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Iron Cactus wait staff sues for back wages and overtime pay. Lawsuit seeks collective-action status for five Texas locations.

HOUSTON — Current and former wait staff at Iron Cactus Mexican restaurants have filed a lawsuit against the company alleging that Iron Cactus violated tip pool regulations and overtime requirements under the Fair Labor Standards Act (FLSA).

Kennedy Hodges, LLP filed the wage lawsuit on behalf of its clients on February 3, 2012 against Iron Cactus locations in Austin, Dallas, San Antonio, and Hill Country Galleria. The employees filing the lawsuit are also asking for the case to be certified as a collective action under the Fair Labor Standards Act, which would allow all other employees to join the lawsuit if they desired.

Specifically, the lawsuit alleges that Iron Cactus unlawfully required servers to contribute to a tip pool that, in part, was distributed to food expeditors ("expos") in violation of the FLSA. The lawsuit also alleges that Iron Cactus unlawfully charged wait staff for broken dishes and glasses.

The lawsuit alleges that Iron Cactus violated the FLSA by:

- forcing wait staff to participate in a tip pool and requiring a percentage of such tips be shared with food expeditors and other employees who are not eligible to receive tips,
- requiring wait staff to pay for broken dishes and glasses,
- not correctly informing the wait staff of the tip pool it was using, and
- not paying the wait staff the required time and one-half premium pay when they worked more than 40 hours in a work week.

The case is filed in the Austin Division of the United States District Court for the Western District of Texas.

Kennedy Hodges LLP has represented hundreds of employees in wage and overtime claims against large and small corporations who have violated the minimum wage and overtime laws under the FLSA.

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