

FAMOUS DAVES OF AMERICA INC

Form 10-Q

November 16, 2016

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**UNITED STATES**

**SECURITIES AND EXCHANGE COMMISSION**

**Washington, D.C. 20549**

**FORM 10-Q**

- QUARTERLY REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934**

**For the Quarterly Period Ended October 2, 2016**

- TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934**

**Commission File No. 0-21625**

**FAMOUS DAVE S of AMERICA, INC.**

(Exact name of registrant as specified in its charter)

**Minnesota**  
(State or other jurisdiction of

**41-1782300**  
(I.R.S. Employer

**incorporation or organization**

**Identification No.)**

**12701 Whitewater Drive, Suite 200**

**Minnetonka, MN 55343**

(Address of principal executive offices) (Zip code)

**Registrant's telephone number, including area code (952) 294-1300**

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days. Yes  No

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Indicate by check mark whether the registrant has submitted electronically and posted on its corporate Web site, if any, every Interactive Data File required to be submitted and posted pursuant to Rule 405 of Regulation S-T during the preceding 12 months (or for such shorter period that the registrant was required to submit and post such files). Yes  No

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer or a smaller reporting company. See definition of large accelerated filer, accelerate filer and smaller reporting company in Rule 12b-2 of the Exchange Act. (Check one):

Large Accelerated Filer  Accelerated Filer

Non- Accelerated Filer  (Do not check if a smaller reporting company) Smaller reporting company

Indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Exchange Act). Yes  No

As of November 11, 2016, 6,957,628 shares of the registrant's Common Stock were outstanding.

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	ASSETS	October 2, 2016 (Unaudited)	January 3, 2016
<b>Current assets:</b>			
Cash and cash equivalents	\$ 6,766	\$ 5,300	
Restricted cash	2,085	1,087	
Accounts receivable, net	4,362	4,677	
Inventories	1,886	2,070	
Deferred tax assets	196	181	
Prepaid expenses and other current assets	3,238	1,671	
Assets held for sale	5	2,211	
<b>Total current assets</b>	<b>18,538</b>	<b>17,197</b>	
<b>Property, equipment and leasehold improvements, net</b>		<b>25,929</b>	<b>32,491</b>
<b>Other assets:</b>			
Intangible assets, net	2,866	2,902	
Deferred tax assets	4,420	4,411	
Other assets	1,576	824	
		<b>\$ 53,329</b>	<b>\$ 57,825</b>

**LIABILITIES AND SHAREHOLDERS' EQUITY**

<b>Current liabilities:</b>			
Current portion of long-term debt and financing lease obligation	\$ 8,879	\$ 2,193	
Line of credit	1,855		
Accounts payable	5,599	5,685	
Accrued compensation and benefits	1,571	1,390	
Deferred tax liabilities	100	101	
Other current liabilities	3,356	3,406	
Liabilities held for sale		1,747	
<b>Total current liabilities</b>	<b>21,360</b>	<b>14,522</b>	
<b>Long-term liabilities:</b>			
Long-term debt, less current portion		10,200	
Financing lease obligation, less current portion	2,422	2,757	
Other liabilities	8,721	8,285	

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<b>Total liabilities</b>	32,503	35,764
<b>Shareholders equity:</b>		
Common stock, \$0.01 par value, 100,000 shares authorized, 6,958 shares issued and outstanding at October 2, 2016 and January 3, 2016, respectively	66	66
Retained earnings	20,760	21,995
<b>Total shareholders equity</b>	20,826	22,061
	\$ 53,329	\$ 57,825

See accompanying notes to consolidated financial statements.

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**Table of Contents****FAMOUS DAVE'S OF AMERICA, INC. AND SUBSIDIARIES****CONSOLIDATED STATEMENTS OF OPERATIONS****OCTOBER 2, 2016 AND SEPTEMBER 27, 2015***(in thousands, except per share data)**(Unaudited)*

	Three Months Ended	Nine Months Ended		
	October 2, 2016	September 27, 2015	October 2, 2016	September 27, 2015
<b>Revenue:</b>				
Restaurant sales, net	\$ 20,999	\$ 23,323	\$ 63,013	\$ 74,576
Franchise royalty revenue	4,311	4,312	13,162	13,263
Franchise fee revenue			135	255
Licensing and other revenue	200	245	784	765
Total revenue	25,510	27,880	77,094	88,859
<b>Costs and expenses:</b>				
Food and beverage costs	6,507	7,246	19,619	22,752
Labor and benefits costs	7,069	8,316	21,323	24,974
Operating expenses	6,618	6,976	18,681	21,396
Depreciation and amortization	909	1,064	2,845	3,387
General and administrative expenses	4,532	4,141	13,143	13,927
Asset impairment and estimated lease termination and other closing costs	3,620	650	4,684	1,626
Net loss (gain) on disposal of property	4	(1,781)	(181)	(1,756)
<b>Total costs and expenses</b>	<b>29,259</b>	<b>26,612</b>	<b>80,114</b>	<b>86,306</b>
<b>(Loss) income from operations</b>	<b>(3,749)</b>	<b>1,268</b>	<b>(3,020)</b>	<b>2,553</b>
<b>Other expense:</b>				
Interest expense	(210)	(218)	(613)	(641)
Interest income		2	2	7
Other (expense) income, net	(1)	1		1
<b>Total other expense</b>	<b>(211)</b>	<b>(215)</b>	<b>(611)</b>	<b>(633)</b>
<b>(Loss) income before income taxes</b>	<b>(3,960)</b>	<b>1,053</b>	<b>(3,631)</b>	<b>1,920</b>
<b>Income tax benefit (expense)</b>	<b>1,582</b>	<b>(96)</b>	<b>1,515</b>	<b>(440)</b>
<b>Net (loss) income from continuing operations</b>	<b>(2,378)</b>	<b>957</b>	<b>(2,116)</b>	<b>1,480</b>
<b>Net (loss) income from discontinued operations, net of tax</b>	<b>(81)</b>	<b>(249)</b>	<b>627</b>	<b>79</b>
<b>Net (loss) income</b>	<b>\$ (2,459)</b>	<b>\$ 708</b>	<b>\$ (1,489)</b>	<b>\$ 1,559</b>
<b>Basic net (loss) income per share – continuing operations</b>	<b>\$ (0.34)</b>	<b>\$ 0.14</b>	<b>\$ (0.30)</b>	<b>\$ 0.21</b>
<b>Basic net (loss) income per share – discontinued operations</b>	<b>\$ (0.01)</b>	<b>\$ (0.04)</b>	<b>\$ 0.09</b>	<b>\$ 0.01</b>

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<b>Basic net (loss) income per share</b>	\$ (0.35)	\$ 0.10	\$ (0.21)	\$ 0.22
<b>Diluted net (loss) income per share continuing operations</b>	\$ (0.34)	\$ 0.14	\$ (0.30)	\$ 0.21
<b>Diluted net (loss) income per share discontinued operations</b>	\$ (0.01)	\$ (0.04)	\$ 0.09	\$ 0.01
<b>Diluted net (loss) income per share</b>	\$ (0.35)	\$ 0.10	\$ (0.21)	\$ 0.22
<b>Weighted average shares outstanding basic</b>	6,950	6,945	6,949	7,008
<b>Weighted average shares outstanding diluted</b>	6,950	6,958	6,949	7,027

See accompanying notes to consolidated financial statements.

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**Table of Contents****FAMOUS DAVE'S OF AMERICA, INC. AND SUBSIDIARIES****CONSOLIDATED STATEMENTS OF CASH FLOWS****OCTOBER 2, 2016 AND SEPTEMBER 27, 2015***(in thousands)**(Unaudited)*

	Nine Months Ended October 2, 2016	September 27, 2015
<b>Cash flows from operating activities:</b>		
Net (loss) income from continuing operations	\$ (2,116)	\$ 1,480
Adjustments to reconcile net (loss) income to cash flows provided by operations:		
Depreciation and amortization	2,845	3,387
Asset impairment and estimated lease termination and other closing costs	4,684	1,626
Net gain on disposal of property	(181)	(1,756)
Amortization of deferred financing costs	43	57
Deferred income taxes	(25)	(349)
Deferred rent	520	656
Stock-based compensation	254	319
Tax benefit for equity awards issued		(153)
Changes in operating assets and liabilities:		
Restricted cash	(1,199)	(91)
Accounts receivable, net	(193)	(904)
Inventories	184	115
Prepaid expenses and other current assets	(1,571)	456
Deposits	(277)	18
Accounts payable	(388)	(7)
Accrued compensation and benefits	39	(2,047)
Other current liabilities	(98)	(596)
Other liabilities	140	(39)
Long-term deferred compensation		(74)
 Cash flows provided by continuing operating activities	 2,661	 2,098
Cash flows (used for) provided by discontinued operating activities	(839)	377
 Cash flows provided by operating activities	 1,822	 2,475
<b>Cash flows used for investing activities:</b>		
Proceeds from the sale of assets	1,053	5,341
Purchases of property, equipment and leasehold improvements	(540)	(3,093)
 Cash flows provided by continuing investing activities	 513	 2,248
Cash flows provided by (used for) discontinued investing activities	1,150	(52)
 Cash flows provided by investing activities	 1,663	 2,196
<b>Cash flows used for financing activities:</b>		
Proceeds from line of credit	1,855	20,700
Payments on line of credit		(19,300)
Payments of debt issuance costs	(23)	(128)
Payments on long-term debt and financing lease obligation	(3,850)	(541)
Payments from exercise of stock options	(1)	

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Tax benefit for equity awards issued	153
Repurchase of common stock	(5,672)
Cash flows used for financing activities	(2,019)      (4,788)
 <b>Increase (decrease) in cash and cash equivalents</b>	<b>1,466      (117)</b>
 <b>Cash and cash equivalents, beginning of period</b>	<b>5,300      2,133</b>
 <b>Cash and cash equivalents, end of period</b>	<b>\$ 6,766      \$ 2,016</b>

See accompanying notes to consolidated financial statements.

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**FAMOUS DAVE'S OF AMERICA, INC. AND SUBSIDIARIES**

**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS**

**(1) Basis of Presentation**

We, Famous Dave's of America, Inc. ( "Famous Dave's" or the "Company"), were incorporated in Minnesota on March 14, 1994. We develop, own, operate and franchise restaurants under the name Famous Dave's. As of October 2, 2016, there were 176 Famous Dave's restaurants operating in 32 states, the Commonwealth of Puerto Rico, Canada, and United Arab Emirates, including 37 company-owned restaurants and 139 franchise-operated restaurants. An additional 62 franchise restaurants were committed to be developed through signed Area Development Agreements as of October 2, 2016.

