim under the FLSA without filing a consent to join a lawsuit or filing your own lawsuit.