

IN THE CIRCUIT COURT OF CHRISTIAN COUNTY, MISSOURI

*RICHARD MCMILLIN,
On behalf of himself and a
class of similarly situated individuals,*

Plaintiff,

v.

Case No: 14AF-CC00154-01

*FOGLE ENTERPRISES, INC. and
NOLAN FOGLE,*

Defendants.

NOTICE OF SETTLEMENT

If you dined at any of the following restaurants in Branson, Missouri, between February 28, 2009 and February 28, 2014, you have been included in a proposed class action settlement:

- Plantation (collectively, “Fogle Restaurants”)
- Peppercorn
- Baldknobbers
- Fall Creek Steak and Catfish House
- Great American Steak and Chicken House
- Whipper Snappers

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

- The Fogle Restaurants are owned and operated by Fogle Enterprises, Inc; and Nolan Fogle is an owner of Fogle Enterprises, Inc. (Nolan Fogle and Fogle Enterprises, Inc. will be referenced collectively as “Defendants” throughout this notice).
- Richard McMillin, a former customer of the Fogle Restaurants, sued Defendants alleging he was charged an unlawful fee with his meal.
- A class action settlement has been reached on behalf of all individuals who paid the fee between February 28, 2009 through February 28, 2014, for non-business-related purposes.
- If you fall within the defined class, your legal rights are affected whether you act or don’t act. Read this notice carefully.

YOUR LEGAL RIGHTS AND OPTIONS IN THIS LAWSUIT:

SUBMIT A CLAIM FORM	<p>The only way to get payment.</p> <p>If you submit a valid and timely claim form, along with providing valid information required in the claim form, you will receive a settlement payment.</p>
ASK TO BE EXCLUDED	<p>Get out of this lawsuit. Get no benefits from it. Keep rights.</p> <p>If you ask to be excluded you will receive no money or benefits in this lawsuit, but you will maintain the right to sue the Defendants about the same legal claims in this lawsuit.</p>
OBJECT	<p>Write to the Court about why you don't like the settlement.</p> <p>You must remain a member of the lawsuit (you cannot ask to be excluded) in order to object to the settlement.</p>
DO NOTHING	<p>Get no payment. Give up rights.</p> <p>By doing nothing, you will not share in the benefits of the class action settlement. And, you will give up any rights to sue Defendants separately about the same legal claims in this lawsuit.</p>

- These rights and options – **and the deadlines to exercise them** – are explained in this notice
- The Court in charge of this case still must decide whether to approve the settlement. Payments will be made if the Court approves the settlement and after appeals are resolved. Please be patient.
- Any questions? Read on and visit www.FogleSettlement.com.

BASIC INFORMATION

1. Why am I seeing this notice?

This notice is published in an effort to reach all individuals who dined at Fogle Restaurants between February 28, 2009 and the February 28, 2014 and paid a Community Development Fund, CDF, or similarly-identified or described fee (“CDF Fee”) along with the cost of his or her meal. The Court allowed this notice to be published because you have a right to know about a proposed settlement of a class action lawsuit, and about your options, before the Court decides whether to approve the settlement. If the Court approves the settlement and after any objections and appeals are resolved, Defendants will make payments that the settlement allows. Individuals who submit claim forms (explained below) will be informed of the progress of the settlement.

This notice explains the lawsuit, the settlement, your legal rights, what benefits are available, who is eligible for them, and how to get them. The Honorable Laura Johnson of the Circuit Court of Christian County, Missouri is overseeing the lawsuit. The lawsuit is known as *Richard McMillin v. Fogle Enterprises, Inc. et al.*; Case No. 14AF-CC00154-01.

2. What is this lawsuit about?

The lawsuit claims that Defendants included a 1-1.5% charge (the “CDF Fee”) on each of its customers’ bills without properly disclosing the presence of the fee or that the funds collected were used for non-charitable purposes. The lawsuit claims Defendants were not legally authorized to charge the CDF Fee.

3. What is a class action and who is involved?

In a class action, one or more people called Class Representatives (in this case Richard McMillin) sue on behalf of people who have similar claims. The people together are a “Class” or “Class Members.” The customer who sued Defendants — and all the Class Members like him — are called Plaintiffs. One court resolves the issues for all Class Members, except for those who exclude themselves from the Class.

4. Why is this lawsuit a class action?

The Court decided that this lawsuit can be a class action and move towards a trial because it meets the requirements of Missouri Supreme Court Rule 52.08, which governs class actions in Missouri courts. Following the Court’s decision to allow this case to move forward as a class action, the parties agreed to settle the case on a class-wide basis.