We prepared these consolidated financial statements in accordance with Securities and Exchange Commission ("SEC") Rules and Regulations. These unaudited financial statements represent the consolidated financial statements of Famous Dave's and its subsidiaries as of October 2, 2016 and January 3, 2016 and for the three and nine month periods ended October 2, 2016 and September 27, 2015, respectively. The information furnished in these financial statements includes normal recurring adjustments and reflects all adjustments, which are, in our opinion, necessary for a fair presentation. Certain information and footnote disclosures normally included in financial statements prepared in accordance with accounting principles generally accepted in the United States of America have been condensed or omitted. These consolidated financial statements should be read in conjunction with the audited consolidated financial statements and notes thereto included in our Form 10-K for the fiscal year ended January 3, 2016 as filed with the SEC.

Due to the seasonality of our business, revenue and operating results for the three and nine months ended October 2, 2016 are not necessarily indicative of the results to be expected for the full year.

**(2) Net Income Per Share**

Basic net income per share ("EPS") is computed by dividing net income by the weighted average number of common shares outstanding for the reporting period. Diluted EPS equals net income divided by the sum of the weighted average number of shares of common stock outstanding plus all additional common stock equivalents, such as stock options and restricted stock units, when dilutive.

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Following is a reconciliation of basic and diluted net income per share:

<i>(in thousands, except per share data)</i>	Three Months Ended		Nine Months Ended	
	October 2, 2016	September 27, 2015	October 2, 2016	September 27, 2015
<b>Net (loss) income per share basic:</b>				
Net (loss) income from continuing operations, net of taxes	\$ (2,378)	\$ 957	\$ (2,116)	\$ 1,480
Net (loss) income from discontinued operations, net of taxes	(81)	(249)	627	79
Net (loss) income	\$ (2,459)	\$ 708	\$ (1,489)	\$ 1,559
Weighted average shares outstanding	6,950	6,945	6,949	7,008
<b>Net (loss) income from continuing operations per share basic</b>	<b>\$ (0.34)</b>	<b>\$ 0.14</b>	<b>\$ (0.30)</b>	<b>\$ 0.21</b>
<b>Net (loss) income from discontinued operations per share basic</b>	<b>\$ (0.01)</b>	<b>\$ (0.04)</b>	<b>\$ 0.09</b>	<b>\$ 0.01</b>
<b>Net (loss) income per share basic</b>	<b>\$ (0.35)</b>	<b>\$ 0.10</b>	<b>\$ (0.21)</b>	<b>\$ 0.22</b>
<b>Net (loss) income per share diluted:</b>				
Net (loss) income from continuing operations, net of taxes	\$ (2,378)	\$ 957	\$ (2,116)	\$ 1,480
Net (loss) income from discontinued operations, net of taxes	(81)	(249)	627	79
Net (loss) income	\$ (2,459)	\$ 708	\$ (1,489)	\$ 1,559
Weighted average shares outstanding	6,950	6,945	6,949	7,008
Dilutive impact of stock equivalents outstanding		13		19
Adjusted weighted average shares outstanding	6,950	6,958	6,949	7,027
<b>Net (loss) income from continuing operations per share diluted</b>	<b>\$ (0.34)</b>	<b>\$ 0.14</b>	<b>\$ (0.30)</b>	<b>\$ 0.21</b>
<b>Net (loss) income from discontinued operations per share diluted</b>	<b>\$ (0.01)</b>	<b>\$ (0.04)</b>	<b>\$ 0.09</b>	<b>\$ 0.01</b>
<b>Net (loss) income per share diluted</b>	<b>\$ (0.35)</b>	<b>\$ 0.10</b>	<b>\$ (0.21)</b>	<b>\$ 0.22</b>

There were 543,000 and 221,000 options outstanding for the three and nine months ended October 2, 2016 and September 27, 2015, respectively, that were not included in the computation of diluted EPS because they were anti-dilutive.

### **(3) Restricted Cash and Marketing Fund**

We have a system-wide Public Relations and Marketing Development Fund, to which Company-owned restaurants, in addition to the majority of franchise-operated restaurants, contribute a percentage of net sales, currently 1.0%, for use in public relations and marketing development efforts throughout the system. The assets held by this fund are considered restricted. Accordingly, we reflect the cash related to this fund in restricted cash and reflect the liability in accounts payable on our consolidated balance sheets as of October 2, 2016 and January 3, 2016. We had approximately \$1.1 million in this fund as of October 2, 2016 and January 3, 2016.

In conjunction with the Company's Credit Agreement, we have deposited 105% of the face amount of the undrawn letters of credit in a cash collateral account with the Administrative Agent. We had approximately \$1.0 million in restricted cash as of October 2, 2016, related to these undrawn letters of credit. We were not required to deposit funds in the cash collateral account as of January 3, 2016.

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### (4) Allowance for Doubtful Accounts

**Accounts Receivable, Net** We provide an allowance for uncollectible accounts on accounts receivable based on historical losses and existing economic conditions, when relevant. We provide for a general bad debt reserve for franchise receivables due to increases in days sales outstanding and deterioration in general economic market conditions. This general reserve is based on the aging of receivables meeting specified criteria and is adjusted each quarter based on past due receivable balances. Additionally, we have periodically established a specific reserve on certain receivables as necessary. Any changes to the reserve are recorded in general and administrative expenses. The allowance for uncollectible accounts was approximately \$695,000 and \$246,000, at October 2, 2016 and January 3, 2016, respectively. Accounts receivable are written off when they become

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uncollectible, and payments subsequently received on such receivables are credited to allowance for doubtful accounts. Accounts receivable balances written off have not exceeded allowances provided. We believe all accounts receivable in excess of the allowance are fully collectible. If accounts receivable in excess of provided allowances are determined uncollectible, they are charged to expense in the period that determination is made. Outstanding past due accounts receivable are subject to a monthly interest charge on unpaid balances which is recorded as interest income in our consolidated statements of operations. In assessing recoverability of these receivables, we make judgments regarding the financial condition of the franchisees based primarily on past and current payment trends, as well as other variables, including annual financial information, which the franchisees are required to submit to us, as well as other variables.

**(5) Intangible Assets, net**

The Company has intangible assets that consist of liquor licenses and lease interest assets. The liquor licenses are indefinite lived assets and are not subject to amortization. The lease interest assets are amortized to occupancy costs on a straight-line basis over the remaining term of each respective lease. Amortization of the lease interest assets is expected to be approximately \$47,500 per year, for the remaining useful life.

A reconciliation of beginning and ending amounts of intangible assets at October 2, 2016 and January 3, 2016, respectively, are presented in the table below:

(in thousands)	Remaining estimated useful life (years)	Original Cost	Accumulated Amortization	Net Book Value	Less Current Portion <sup>(1)</sup>	Non- Current Portion
<b>Balance at October 2, 2016</b>						
Lease interest assets	23.3	\$ 1,417	\$ (313)	\$ 1,104	\$ (48)	\$ 1,056
Liquor licenses		1,810		1,810		1,810
Total		\$ 3,227	\$ (313)	\$ 2,914	\$ (48)	\$ 2,866
 <b>Balance at January 3, 2016</b>						
Lease interest assets	24.1	\$ 1,417	\$ (277)	\$ 1,140	\$ (48)	\$ 1,092
Liquor licenses		1,810		1,810		1,810
Total		\$ 3,227	\$ (277)	\$ 2,950	\$ (48)	\$ 2,902

<sup>(1)</sup> The current portion is included in prepaid expenses and other current assets on the consolidated balance sheets.

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**FAMOUS DAVE S OF AMERICA, INC. AND SUBSIDIARIES**

**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS**

**6) Credit Facility, Long-Term Debt and Debt Covenants**

On June 10, 2016, the Company and its subsidiaries (each, a Borrower and collectively, the Borrowers ) entered into a Waiver and Second Amendment (the Second Amendment ) to the Third Amended and Restated Credit Agreement, as amended (the Credit Agreement ) with Wells Fargo, National Association as administrative agent and lender (the Administrative Agent ). The Second Amendment Effective Date, as defined in the Second Amendment, is June 10, 2016. Pursuant to the Second Amendment, the Credit Agreement was amended and restated to terminate the revolving credit loan commitment (the Facility ), change the maturity date of the revolving credit loans and the term loan from December 31, 2018 to December 31, 2017, and obligate monthly payments of \$200,000 to reduce the principal amount of the loans. Additionally, the Borrowers deposited 105% of the face amount of the outstanding letters of credit in a cash collateral account with the Administrative Agent which is included in restricted cash on our Consolidated Balance Sheet.

At October 2, 2016, the principal amount outstanding under the Facility and the Term Loan was \$1.9 million and \$8.4 million, respectively, along with approximately \$1.0 million in letters of credit for real estate locations. The Credit Agreement allows for termination by the Borrower without penalty at any time. Under the Credit Agreement, the Borrowers have granted the Lender a security interest in all current and future personal property of the Borrower.

Principal amounts outstanding under the Facility bear interest either at an adjusted Eurodollar rate or Base Rate plus an applicable margin. For the nine months ended October 2, 2016 and September 27, 2015, our weighted average interest rate for the Facility was 3.67% and 2.64%, respectively.

Principal amounts outstanding under the Term Loan bear interest at the same rate as the Facility. The weighted average interest rate of the Term Loan for the nine months ended October 2, 2016 was 3.70%. There was no Term Loan at September 27, 2015.

The Credit Agreement contains customary affirmative and negative covenants for credit facilities of this type. For more information regarding the details of the customary affirmative and negative covenants, please refer to the full text of the Third Amended and Restated Credit Agreement dated May 8, 2015 filed as Exhibit 10.2 to our Form 10-Q for the quarter ended March 29, 2015, which was filed on May 8, 2015, the First Amendment to the Credit Agreement filed as Exhibit 10.1 to our Current Report on Form 8-K, which was filed on December 11, 2015, and the Waiver and Second Amendment to the Credit Agreement filed as Exhibit 10.1 to our Current Report on Form 8-K filed on June 10, 2016.

For the quarter ended October 2, 2016, we were in compliance with all covenants of the Credit Agreement except the Adjusted Leverage Ratio and the Minimum Consolidated EBITDA covenants.

For the quarter ended October 2, 2016 the Adjusted Leverage Ratio was 5.57:1.00, which is higher than the maximum Adjusted Leverage Ratio permitted by the Credit Agreement of 5.50:1.00

For the quarter ended October 2, 2016 our Adjusted EBITDA was \$1.0 million, which is less than the minimum Adjusted EBITDA permitted by the Credit Agreement of \$1.5 million for this quarter.

It is an Event of Default under the Credit Agreement if Borrowers fail to comply with either the Adjusted Leverage Ratio or minimum Adjusted EBITDA covenant or any other covenant. Upon an Event of Default, the Lender has the right to declare the unpaid principal amount of all outstanding loans; all interest accrued and unpaid thereon, and all other amounts owing or payable hereunder or under any other loan document to be immediately due and payable, as well as to exercise its other rights as a secured creditor. In addition, we are prohibited under the Credit Agreement from making dividends or distributions from one Borrower to another Borrower and purchasing common stock pursuant to a board-approved stock purchase program.

On November 9, 2016, the Borrowers and Lender entered into a Forbearance Agreement pursuant to which the Lender agreed to forbear from exercising its rights and remedies under the Credit Agreement relating to the existing defaults during a Forbearance Period ending December 9, 2016 or on the earlier date of any other Event

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of Default under the Credit Agreement or breach of the Forbearance Agreement. Under the Forbearance Agreement we have agreed not to request and Wells Fargo is not obligated to make any further extensions of credit to us under the Credit Agreement. During the Forbearance Period, we intend to closely manage our expenses and cash balances to prevent a working capital shortfall. At November 9, 2016, the principal amount outstanding under the Facility was \$9.9 million, along with approximately \$595,000 in letters of credit for real estate locations.

During the first nine months of fiscal 2016 the Company generated approximately \$2.7 million in cash from operating activities compared to \$2.1 million in the comparable period of the prior year. As of October 2, 2016, the Company ended the third quarter with total net debt of approximately \$5.8 million. This compares to \$11.4 million of net debt as of September 27, 2015.

During the Forbearance Period the Company intends to finalize its refinancing arrangement. As a result of the Events of Default at October 2, 2016 and given the length of the Forbearance Period, all outstanding obligations under the Credit Agreement were classified as current liabilities.

**(7) Other Current Liabilities**

Other current liabilities consisted of the following at:

(in thousands)	October 2, 2016	January 3, 2016
Gift cards payable	\$ 1,319	\$ 1,616
Other liabilities	1,066	869
Sales tax payable	437	674
Accrued real estate taxes	279	33
Deferred franchise fees	212	134
Accrued property and equipment purchases	28	40
Income tax payable	15	40
	\$ 3,356	\$ 3,406

**(8) Other Liabilities**

Other liabilities consisted of the following at:

(in thousands)	October 2, 2016	January 3, 2016
Deferred rent	\$ 7,656	\$ 7,191
Other liabilities	521	455
Income taxes payable	174	12
Long term lease reserve	144	258
Long term deferred compensation	115	258
Asset retirement obligations	111	111
	\$ 8,721	\$ 8,285

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Effective May 5, 2015, we adopted a 2015 Equity Plan (the "2015 Plan"), pursuant to which we may grant stock options, stock appreciation rights, restricted stock, restricted stock units, performance shares, performance stock units and other stock and cash awards to eligible participants. We also maintain an Amended and Restated 2005 Stock Incentive Plan (the "2005 Plan"). Together, the 2015 Plan and 2005 Plan are referred to herein as the "Plans." Under the 2015 Plan, an aggregate of 103,800 shares of our Company's common stock remained unreserved and available for issuance at October 2, 2016. The 2005 Plan prohibits the granting of incentives after May 12, 2015, the tenth anniversary of the date such Plan was approved by the Company's shareholders. Nonetheless, the 2005 Stock Incentive Plan will remain in effect until all outstanding incentives granted thereunder have either been satisfied or terminated.

We recognized stock-based compensation expense in our consolidated statements of operations for the three and nine months ended October 2, 2016 and September 27, 2015, respectively, as follows:

(in thousands)	Three Months Ended		Nine Months Ended	
	October 2, 2016	September 27, 2015	October 2, 2016	September 27, 2015
Performance Stock Units	\$	\$ (24)	\$	\$ 12
Stock Options <sup>(1)(2)</sup>	157	(15)	209	241
Restricted Stock and Restricted Stock Units	15	15	45	45
	<b>\$ 172</b>	<b>\$ (24)</b>	<b>\$ 254</b>	<b>\$ 298</b>

(1) The three and nine months ended September 27, 2015 included the recapture of previously recorded stock-based compensation of approximately \$105,000 due to employee departures.

(2) The nine months ended October 2, 2016 included the recapture of previously recorded stock-based compensation of approximately \$126,000 due to the departure of our previous CFO.

**Board of Directors Compensation**

We recognized board of directors compensation expense in our consolidated statement of operations for the three and nine months ended October 2, 2016 and September 27, 2015, respectively, as follows:

(in thousands)	Three Months Ended		Nine Months Ended	
	October 2, 2016	September 27, 2015	October 2, 2016	September 27, 2015
Stock-based compensation	\$ 15	\$ 15	\$ 45	\$ 45
Stock option compensation	25	(79)	69	52
Cash compensation	30	35	65	188
Total board of directors compensation	<b>\$ 70</b>	<b>\$ (29)</b>	<b>\$ 179</b>	<b>\$ 285</b>



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**FAMOUS DAVE'S OF AMERICA, INC. AND SUBSIDIARIES**

**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS**

**Stock Options**

Below is detail related to recent stock option activity associated with certain key employees:

Named Executive	Title*	Date	Event	Number	Term (in years)	Option Details Vesting period
Edward H. Rensi	CEO	1/15/2015	Grant <sup>(1)</sup>	75,000	5	Annually over three years
Edward H. Rensi	Director	7/11/2015	Forfeiture <sup>(1)</sup>	(20,000)		
Brett D. Heffes	Director	7/13/2015	Forfeiture <sup>(1)</sup>	(20,000)		
David J. Mastroccola	Director	7/15/2015	Forfeiture <sup>(1)</sup>	(20,000)		
Abelardo Ruiz	COO	8/31/2015	Grant	71,324	5	Monthly over four years
Adam J. Wright	CEO	1/1/2016	Grant	50,000	10	Monthly over two years
Richard A. Pawlowski	CFO	1/15/2016	Grant	6,000	1.21	Three variable installments
Alfredo Martel	CMO	2/12/2016	Grant	35,000	5	Monthly over four years
Richard A. Pawlowski	CFO	4/11/2016	Forfeiture <sup>(1)</sup>	(78,000)		
Dexter Newman	CFO	4/11/2016	Grant	70,000	10	Monthly over four years
Ananda Gala	Director	5/3/2016	Grant	20,000	10	Monthly over five years
Bryan Wolff	Director	5/3/2016	Grant	20,000	10	Monthly over five years
Edward H. Rensi	CEO	6/18/2016	Forfeiture <sup>(1)</sup>	(75,000)		
Edward H. Rensi	Director	7/11/2016	Expiration <sup>(1)</sup>	(25,000)		

\* Chief Executive Officer (CEO), Chief Financial Officer (CFO), Chief Operating Officer (COO), Chief Marketing Officer (CMO) See footnote 18, Subsequent Events, for additional information

<sup>(1)</sup> These stock option grants were part of the 2005 Plan rather than the 2015 Plan.

The compensation expense for stock option grants is recognized under general and administrative expense in our consolidated statements of operations through the applicable service period.

Other options granted to certain non-officer employees vest in equal annual installments over a period of four years and expire either five or ten years from the grant date. Compensation expense equal to the grant date fair value is generally recognized for these awards over the vesting period.

Options granted to certain non-employees in exchange for future services either vest in monthly installments over a period of approximately two years or are granted monthly and vest immediately, and expire five years from the grant date. Expense equal to the current fair value is recognized over the vesting period, with the value being marked to market in each accounting period for any unvested portions of the awards.

The fair value of each stock option is estimated on the date of grant using the Black-Scholes valuation method with the assumptions noted in the table below. Due to a lack of recent historical share option exercise experience, the Company uses a simplified method for estimating the expected life, as outlined in Accounting Standards Codification 718, calculated using the following formula: (vesting term + original contract term)/2. Expected volatilities are based on the movement of the Company's common stock price over the most recent historical period equivalent to the expected life of the option. The risk-free interest rate for periods within the contractual life of the option is based on the U.S. maturities over the expected life at the time of grant.

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**Table of Contents****FAMOUS DAVE'S OF AMERICA, INC. AND SUBSIDIARIES****NOTES TO CONSOLIDATED FINANCIAL STATEMENTS**

Information regarding our Company's stock options is summarized below:

<i>(number of options in thousands)</i>	Number of Options	Weighted Average Exercise Price	Weighted Average Remaining Contractual Life in Years
Options outstanding at January 3, 2016	507	\$ 16.66	5.3
Granted	53	17.66	
Forfeited	(53)	32.02	
Options outstanding at April 3, 2016	507	\$ 13.95	5.2
Granted	206	5.60	
Forfeited	(3)	28.53	
Expired	(26)	32.05	
Options outstanding at July 3, 2016	684	\$ 10.65	5.9
Granted	46	5.82	
Exercised	(6)	5.90	
Forfeited	(78)	12.17	
Canceled or expired	(10)	31.05	
Outstanding at October 2, 2016	636	\$ 10.00	6.3
Options exercisable at October 2, 2016	242	\$ 11.40	4.5

**Weighted-average values and assumptions for valuing grants made:**

	Nine Months Ended October 2, 2016	Fiscal 2015
Weighted average fair value of options granted	\$ 2.16	\$ 4.90
Expected life (in years)	5.7	3.3
Expected stock volatility	41.3%	51.2%
Risk-free interest rate	1.3%	1.9%

**(10) Retirement Savings Plans****401(k) Plan**

We have a pre-tax salary reduction/profit-sharing plan under the provisions of Section 401(k) of the Internal Revenue Code, which covers employees meeting certain eligibility requirements.

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**Table of Contents****FAMOUS DAVE'S OF AMERICA, INC. AND SUBSIDIARIES****NOTES TO CONSOLIDATED FINANCIAL STATEMENTS**

Information regarding our Company's 401(k) Plan is summarized below:

	Three Months Ended		Nine Months Ended	
	October 2, 2016	September 27, 2015	October 2, 2016	September 27, 2015
Employer match %	25%	25%	25%	25%
% of earnings matched	4%	4%	4%	4%
Employee contributions	\$ 63,000	\$ 90,000	\$ 250,000	\$ 297,000
Employer match	\$ 26,000	\$ 13,000	\$ 40,000	\$ 48,000
<u>Non-Qualified Deferred Compensation Plan</u>				

We have a Non-Qualified Deferred Compensation Plan effective as of February 25, 2005 (the "Deferred Compensation Plan"). Eligible participants are those employees who are at the director level and above and who are selected by the Company to participate in the Deferred Compensation Plan. Participants must complete a deferral election each year to indicate the level of compensation (salary, bonus and commissions) they wish to have deferred for the coming year. This deferral election is irrevocable except to the extent permitted by the Deferred Compensation Plan administrator, and the applicable regulations promulgated by the IRS. The board of directors administers the Deferred Compensation Plan and may change the declared interest rate or any other aspects of the Deferred Compensation Plan at any time.