WHO IS IN THE SETTLEMENT CLASS

5. Am I part of this Settlement Class?

The Settlement Class includes all individuals who dined at one of the Fogle Restaurants (Fall Creek Steak and Catfish House, Great American Steak and Chicken House, Whipper Snappers, Peppercorn, Baldknobbers, or Plantation), between February 28, 2009 and February 28, 2014, for non-business-related purposes and who paid a CDF Fee. Meaning, if you only dined at one of the Fogle Restaurants while at a company lunch or for another business-related purpose, you are not part of the Settlement Class.

6. I am still not sure if I am included.

If you are still not sure whether you are included, you can get free help by calling or writing the lawyers in this case at the phone number and address listed in question 21.

THE SETTLEMENT BENEFITS — WHAT YOU GET

7. What do I get?

Defendants have agreed to reimburse members of the Settlement Class who provide timely claims as described below for the amount he or she paid to Defendants for the CDF Fee.

8. What is not covered?

Reimbursement for any CDF Fees paid in connection with a business-related transaction and/or reimbursement for CDF Fees paid outside of the relevant claim period.

9. How can I get payment?

To be paid you must complete and return a Claim Form. A Claim Form can be found on the Settlement Website: www.FogleSettlement.com. You can return the Claim Form via ground mail or by online submission. The Claim Form must be postmarked no later than **October 28, 2018**.

Please read the claim form carefully. You must fully complete the form in order to receive payment.

10. What happens if I do not return the Claim Form by the provided date?

If you do not submit a valid Claim Form by **October 28, 2018**, then you will not receive any payment. If you do nothing at all (you do not submit a Claim Form and you do not exclude yourself), you will not receive any payments and you will not be able to sue Defendants over these claims.

11. When do I get payment?

The Court will hold a hearing on **December 14, 2018**, to decide whether to approve the settlement. If Judge Johnson approves the settlement after that, there may be appeals. It's always uncertain whether these appeals can be resolved, and resolving them can take time, perhaps more than a year. Please be patient.

12. What am I giving up to get a payment and stay in the Settlement Class?

Unless you exclude yourself, you are staying in the Settlement Class, and that means that you can't sue, continue to sue, or be part of any other lawsuit against Defendants about the legal or factual issues in this case. It also means that all of the Court's orders will apply to you and legally bind you. These orders will include a dismissal and release of all claims against Defendants arising out of or related in any way to the CDF Fee, including but not limited to claims asserted in this case.

EXCLUDING YOURSELF FROM THIS LAWSUIT

If you don't want a payment from this settlement, but you want to keep the right to sue or continue to sue Defendants, on your own, about the legal issues in this case, then you must take steps to get out. This is called "excluding" yourself — or is sometimes referred to as "opting out" of the Settlement Class. Class Members will be bound by the terms of the Settlement Agreement, the Releases, and the Court's Final Judgment and Order, unless a Class Member properly and timely submits a request to be excluded from this lawsuit and settlement.

13. How do I get out of this settlement?

If you choose to exclude yourself from this lawsuit and settlement and do not wish to participate in this lawsuit and settlement at all, you must send an "Exclusion Request" in the form of a letter sent by mail, stating that you want to be excluded from the settlement in *Richard McMillin v. Fogle Enterprises, Inc. et al.*; Case No. 14AF-CC00154-01. You may also get an Exclusion Request form at the website: www.FogleSettlement.com. In the "Exclusion Request," you must include your legal name and address, the name of the Fogle Restaurant where you dined, the approximate date you dined at the Fogle Restaurant, and the approximate amount of your bill. You must also sign the letter. You must mail your "Exclusion Request" postmarked before **October 28, 2018**, to:

Class Action Opt Out
Attn: Fogle Settlement Administrator
PO Box 30456
Philadelphia, PA 19103

If you ask to be excluded, you will not get any settlement payment, and you cannot object to the settlement. You will not be legally bound by anything that happens in this lawsuit.

14. If I don't exclude myself, can I sue Defendants later?

No. Unless you exclude yourself, you give up the right to sue Defendants for the claims that this settlement resolves. If you have a pending lawsuit, speak to your lawyer in that lawsuit immediately. You must exclude yourself from this Settlement Class to continue your own lawsuit. Remember, the exclusion deadline is **October 28, 2018**.

15. If I exclude myself, can I get money from this Settlement?

No. If you exclude yourself, do not send in a Claim Form to ask for any money. But, you may sue, continue to sue, or be part of a different lawsuit against Defendants.

THE LAWYERS REPRESENTING YOU

16. Do I have a lawyer in this case?

The Court decided that the law firms of Williams Dirks Dameron, LLC, The Hodgson Law Firm, LLC, and Strong-Garner-Bauer PC, are qualified to represent you and all Settlement Class Members. Together, these lawyers are called "Settlement Class Counsel." They are experienced in handling similar cases against other entities. More information about these law firms, their practices, and their lawyers' experience is available at www.williamsdirks.com, www.kswage.com, and www.stronglaw.com.