Deferral periods are limited to the earlier of termination of employment or not less than three calendar years following the end of the applicable plan year. Extensions of the deferral period for a minimum of five years are allowed provided an election for extension is made at least one year before the first payment affected by the change. Payments can be in a lump sum or in equal payments over a two-, five- or ten-year period, plus interest from the commencement date.

The Deferred Compensation Plan assets are kept in an unsecured account that has no trust fund. In the event of bankruptcy, participants entitled to future payments under the Deferred Compensation Plan would have no greater rights than that of an unsecured general creditor of the Company and the Deferred Compensation Plan confers no legal rights for interest or claim on any specific assets of the Company. Benefits provided by the Deferred Compensation Plan are not insured by the Pension Benefit Guaranty Corporation under Title IV of the Employee Retirement Income Security Act of 1974 ("ERISA"), because the pension insurance provisions of ERISA do not apply to the Deferred Compensation Plan.

The balance of the Plan for the quarters ended October 2, 2016 and January 3, 2016 was approximately \$163,000 and \$547,000, respectively. Of this balance approximately \$48,000 and \$109,000 was recorded in current liabilities and the remaining balance was recorded in other liabilities at October 2, 2016 and January 3, 2016, respectively.

**Table of Contents****FAMOUS DAVE'S OF AMERICA, INC. AND SUBSIDIARIES****NOTES TO CONSOLIDATED FINANCIAL STATEMENTS**

Information regarding our Company's Non-Qualified Deferred Compensation Plan is summarized below:

	Three Months Ended		Nine Months Ended	
	October 2, 2016	September 27, 2015	October 2, 2016	September 27, 2015
Employer match %	25%	25%	25%	25%
% of earnings matched	4%	4%	4%	4%
Declared interest rate	6%	6%	6%	6%
Employee contributions	\$ 10,000	\$ 8,000	\$ 23,000	\$ 31,000
Employer match and interest	\$ 4,000	\$ 8,000	\$ 14,000	\$ 25,000
Distributions	\$ 130,000	\$ 92,000	\$ 238,000	\$ 107,000

**(11) Asset Impairment and Estimated Lease Termination and Other Closing Costs**

In accordance with Financial Accounting Standards Board Accounting Standards Codification for Property, Plant, and Equipment, we evaluate restaurant sites and long-lived assets for impairment whenever events or changes in circumstances indicate that the carrying amount of an asset may not be recoverable. Recoverability of restaurant sites to be held and used is measured by a comparison of the carrying amount of the restaurant site to the undiscounted future net cash flows expected to be generated on a restaurant-by-restaurant basis. If a restaurant is determined to be impaired, the loss is measured by the amount by which the carrying amount of the restaurant's assets exceeds its fair value. Fair value is estimated based on the best information available including estimated future cash flows, expected growth rates in comparable restaurant sales, remaining lease terms, discount rate and other factors. If these assumptions change in the future, we may be required to take additional impairment charges for the related assets. Considerable management judgment is necessary to estimate future cash flows. Accordingly, actual results could vary significantly from such estimates.

**Table of Contents****FAMOUS DAVE'S OF AMERICA, INC. AND SUBSIDIARIES****NOTES TO CONSOLIDATED FINANCIAL STATEMENTS**

Following is a summary of asset impairment, estimated lease termination, and other closing costs for the three and nine months ended October 2, 2016 and September 27, 2015:

	Three Months Ended		Nine Months Ended	
	October 2, 2016	September 27, 2015	October 2, 2016	September 27, 2015
(in thousands)				
Impairment losses				
Restaurant optimization	\$ 3,420	\$	\$ 4,313	\$
Software <sup>(1)</sup>			171	
Smithtown, NY <sup>(2)</sup>				935
Total	\$ 3,420	\$	\$ 4,484	\$ 935
Restaurant closure expenses				
Smithtown, NY <sup>(3)</sup>	200		200	
N. Riverside, IL <sup>(4)</sup>		368		368
N. Riverside, IL <sup>(5)</sup>		122		122
Other <sup>(6)</sup>		109		99
Richmond, VA area		16		144
Eden Prairie, MN		35		(42)
Total restaurant closure expenses	\$ 200	\$ 650	\$ 200	\$ 691
Provision for impairment and restaurant closings	\$ 3,620	\$ 650	\$ 4,684	\$ 1,626

(1) Asset impairment calculated at July 3, 2016 related to a software implementation project that was discontinued.

(2) Asset impairment calculated at June 28, 2015 based upon anticipated sale of Smithtown restaurant.

(3) Lease termination reserve associated with a letter of credit provided to a landlord for a previously closed restaurant.

(4) Lease termination costs associated with the cancellation of a potential new restaurant location.

(5) Write off of development costs associated with the cancellation of a potential new restaurant location.

(6) Includes \$191,000 in costs written-off associated with closing the Lombard, Illinois field office partially offset by an \$86,000 recapture of deferred rent credits.

**Restaurant Optimization** During the third quarter of fiscal 2016, the Company recorded approximately \$3.4 million in asset impairment charges associated with 11 restaurants which were slow to respond to several initiatives to turnaround operating performance. As a result, the Company determined that the estimated fair value of the assets was less than the net book value and recognized an impairment charge to reduce the related assets to the estimated fair value. As we continue to evaluate the restaurant portfolio we anticipate addressing the ongoing operation of the 11 locations impaired over the next 3 years by way of lease restructuring, lease assignment or subsequent closure at the end of their natural lease term.

**Table of Contents****FAMOUS DAVE'S OF AMERICA, INC. AND SUBSIDIARIES****NOTES TO CONSOLIDATED FINANCIAL STATEMENTS****(12) Fair Value Measurements**

Fair value is defined as the price that would be received to sell an asset or paid to transfer a liability in an orderly transaction between market participants at the measurement date. The fair value measurement framework establishes a three-tier hierarchy. The three levels, in order of priority, are as follows:

*Level 1:* Unadjusted quoted prices in active markets for identical assets or liabilities at the measurement date. Level 1 measurements are determined by observable inputs which include data sources and market prices available and visible outside of the entity.

*Level 2:* Observable inputs other than quoted prices included within Level 1 for the asset or liability, either directly or indirectly.

*Level 3:* Inputs that are used to estimate the fair value of the asset or liability. Level 3 measurements are determined by unobservable inputs, which include data and analysis developed within the entity to assess the fair value.

Transfers in and out of levels will be based on our judgment of the availability of unadjusted quoted prices in active markets, other observable inputs, and non-observable inputs.

The following table (in thousands) summarizes the assets held for sale and property and equipment, in each case measured at fair value in our consolidated balance sheet as of January 3, 2016 and October 2, 2016:

	<i>Level 1</i>	<i>Level 2</i>	<i>Level 3</i>	<i>Total</i>
Balance at January 3, 2016				
<b>Assets</b>				
Assets Held for Sale	\$ 1,431	\$ 780	\$ 2,211	
Property and Equipment	\$ 507	\$ 507	\$ 507	
Balance at October 2, 2016				
<b>Assets</b>				
Assets Held for Sale	\$ 5	\$ 5	\$ 5	
Property and Equipment	\$ 1,165	\$ 1,165	\$ 1,165	

Assets Held for Sale were recorded at fair value and were valued based upon a Real Estate Broker's Estimate of Value for the properties (Level 3) or negotiated sale price (Level 2). Property and Equipment recorded at fair value were valued based upon a Broker's Estimate of Value or estimated discounted future cash flows (Level 3). These assets were adjusted to net realizable value based upon the decision to dispose of the property. Total assets held for sale were reduced during the nine months ended October 2, 2016 due to the disposal of FDA's Chicago operations sites (see note 13) and of one of the Richmond restaurants. The remaining assets held for sale at October 2, 2016 reflect the net realizable value of a restaurant (see note 11).

**Table of Contents****FAMOUS DAVE'S OF AMERICA, INC. AND SUBSIDIARIES****NOTES TO CONSOLIDATED FINANCIAL STATEMENTS****(13) Discontinued Operations**

On December 14, 2015, Famous Dave's of America, Inc. and certain of its subsidiaries (collectively, the "Company") entered into an Asset Purchase Agreement and related Real Estate Purchase Agreement (the "Purchase Agreements") with Windy City Restaurant Holdings LLC and its affiliate (together, the "Purchaser") pursuant to which the Company agreed to sell the assets comprising its seven Chicago, Illinois area Company-owned restaurants located in Addison, Algonquin, Bolingbrook, Evergreen Park, North Riverside, Orland Park and Oswego (collectively, "Purchased Restaurants") to the Purchaser.

Pursuant to the terms of this agreement, the Company received a total purchase price of \$1.15 million during the quarter ended April 3, 2016, plus approximately \$315,000 for the purchase of inventory on hand on the closing date. The Purchaser also assumed specified liabilities of the Company, including the Company's existing leases for the Purchased Restaurants located in Bolingbrook, North Riverside and Orland Park, Illinois.

As a result of this asset sale, the Company recognized a pretax \$1.1 million gain during the quarter ended April 3, 2016, primarily due to the write-off of the remaining \$1.3 million deferred rent liability associated with the leases assumed by the Purchaser, discussed above.

The net assets and liabilities of the Purchased Restaurants associated with this transaction were included in assets and liabilities held for sale on the accompanying Consolidated Balance Sheets at January 3, 2016. No related assets or liabilities remained at October 2, 2016. The carrying value of the assets and liabilities included in the asset sale was as follows (in thousands):

(in thousands)	January 3, 2016
Accounts receivable, net	\$ 65
Inventories	344
Prepaid expenses and other current assets	30
 Total current assets	 439
Property, equipment and leasehold improvements, net	991
 Total assets	 \$ 1,430
 Accounts payable	 \$ 10
Accrued compensation and benefits	96
Other current liabilities	389
 Total current liabilities	 495
Other liabilities	1,252
 Total liabilities	 \$ 1,747

The operating results of the Purchased Restaurants for the three and nine months ended October 2, 2016 and September 27, 2015 are summarized below. These results include costs directly attributable to the components of the businesses which were divested. Interest expense of \$32,000 and \$21,000 were allocated to discontinued operations for the nine months ended October 2, 2016 and September 27, 2015, respectively, based upon the portion of the borrowing base associated with discontinued operations. Income tax expense (benefit) of \$378,000 and (\$111,000) for the nine months ended October 2, 2016 and September 27, 2015, respectively have also been allocated to discontinued operations. These adjustments have been made for all periods presented.

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**Table of Contents****FAMOUS DAVE'S OF AMERICA, INC. AND SUBSIDIARIES****NOTES TO CONSOLIDATED FINANCIAL STATEMENTS**

	Three Months Ended		Nine Months Ended	
	October 2, 2016	September 27, 2015	October 2, 2016	September 27, 2015
(in thousands)				
Revenue	\$ 3,919	\$ 2,365	\$ 12,975	
(Loss) income from operations	\$ (23)	\$ (304)	\$ 1,019	\$ 85
(Loss) income from discontinued operations, net of income taxes	\$ (81)	\$ (249)	\$ 627	\$ 79

**(14) Variable Interest Entities**

Once an entity is determined to be a variable interest entity (VIE), the party with the controlling financial interest, the primary beneficiary, is required to consolidate it. The Company has an installment agreement with a franchisee as the result of refranchising its Lincoln, Nebraska restaurant. While the franchise meets the definition of a VIE, the owners of the franchise operations are the primary beneficiaries of the entities, not the Company. Therefore, the franchise operations are not required to be consolidated in the Company's consolidated financial statements.

On August 11, 2015, the Company consummated the sale of its Greenwood, Indiana and Florence, Kentucky restaurants. In conjunction with that agreement, the Company entered into lease assignment agreements with the respective purchasers and landlords, releasing the Company of its obligations except in the event of default by the purchasers. As of October 2, 2016 and January 3, 2016, the amount of the future lease payments for which the Company would be liable in the event of a default are approximately \$414,000. An accrual related to any future obligation was not considered necessary at October 2, 2016 as the Company has determined the fair value of this guarantee was zero as there was no indication that the purchasers would not be able to pay the required lease payments. While this franchise meets the definition of a VIE, the owners of the franchise operations are the primary beneficiaries of the entities, not the Company. Therefore, the franchise operations are not required to be consolidated in the Company's consolidated financial statements.

On March 1, 2016, the Company consummated the sale of Chicago, Illinois restaurants. In conjunction with that agreement, the Company entered into lease assignment agreements with the respective purchasers and three of the landlords, releasing the Company of its obligations except in the event of default by the purchasers. As of October 2, 2016, the amount of the future lease payments for which the company would be liable in the event of a default are approximately \$2.0 million. An accrual related to any future obligation was not considered necessary at October 2, 2016 as the Company has determined the fair value of this guarantee was zero as there was no indication that the purchasers would not be able to pay the required lease payments. While this franchise meets the definition of a VIE, the owners of the franchise operations are the primary beneficiaries of the entities, not the Company. Therefore, the franchise operations are not required to be consolidated in the Company's consolidated financial statements.

**(15) Litigation**

In the normal course of business, the Company is involved in a number of litigation matters that are incidental to the operation of the business. These matters generally include, among other things, matters with regard to employment and general business-related issues. The Company currently believes that the resolution of any of these pending matters will not have a material adverse effect on its financial position or liquidity, but an adverse decision in more than one of the matters could be material to its consolidated results of operations.

**Table of Contents****FAMOUS DAVE'S OF AMERICA, INC. AND SUBSIDIARIES****NOTES TO CONSOLIDATED FINANCIAL STATEMENTS**

Famous Dave's of America, Inc. (Famous Dave's) filed a complaint on July 14, 2015, against a group of former franchisees in California seeking injunctive relief and damages for: (1) Federal Trademark Infringement; (2) Federal Trademark Dilution; (3) Federal Unfair Competition; (4) Federal Trade Dress Dilution; (5) Trademark Infringement under California Business and Professions Code § 14200; (6) Trademark Dilution under California Business and Professions Code §14200; (7) Common Law Trademark Infringement; (8) Unfair Competition under California Business and Professions Code § 17200; (9) False Advertising; (10) Breach of Contract; (11) Breach of Implied Covenant of Good Faith and Fair Dealing; and (12) Intentional Interference with Contract. The claims stem from the former franchisees' breaches of their franchise agreements, including the failure to pay franchise fees and their continued operation of five restaurants utilizing Famous Dave's intellectual property without authorization. After two defendants in the case, Kurt Schneiter and M Mart 1, filed a demurrer to the Complaint, Famous Dave's filed an Amended Complaint on October 9, 2015, reasserting the same claims. The case is captioned Famous Dave's of America, Inc., v. SR El Centro FD, Inc., et al., Case No. BC589329, and is currently pending before the Honorable Elihu M. Berle in the Superior Court of Los Angeles. By court order, dated June 6, 2016, Famous Dave's successfully obtained a preliminary injunction, enjoining the former franchisee defendants from using Famous Dave's intellectual property, including its trademarks and restaurant system. The preliminary injunction is currently the subject of a pending interlocutory appeal which Famous Dave's intends to oppose vigorously.

On July 28, 2015, these franchisees (the Plaintiffs) filed a complaint against Famous Dave's in the South Judicial District of the Superior Court of the County of Los Angeles. On March 10, 2016, Plaintiffs re-filed this Complaint as a First Amended Cross-Complaint [Famous Dave's of America, Inc. v. SR El Centro, Inc., et al., Superior Court of the State of California, County of Los Angeles, Central Division, Case No. BC589329] alleging that Famous Dave's breached the Franchise Agreements for these restaurants by failing to provide certain marketing support and access to customer contact data, vendors, internet reporting and support to Plaintiffs, and failing to provide operations and preferred practices training to Plaintiffs' designated representative. Plaintiffs further allege that such conduct by Famous Dave's is a breach of the covenant of good faith and fair dealing. Plaintiffs also allege that Famous Dave's aided and abetted John and Allan Gantes in breach of their fiduciary duty to Plaintiffs. Plaintiffs are seeking compensatory damages in amount not less than \$20 million, punitive damages, costs and attorneys' fees.

**(16) Supplemental Cash Flow Information**

	Nine Months Ended	
	October 2, 2016	September 27, 2015
<i>(in thousands)</i>		
Cash paid for interest	\$ 566	\$ 570
Cash paid for income taxes, net of refunds	\$ 266	\$ 390
<b>Non-cash investing and financing activities:</b>		
Increase in accrued property and equipment purchases	\$ 10	\$ 38

**(17) Recently Issued Accounting Pronouncement**

In May 2014, the Financial Accounting Standards Board (FASB) issued Accounting Standards Update (ASU) No. 2014-09, Revenue from Contracts with Customers. The FASB issued ASU No. 2016-08, Revenue from Contracts with Customers: Principal versus Agent Considerations (Reporting Revenue Gross versus Net) in March 2016, ASU 2016-10 Revenue from Contracts with Customers (Topic 606): Identifying Performance Obligations and Licensing in April 2016, ASU 2016-11, Revenue Recognition (Topic 605) and Derivatives and Hedging (Topic 815): Rescission of SEC Guidance Because of Accounting Standards Updates 2014-09 and 2014-

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**FAMOUS DAVE'S OF AMERICA, INC. AND SUBSIDIARIES**

**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS**

16 Pursuant to Staff Announcements at the March 3, 2016 EITF Meeting in May 2016 and ASU 2016-12, Revenue from Contracts with Customers (Topic 606): Narrow-Scope Improvements and Practical Expedients in May 2016. These new standards provide for a single, principles-based model for revenue recognition that replaces the existing revenue recognition guidance. In July 2015, the FASB deferred the effective date of ASU 2014-09 until annual and interim periods beginning on or after December 15, 2017. It will replace most existing revenue recognition guidance under U.S. GAAP when it becomes effective. It permits the use of either a retrospective or cumulative effect transition method and early adoption is not permitted. The Company has not yet selected a transition method and is currently evaluating the impact these standards will have on its consolidated financial statements and related disclosures.

In January 2015, the FASB issued ASU No. 2015-01, Income Statement Extraordinary and Unusual Items. This update eliminates from Generally Accepted Accounting Principles (GAAP) the concept of extraordinary items. ASU 2015-01 is effective for the first interim period within fiscal years beginning after December 15, 2015, with early adoption permitted provided that the guidance is applied from the beginning of the fiscal year of adoption. A reporting entity may apply the amendments prospectively or retrospectively to all prior periods presented in the financial statements. The Company adopted this ASU in the first quarter of 2016, but it had no impact on the consolidated financial statements.

In April 2015, the FASB issued guidance on the financial statement presentation of debt issuance costs. This guidance requires debt issuance costs to be presented in the balance sheet as a reduction of the related debt liability rather than as an asset. The standard will become effective for annual periods beginning after December 15, 2015 and for interim periods beginning after December 15, 2016. Early adoption is permitted. The standard requires companies to apply the guidance retrospectively to all prior periods. The Company will adopt this at fiscal year-end of 2016 and does not expect the adoption of this guidance to have a material impact on its consolidated financial statements.

In November 2015, the FASB issued ASU 2015-17, Income Taxes: Balance Sheet Classification of Deferred Taxes, which requires entities to present deferred tax assets and deferred tax liabilities as noncurrent in a classified balance sheet. The ASU is effective for annual periods beginning after December 15, 2017, and interim periods within annual periods beginning after December 15, 2018. Early adoption is permitted for all entities. The Company plans to adopt this ASU at fiscal year-end of 2016 and is currently evaluating the impact of this new standard on its consolidated financial statements.

In February 2016, the FASB issued ASU 2016-02, Leases (Topic 842), which supersedes the existing guidance for lease accounting, Leases (Topic 840). ASU 2016-02 requires lessees to recognize a lease liability and a right-of-use asset for all leases. Lessor accounting remains largely unchanged. The amendments in this ASU are effective for fiscal years beginning after December 15, 2018 and interim periods within those fiscal years. Early adoption is permitted for all entities. ASU 2016-02 requires a modified retrospective approach for all leases existing at, or entered into after the date of initial adoption, with an option to elect to use certain transition relief. The Company is currently evaluating the impact of this new standard on its consolidated financial statements.

In March 2016, the FASB issued ASU 2016-09, Compensation Stock Compensation (Topic 718): Improvements to Employee Share-Based Payment Accounting. ASU 2016-09 simplifies several aspects related to the accounting for share-based payment transactions, including the accounting for income taxes, forfeitures, statutory tax withholding requirements and classification on the statement of cash flows. For public entities, ASU 2016-09 is effective for fiscal years beginning after December 15, 2016, and interim periods within those fiscal years. The Company is currently evaluating the impact of this new standard on its consolidated financial statements.