17. Should I get my own lawyer?

You do not need to hire your own lawyer because Settlement Class Counsel is working on your behalf. But, if you want your own lawyer, you will have to pay that lawyer. For example, you can ask him or her to appear in Court for you if you want someone other than Settlement Class Counsel to speak for you.

18. How will the lawyers be paid?

Settlement Class Counsel has prosecuted this case on a contingency basis. They have not received any fees or reimbursement for any of the expenses associated with this case. Defendants have agreed to pay reasonable attorneys' fees and expenses and Settlement Class Counsel will request such reasonable attorneys' fees and expenses from the Court. Any fees and expenses awarded by the Court will be paid separately by Defendants. Plaintiff will request an award of fees up to the amount of \$128,000 and expenses up to the amount of \$7,000. Defendants do not dispute that Settlement Class Counsel are entitled to an award of fees and expenses and will not contest Plaintiff's request for these amounts. You won't have to pay these fees and expenses and any fees and expenses awarded will not affect your settlement amount.

OBJECTING TO THE SETTLEMENT

You can tell the Court you do not agree with the settlement or some part of it.

19. How do I tell the Court I don't like the settlement?

If you're a Settlement Class Member, you can object to the settlement if you don't like any part of it. You can give reasons why you think the Court should not approve it. The Court will consider your views. To object, you must send a letter saying that you object, postmarked by **October 28, 2018** to:

Class Action Objection
Attn: Fogle Settlement Administrator
PO Box 30456
Philadelphia, PA 19103

In the "Objection," you must include your legal name and address, the name of the Fogle Restaurant where you dined, the approximate date you dined at the Fogle Restaurant, and the approximate amount of your bill.

20. What is the difference between objecting and excluding?

Objecting is simply telling the Court that you don't like something about the settlement. You can object only if you stay in the Settlement Class. You may not both object and exclude yourself. If you object and your objection is overruled, you will still be bound by the settlement.

THE COURT'S FAIRNESS HEARING

The Court will hold a hearing to decide whether to approve the settlement. You may attend and you may ask to speak, but you don't have to.

21. When and where will the Court decide to approve the settlement?

The Court will hold a Fairness Hearing at 11 a.m. on **December 14, 2018**, in the Circuit Court of Christian County, Missouri 110 W Elm St #202, Ozark, MO 65721, in Division I. At this hearing, the Court will consider whether the settlement is fair, reasonable, and adequate. If there are objections, the Court will consider them. Judge Johnson will listen to people who have asked to speak at the hearing. The Court may also decide how much to pay Settlement Class Counsel. After the hearing, the Court will decide whether to approve the settlement. We do not know how long these decisions will take.

22. Do I have to come to the hearing?

No. Settlement Class Counsel will answer questions Judge Johnson may have. But, you are welcome to come at your own expense. If you send an objection, you don't have to come to Court to talk about it. As long as your written objection is on time, the Court will consider it. You may also pay your own lawyer to attend, but it's not necessary.

23. May I speak at the hearing?

You may ask the Court for permission to speak at the Fairness Hearing. To do so, you must send a letter saying that it is your "Notice of Intention to Appear" in *Richard McMillin v. Fogle Enterprises, Inc. et al.*; Case No. 14AF-CC00154-01. Be sure to include your name, address, telephone number, the name of the Fogle Restaurant where you dined, the approximate date you dined at the Fogle Restaurant, and the approximate amount of your bill. You must also sign the letter. Your Notice of Intention to Appear must be postmarked no later than **October 28, 2018**, and be sent to the Clerk of the Court, settlement Class Counsel, and the following address:

Class Action Notice of Intent to Appear
Attn: Fogle Settlement Administrator
PO Box 30456
Philadelphia, PA 19103

You cannot speak at the hearing if you exclude yourself.

IF YOU DO NOTHING

24. What happens if I do nothing at all?

If you do nothing, you'll get no money from this settlement. But, unless you exclude yourself, you won't be able to start a lawsuit, continue with a lawsuit, or be part of any other lawsuit against Defendants about the legal issues in this case, ever again.

25. Are there more details available?

Visit the website www.FogleSettlement.com, where you will find the Court's Order Certifying the Settlement Class, the Petition that the Plaintiffs submitted, the Defendants' Answer to the Petition, as well as a Claim Form and an Exclusion Request form. You may also speak to one of the lawyers by calling or writing to Williams Dirks Dameron LLC, 1100 Main Street, Suite 2600, Kansas City, Missouri 64105, (833) 945-5233.

EXCEPT AS SPECIFICALLY SET FORTH IN THIS NOTICE, PLEASE DO NOT CONTACT THE COURT