In August 2016, the FASB issued ASU 2016-15, Classification of Certain Cash Receipts and Cash Payments. ASU 2016-15 addresses how certain cash receipts and cash payments are presented and classified in the statement of cash flows under Topic 230, Statement of Cash flow, and other Topics. ASU 2016-15 is effective for annual reporting periods, and interim periods therein, beginning after December 15, 2017. The Company does not expect the adoption of this guidance to have a material impact on its consolidated financial statements.

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**FAMOUS DAVE S OF AMERICA, INC. AND SUBSIDIARIES**

**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS**

**(18) Subsequent Events**

The Company evaluated for the occurrence of subsequent events through the issuance date of the Company s financial statements. No other recognized or non-recognized subsequent events occurred that require recognition or disclosure in the consolidated financial statements except as noted below.

As of October 11, 2016, Adam Wright ceased being the Chief Executive Officer of Famous Dave s of America, Inc. (the Company ) and, effective October 12, 2016, resigned from the Company s Board of Directors (the Board ).

On October 11, 2016, the Company appointed Michael Lister to serve as Chief Executive Officer and Chief Operating Officer. In connection with his appointment as Chief Executive Officer and Chief Operating Officer, Mr. Lister has entered into an employment agreement which has a four year term. Under the employment agreement, Mr. Lister is entitled to receive an annual base salary of \$300,000 and is eligible for annual bonus compensation at the discretion of the Board in amounts expected to be 50% of his base salary, to be pro-rated in the case of any partial years worked. Provided that he is employed through December 31, 2016, Mr. Lister will receive a guaranteed minimum bonus of \$18,750 for 2016. The Company also granted to Mr. Lister five-year, 70,000 share non-qualified stock options under the Company s 2015 Equity Incentive Plan that will vest in equal monthly installments over the employment term (the Stock Option ).

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**FAMOUS DAVE'S OF AMERICA, INC. AND SUBSIDIARIES**

**Item 2. MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS  
Overview**

Famous Dave's of America, Inc. was incorporated as a Minnesota corporation in March 1994 and opened its first restaurant in Minneapolis in June 1995. As of October 2, 2016, there were 176 Famous Dave's restaurants operating in 32 states, the Commonwealth of Puerto Rico, Canada, and United Arab Emirates including 37 Company-owned restaurants and 139 franchise-operated restaurants. An additional 62 franchise restaurants were in various stages of development as of October 2, 2016.

***Fiscal Year***

Our fiscal year ends on the Sunday closest to December 31<sup>st</sup>. Our fiscal year is generally 52 weeks; however, it periodically consists of 53 weeks. The fiscal year ending January 1, 2017 (fiscal 2016) is a 52 week fiscal year while fiscal year ended January 3, 2016 (fiscal 2015) was a 53 week fiscal year.

***Revenue***

Our revenue consists of restaurant sales, franchise-related revenue, and licensing and other revenue. Our franchise-related revenue is comprised of three separate and distinct earnings processes: area development fees, initial franchise fees, and continuing royalty payments. Currently, our domestic area development fee for domestic growth consists of a one-time, non-refundable payment of approximately \$10,000 per restaurant in consideration for the services we perform in preparation of executing each area development agreement. For our foreign area development agreements, the one time, non-refundable payment is negotiated on a per development basis and is determined based on the costs incurred to arrange for the sale of that development area. Substantially all of these services, which include, but are not limited to, conducting market and trade area analysis, a meeting with Famous Dave's Executive Team, and performing potential franchise background investigations, are completed prior to our execution of the area development agreement and receipt of the corresponding area development fee. As a result, we recognize this fee upon receipt of the signed development agreement. Currently, our initial, non-refundable, franchise fee for domestic growth is \$45,000 per restaurant, of which approximately \$5,000 is recognized immediately when a franchise agreement is signed, reflecting the commission earned and expenses incurred related to the sale. The remaining non-refundable fee is included in deferred franchise fees and is recognized as revenue when we have performed substantially all of our obligations, which generally occurs upon the franchise entering into a lease agreement for the restaurant(s). Finally, franchisees are also required to pay us a monthly royalty equal to a percentage of their net sales, which has historically varied from 4% to 5%. In general, new franchises pay us a monthly royalty of 5% of their net sales.

***Costs and Expenses***

Restaurant costs and expenses include food and beverage costs, labor and benefits costs, operating expenses which include occupancy costs, repair and maintenance costs, supplies, advertising and promotion, and restaurant depreciation and amortization. Certain of these costs and expenses are variable and will increase or decrease with sales volume. The primary fixed costs are restaurant management salaries and occupancy costs. Our experience is that when a new restaurant opens, it incurs higher than normal levels of labor and food costs until operations stabilize, usually during the first three to six months of operation. As restaurant management and staff gain experience following a restaurant's opening, labor scheduling, food cost management and operating expense control typically improve to levels similar to those at our more established restaurants.

**Table of Contents****FAMOUS DAVE'S OF AMERICA, INC. AND SUBSIDIARIES*****General and Administrative Expenses***

General and administrative expenses include all corporate and administrative functions that provide an infrastructure to support existing operations and support future growth. Salaries, bonuses, team member benefits, legal fees, accounting fees, consulting fees, travel, rent and general insurance are major items in this category. Additionally, we record expense for Managers In Training (MITs) in this category for approximately six weeks prior to a restaurant opening. We also provide franchise services for which the revenue is included in other revenue and the expenses are included in general and administrative expenses.

The following table presents items in our unaudited consolidated statements of operations as a percentage of net restaurant sales or total revenue, as indicated, for the following periods:

	Three Months Ended October 2, 2016	September 27, 2015	Nine Months Ended October 2, 2016	September 27, 2015
Food and beverage costs <sup>(1)</sup>	31.0%	31.1%	31.1%	30.5%
Labor and benefits costs <sup>(1)</sup>	33.7%	35.7%	33.8%	33.5%
Operating expenses <sup>(1)</sup>	31.5%	29.8%	29.6%	28.7%
Restaurant level operating margin <sup>(1)(3)</sup>	3.8%	3.4%	5.5%	7.3%
Depreciation & amortization <sup>(2)</sup>	3.6%	3.8%	3.7%	3.8%
General and administrative expenses <sup>(2)</sup>	17.8%	14.9%	17.0%	15.7%
(Loss) income from operations <sup>(2)</sup>	(14.7)%	4.5%	(3.9)%	2.9%

(1) As a percentage of restaurant sales, net

(2) As a percentage of total revenue

(3) Restaurant level operating margin is equal to taking restaurant sales, net less restaurant level food and beverage costs, labor and benefit costs, and operating expenses.

The following discussion and analysis of financial condition and results of operations should be read in conjunction with the accompanying unaudited consolidated financial statements and notes, and the audited consolidated financial statements and notes included in our Form 10-K for the fiscal year ended January 3, 2016.

***Results of Operations Three and Nine months ended October 2, 2016 compared to Three and Nine months ended September 27, 2015.***
***Total Revenue***

Total revenue of approximately \$25.5 million for the third quarter of fiscal 2016 decreased approximately \$2.4 million, or 8.5%, from \$27.9 million for the comparable quarter in fiscal 2015. This year over year decrease was primarily the result of refranchising five Company-owned restaurants. For the nine months ended October 2, 2016, total revenue of approximately \$77.1 million decreased approximately \$11.8 million, or 13.2%, from revenue of approximately \$88.9 million, for the nine months ended September 27, 2015, primarily as the result of refranchising five Company-owned restaurants.

***Restaurant Sales, net***

Restaurant sales were approximately \$21.0 million for the third quarter of fiscal 2016 compared to approximately \$23.3 million for the same period in fiscal 2015, reflecting a 10.0% decrease driven by the refranchising of five Company-owned restaurant since the third quarter of 2015 and a comparable sales decrease. Comparable sales for Company-owned restaurants open 24 months or more decreased 1.0% compared to a decrease of 9.1% for the same period in 2015. This reflected a 1.5% comparable sales decline in on-premises sales on a weighted basis, partially offset by a weighted 0.5% increase in catering comparable sales.

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**FAMOUS DAVE'S OF AMERICA, INC. AND SUBSIDIARIES**

Restaurant sales for the nine months ended October 2, 2016 were approximately \$63.0 million compared to approximately \$74.6 million for the nine months ended September 27, 2015, reflecting a 15.5% decrease. This decline was due to the refranchising of five Company-owned restaurants during the third quarter of 2015 and a year-to-date comparable restaurant sales decline of 5.1% as compared to a 9.1% decline in the same period of 2015.

***Franchise-Related Revenue***

Franchise-related revenue consists of royalty revenue and franchise fees, which include initial franchise fees and area development fees. Franchise-related revenue was approximately \$4.3 million for the third quarter of both fiscal 2016 and fiscal 2015, primarily reflecting the net addition of four franchise-operated restaurants, completely offset by a 3.8% comparable sales decline.

Franchise-related revenue was approximately \$13.3 million for the nine months ended October 2, 2016 as compared to \$13.5 million for the nine months ended September 27, 2015. This decrease is primarily due to our receipt of \$250,000 in area development fees associated with a new international development agreement for the United Arab Emirates during the nine months ended September 27, 2015 and a year over year decline in royalty revenue.

***Licensing and Other Revenue***

Licensing revenue includes royalties from a retail line of business, including sauces, rubs, marinades and seasonings. Other revenue includes payments for opening assistance and training services that we provide to our franchisees. For the third quarter of fiscal 2016, licensing royalty revenue was approximately \$244,000 compared to approximately \$240,000 for the comparable period of fiscal 2015. Licensing royalty revenue was approximately \$758,000 for the nine months ended October 2, 2016, as compared to \$747,000 for the comparable period of fiscal 2015.

Other revenue for the fiscal 2016 third quarter was approximately (\$44,000) compared to \$5,000 for the comparable prior year's third quarter. This decrease was due to a timing difference associated with certain reimbursable payments. Other revenue for the nine months ended October 2, 2016 was approximately \$26,000, compared to approximately \$18,000 for the comparable period of fiscal 2015.

***Comparable Restaurant Net Sales***

It is our policy to include restaurants that are open year round and have been open at least 24 months in our comparable restaurant net sales base. Comparable restaurant net sales for Company-owned restaurants for the third quarter of fiscal 2016 decreased 1.0% from that of the same period in the prior year, compared to fiscal 2015's third quarter decrease of 9.1% over the comparable fiscal 2014 period. At the end of the third quarter of fiscal 2016 and the third quarter of fiscal 2015, there were 37 and 35 restaurants included in the Company-owned comparable sales base, respectively.

Comparable restaurant net sales for Company-owned restaurants open at least 24 months for the nine months ended October 2, 2016 decreased 5.1% from that of the prior year period, compared to fiscal 2015's decrease of 9.1% over the comparable fiscal 2014 period. For the nine months ended October 2, 2016 and September 27, 2015, there were 37 and 35 restaurants included in the Company-owned comparable sales base, respectively.

**Table of Contents****FAMOUS DAVE'S OF AMERICA, INC. AND SUBSIDIARIES**

Comparable restaurant net sales for franchise-operated restaurants for the third quarter of fiscal 2016 decreased 3.8% from that of the prior year period compared to fiscal 2015's third quarter decrease of 3.6% over the comparable fiscal 2014 period. For the third quarter of 2016 and the third quarter of 2015, there were 120 and 117 restaurants included in the franchise-operated comparable sales base.

Comparable restaurant net sales for franchise-operated restaurants for the first nine months of fiscal 2016 decreased 4.4% and increased 1.9% for the first nine months of fiscal 2015, from their respective comparable prior year periods. For the first nine months of fiscal 2016 and fiscal 2015, there were 113 and 116 restaurants, respectively, included in the franchise-operated 24 month comparable sales base.

Comparable restaurant net sales for franchise-operated restaurants are not revenues of the Company and are not included in the Company's consolidated financial statements. The Company's management believes that disclosure of comparable restaurant net sales for franchise-operated restaurants provides useful information to investors because historical performance and trends of Famous Dave's franchisees relate directly to trends in franchise royalty revenues that the Company receives from such franchisees and have an impact on the perceived success and value of the Famous Dave's brand. It also provides a comparison against which management and investors can evaluate whether and the extent to which Company-owned restaurant operations is realizing its revenue potential.

***Average Weekly Net Sales and Operating Weeks***

The following table shows Company-owned and franchise-operated average weekly net sales and Company-owned and franchise-operated operating weeks for the three and nine months ended October 2, 2016 and September 27, 2015:

	Three Months Ended		Nine Months Ended	
	October 2, 2016	September 27, 2015	October 2, 2016	September 27, 2015
<b>Average Weekly Net Sales:</b>				
Company-Owned	\$ 43,657	\$ 44,938	\$ 43,668	\$ 45,586
Full-Service (32)	\$ 44,488	\$ 45,714	\$ 47,286	\$ 46,877
Counter-Service (5)	\$ 38,337	\$ 39,518	\$ 37,355	\$ 37,281
Franchise-Operated <sup>(1)</sup>	\$ 47,961	\$ 51,773	\$ 49,531	\$ 51,728
<b>Operating Weeks:</b>				
Company-Owned	481	519	1,443	1,636
Franchise-Operated	1,834	1,698	5,421	5,228

<sup>(1)</sup> Weekly net sales for franchise-operated restaurants are not revenues of the Company and are not included in the Company's consolidated financial statements. The Comparable restaurant net sales for franchise-operated restaurants are not revenues of the Company and are not included in the Company's consolidated financial statements. The Company's management believes that disclosure of weekly net sales for franchise-operated restaurants provides useful information to investors because historical performance and trends of Famous Dave's franchisees relate directly to trends in franchise royalty revenues that the Company receives from such franchisees and have an impact on the perceived success and value of the Famous Dave's brand. It also provides a comparison against which management and investors can evaluate whether and the extent to which Company-owned restaurant operations is realizing its revenue potential.

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### **FAMOUS DAVE'S OF AMERICA, INC. AND SUBSIDIARIES**

#### ***Food and Beverage Costs***

Food and beverage costs for the third quarter of fiscal 2016 were approximately \$6.5 million or 31.0% of net restaurant sales, compared to approximately \$7.2 million or 31.1% of net restaurant sales for the third quarter of fiscal 2015. This year-over-year percentage decrease was the result of contract deflation. This decrease was almost completely offset by increases in portion sizes, a shift in product mix as a result of additional menu options, and lower than anticipated vendor rebates.

Food and beverage costs for the first nine months of fiscal 2016 were approximately \$19.6 million or 31.1% of net restaurant sales compared to approximately \$22.8 million or 30.5% of net restaurant sales for the comparable period of fiscal 2015. This year-over-year percentage increase was the result of increased challenges with protein product yields, increases in portion size, a shift in product mix as a result of the additional affordable menu options, and lower than anticipated vendor rebates, partially offset by contract deflation.

#### ***Labor and Benefits Costs***

Labor and benefits costs for the third quarter ended October 2, 2016 were approximately \$7.1 million or 33.7% of net restaurant sales, compared to approximately \$8.3 million or 35.7% of net restaurant sales for the three months ended September 27, 2015. This decrease as a percent of net restaurant sales was primarily due to declines in direct labor costs and open positions in the manager matrix. These decreases were partially offset by wage rate inflation.

Labor and benefits for the nine months ended October 2, 2016 were approximately \$21.3 million, or 33.8% of net restaurant sales, compared to approximately \$25.0 million, or 33.5% of net restaurant sales, for the nine months ended September 27, 2015. This increase as a percent of net restaurant sales was due to sales deleverage on fixed labor costs.

#### ***Operating Expenses***

Operating expenses for the third quarter of fiscal 2016 were approximately \$6.6 million, or 31.5% of net restaurant sales, compared to operating expenses of approximately \$7.0 million, or 29.8% of net restaurant sales, for the third quarter of fiscal 2015. This increase was the result of increases in other direct operating expenses and sales deleverage on fixed operating and occupancy costs.

During the third quarter of both 2016 and 2015, advertising as a percentage of net sales was 2.9%. In both periods there was a 1.0% marketing contribution.

Operating expenses for the nine months ended October 2, 2016 were approximately \$18.7 million, or 29.6% of net restaurant sales, compared to approximately \$21.4 million, or 28.7% of net restaurant sales, for the nine months ended September 27, 2015. This increase as a percentage of sales is the result of sales deleverage on fixed operating costs and higher supply costs partially offset by a year over year decline in utility and repairs and maintenance costs.

#### ***Depreciation and Amortization***

Depreciation and amortization expense for the third quarter of 2016 was approximately \$909,000, or 3.6% of total revenue, compared to \$1.1 million, or 3.8% of total revenue in the third quarter of fiscal 2015. Depreciation and amortization expense for the nine months ended October 2, 2016 and September 27, 2015 was approximately \$2.8 million and \$3.4 million, respectively, and was 3.7% and 3.8%, respectively, of total revenue. This decrease in both dollars and as a percent of revenue is due to the closure and refranchising of Company restaurants.

**Table of Contents****FAMOUS DAVE'S OF AMERICA, INC. AND SUBSIDIARIES*****Pre-opening Expenses***

Pre-opening expenses consist of labor, food, utilities, training and occupancy costs incurred prior to the opening of a new restaurant. Included in pre-opening costs is the cost of rent incurred, if any, prior to the restaurant opening. We did not incur any pre-opening costs during the third quarter of either 2016 or 2015 and during the nine months ended October 2, 2016 and September 27, 2015.

***Asset Impairment and Estimated Lease Termination and Other Closing Costs***

In accordance with Financial Accounting Standards Board Accounting Standards Codification for Property, Plant, and Equipment, we evaluate restaurant sites and long-lived assets for impairment whenever events or changes in circumstances indicate that the net book value of an asset may not be recoverable. Recoverability of restaurant sites to be held and used is measured by a comparison of the net book value of the restaurant site to the undiscounted future net cash flows expected to be generated on a restaurant-by-restaurant basis. If a restaurant is determined to be impaired, the loss is measured by the amount by which the net book value of the restaurant's assets exceeds its fair value. Fair value is estimated based on the best information available including estimated future cash flows, expected growth rates in comparable restaurant sales, remaining lease terms, discount rate and other factors. If these assumptions change in the future, we may be required to take additional impairment charges for the related assets. Considerable management judgment is necessary to estimate future cash flows. Accordingly, actual results could vary significantly from such estimates.

Following is a summary of asset impairment, estimated lease termination, and other closing costs for the three and nine months ended October 2, 2016 and September 27, 2015:

	Three Months Ended		Nine Months Ended	
	October 2, 2016	September 27, 2015	October 2, 2016	September 27, 2015
(dollars in thousands)				
<b>Impairment losses</b>				
Restaurant optimization	\$ 3,420	\$	\$ 4,313	\$
Software <sup>(1)</sup>			171	
Smithtown, NY <sup>(2)</sup>				935
<b>Total</b>	<b>\$ 3,420</b>	<b>\$</b>	<b>\$ 4,484</b>	<b>\$ 935</b>
 <b>Restaurant closure expenses</b>				
Smithtown, NY <sup>(3)</sup>	200		200	
N. Riverside, IL <sup>(4)</sup>		368		368
N. Riverside, IL <sup>(5)</sup>	122			122
Other <sup>(6)</sup>	109			99
Richmond, VA area	16			144
Eden Prairie, MN	35			(42)
<b>Total restaurant closure expenses</b>	<b>\$ 200</b>	<b>\$ 650</b>	<b>\$ 200</b>	<b>\$ 691</b>
 Provision for impaired assets and restaurant closings				
	\$ 3,620	\$ 650	\$ 4,684	\$ 1,626

(1) Asset impairment calculated at July 3, 2016 related to a software implementation project that was discontinued.

(2) Asset impairment calculated at June 28, 2015 based upon anticipated sale of Smithtown restaurant.

(3) Lease termination reserve associated with a letter of credit provided to a landlord for a previously closed restaurant.

(4) Lease termination costs associated with the cancellation of a potential new restaurant location.

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- (5) Write off of development costs associated with the cancellation of a potential new restaurant location.
- (6) Includes \$191,000 in costs written-off associated with closing the Lombard, Illinois field office partially offset by an \$86,000 recapture of deferred rent credits.

*Restaurant Optimization* During the third quarter of fiscal 2016, the Company recorded approximately \$3.4 million in asset impairment charges associated with 11 restaurants which were slow to respond to several initiatives to turnaround operating performance. As a result, the Company determined that the estimated fair value of the assets was less than the net book value and recognized an impairment charge to reduce the related assets to the estimated fair value. As we continue to evaluate the restaurant portfolio we anticipate addressing the ongoing operation of the 11 locations impaired over the next 3 years by way of lease restructuring, lease assignment or subsequent closure at the end of their natural lease term.

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**FAMOUS DAVE'S OF AMERICA, INC. AND SUBSIDIARIES**

***General and Administrative Expenses***

General and administrative expenses for the third quarter of 2016 were approximately \$4.5 million, or 17.8% of total revenue, compared to approximately \$4.1 million, or 14.9% of total revenue, for the third quarter of fiscal 2015. This year over year increase as a percent of revenue was the result of a settlement agreement, costs incurred for franchise related matters and increased stock-based compensation. These increases were partially offset by declines in severance and travel costs.

General and administrative expenses for the first nine months of fiscal 2016 were approximately \$13.1 million, or 17.0% of total revenue, compared to approximately \$13.9 million, or 15.7% of total revenue, for the first nine months of fiscal 2015. This increase as a percent of revenue was the result of revenue deleveraging, a settlement agreement, and costs incurred for franchise related matters. These increases were partially offset by professional fees related to brand development which were not repeated in the first nine months of 2016.

***Interest Expense***

Interest expense was approximately \$210,000, or 0.8% of total revenue, for the third quarter of fiscal 2016, compared to approximately \$218,000, or 0.8% of total revenue, for the comparable fiscal 2015. This category includes interest expense for our term loan, financing lease obligations, line of credit, and interest for deferrals made under our non-qualified deferred compensation plan.

Interest expense was approximately \$613,000, or 0.8% of total revenue, for the first nine months of fiscal 2016 and approximately \$641,000, or 0.7% of total revenue, for the first nine months of fiscal 2015.

***Provision for Income Taxes***

For the third quarter of 2016, we recorded an estimated tax benefit of approximately \$1.6 million, or 39.9% of income before income taxes. This compares to an estimated tax expense of approximately \$96,000, or 9.1% of income before income taxes, for the third quarter of 2015. For the nine months ended October 2, 2016, our tax benefit was approximately \$1.5 million, or 41.7% of income before income taxes. This compares to an estimated tax expense of approximately \$440,000, or 22.9% of income before income taxes, for the nine months ended September 27, 2015.

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**FAMOUS DAVE'S OF AMERICA, INC. AND SUBSIDIARIES**

***Basic and Diluted Net Income Per Share***

Net loss for the three months ended October 2, 2016 was approximately \$2.5 million, or (\$0.35) per basic and diluted share, respectively, on approximately 6,950,000 weighted average basic and diluted shares outstanding. Net income for the three months ended September 27, 2015 was approximately \$708,000, or \$0.10 per basic and diluted on approximately 6,945,000 weighted average basic shares outstanding and 6,958,000 weighted average diluted shares outstanding, respectively.

Net loss for the nine months ended October 2, 2016 was approximately \$1.5 million, or (\$0.21) per basic and diluted share on approximately 6,949,000 weighted average basic and diluted shares outstanding. Net income for the nine months ended September 27, 2015 was approximately \$1.6 million, or \$0.22 per basic and diluted share on approximately 7,008,000 weighted average basic shares outstanding and approximately 7,027,000 weighted average diluted shares outstanding, respectively.

***Financial Condition, Liquidity and Capital Resources***

Our balance of unrestricted cash and cash equivalents was approximately \$6.8 million at October 2, 2016 and approximately \$5.3 million at January 3, 2016.

Our current ratio, which measures our immediate short-term liquidity, was 0.87 at October 2, 2016 and 1.18 at January 3, 2016. The current ratio is computed by dividing total current assets by total current liabilities. The decrease in our current ratio was primarily due to the inclusion of the line of credit and term loan in current liabilities partially offset by an increase in our cash on hand and restricted cash required for the collateralization of the undrawn letters of credit, as well as declines in liabilities held for sale.

Net cash provided by operating activities for the nine months ended October 2, 2016 was approximately \$2.7 million which reflects a net loss of approximately \$2.1 million. Included in net loss are non-cash impairment charges of approximately \$4.7 million and non-cash depreciation and amortization of \$2.8 million. This was offset by a \$1.6 million increase in prepaid and other current assets and a \$1.2 million increase in restricted cash.

Net cash provided by operating activities for the nine months ended September 27, 2015 was approximately \$2.1 million, reflecting net income of approximately \$1.5 million, non-cash depreciation and amortization of approximately \$3.4 million, and non-cash impairment charges of \$1.6 million. These inflows were partially offset by a \$2.0 million decrease in accrued compensation and a \$1.8 million gain on disposal of property.

Net cash provided by investing activities was approximately \$513,000 for the first nine months of fiscal 2016, reflecting \$1.1 million in proceeds from the sale of assets, offset by \$540,000 in capital expenditures. For the first nine months of fiscal 2015, net cash provided by investing activities totaled approximately \$2.2 million from \$5.3 million in proceeds from the sale of assets, offset by \$3.1 million of capital expenditures for our existing restaurants and other infrastructure projects.

Net cash used for financing activities was approximately \$2.0 million in the first nine months of fiscal 2016. Net cash used by financing activities was approximately \$4.8 million for the comparable period in fiscal 2015. During the first nine months of 2016, we made draws of \$1.9 million on our line of credit and made repayments of \$3.9 million on our long-term debt. During the nine months ended September 27, 2015, we made draws of \$20.7 million on our line of credit and made repayments of \$19.3 million. We also used approximately \$5.7 million during that period to repurchase 195,899 shares under the May 2012 share repurchase program.

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**FAMOUS DAVE S OF AMERICA, INC. AND SUBSIDIARIES**

The Company and certain of its subsidiaries (collectively known as the Borrower) have a Waiver and Second Amendment (the Second Amendment) to their Third Amended and Restated Credit Agreement, as amended (the Credit Agreement), with Wells Fargo Bank, National Association as administrative agent and lender (the Lender). The Credit Agreement will mature on December 31, 2017. The borrower is obligated to make monthly payments of \$200,000 to reduce the principal amount of the loans. Additionally, the Borrowers deposited 105% of the face amount of the outstanding letters of credit in a cash collateral account with the Administrative Agent.

At October 2, 2016, the principal amounts outstanding under the Facility and the Term Loans were \$1.9 million and \$8.4 million, respectively, along with approximately \$1.0 million in letters of credit for real estate locations. The Credit Agreement allows for the termination of the Facility by the Borrower without penalty at any time. Under the Credit Agreement, the Borrower has granted the Lender a security interest in all current and future personal property of the Borrower.

Principal amounts outstanding under the Facility bear interest either at an adjusted Eurodollar rate or Base Rate plus an applicable margin. For the nine months ended October 2, 2016 and September 27, 2015, our weighted average interest rate for the Facility was 3.67% and 2.64%, respectively.

The Facility contains various financial covenants as well as customary affirmative and negative covenants for credit facilities of this type. For more information regarding the details of the customary affirmative and negative covenants, please refer to the full text of the Third Amended and Restated Credit Agreement dated May 8, 2015 filed as Exhibit 10.2 to our Form 10-Q for the quarter ended March 29, 2015, which was filed on May 8, 2015, the First Amendment to the Credit Agreement filed as Exhibit 10.1 to our Current Report on Form 8-K, which was filed on December 11, 2015, and the Waiver and Second Amendment to the Credit Agreement filed as Exhibit 10.1 to our Current Report on Form 8-K filed on June 10, 2016.

For the quarter ended October 2, 2016, we were in compliance with all covenants of the Credit Agreement except the Adjusted Leverage Ratio and the Minimum Consolidated EBITDA covenants.

For the quarter ended October 2, 2016 the Adjusted Leverage Ratio was 5.57:1.00, which is higher than the maximum Adjusted Leverage Ratio permitted by the Credit Agreement of 5.50:1.00

For the quarter ended October 2, 2016 our Adjusted EBITDA was \$1.0 million, which is less than the minimum Adjusted EBITDA permitted by the Credit Agreement of \$1.5 million for this quarter.

It is an Event of Default under the Credit Agreement if Borrowers fail to comply with either the Adjusted Leverage Ratio or minimum Adjusted EBITDA covenant or any other covenant. Upon an Event of Default, the Lender has the right to declare the unpaid principal amount of all outstanding loans; all interest accrued and unpaid thereon, and all other amounts owing or payable hereunder or under any other loan document to be immediately due and payable, as well as to exercise its other rights as a secured creditor. In addition, we are prohibited under the Credit Agreement from making dividends or distributions from one Borrower to another Borrower and purchasing common stock pursuant to a board-approved stock purchase program.

On November 9, 2016, the Borrowers and Lender entered into a Forbearance Agreement pursuant to which the Lender agreed to forbear from exercising its rights and remedies under the Credit Agreement relating to the existing defaults during a Forbearance Period ending December 9, 2016 or on the earlier date of any other Event of Default under the Credit Agreement or breach of the Forbearance Agreement. Under the Forbearance Agreement we have agreed not to request and Wells Fargo is not obligated to make any further extensions of credit to us under the Credit Agreement. During the Forbearance Period, we intend to closely manage our expenses and cash balances to prevent a working capital shortfall. At November 9, 2016, the principal amount outstanding under the Facility was \$9.9 million, along with approximately \$595,000 in letters of credit for real estate locations.

During the first nine months of fiscal 2016 the Company generated approximately \$2.7 million in cash from operating activities compared to \$2.1 million in the comparable period of the prior year. As of October 2, 2016, the Company ended the third quarter with total net debt of approximately \$5.8 million. This compares to \$11.4 million of net debt as of September 27, 2015.

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### **FAMOUS DAVE S OF AMERICA, INC. AND SUBSIDIARIES**

During the Forbearance Period the Company intends to finalize its refinancing arrangement. As a result of the Events of Default at October 2, 2016 and given the length of the Forbearance Period, all outstanding obligations under the Credit Agreement were classified as current liabilities.

#### **Contractual Obligations**

For the details of our contractual obligations, see Notes 7 and 8 to the audited consolidated financial statements and the disclosure set forth in Part II, Item 7 (Management Discussion and Analysis of Financial Condition and Results of Operations) in our Annual Report on Form 10-K for the fiscal year ended January 3, 2016.

Under the combined Facility and Term Loan we are subject to various financial covenants which include maximum target capital expenditures, cash flow ratios and adjusted leverage ratios.

#### **Off-Balance Sheet Arrangements**

We do not have any off-balance sheet arrangements.

#### **Critical Accounting Policies**

Our significant accounting policies are described in Note 1 to the consolidated financial statements included in our Annual Report on Form 10-K for the year ended January 3, 2016. The accounting policies used in preparing our interim 2016 consolidated financial statements are the same as those described in our Fiscal 2015 Annual Report on Form 10-K.

#### **Forward-Looking Information**

Famous Dave s makes written and oral statements from time to time, including statements contained in this Form 10-Q regarding its business and prospects, such as projections of future performance, statements of management s plans and objectives, forecasts of market trends and other matters that are forward-looking statements within the meaning of Sections 27A of the Securities Act of 1933 and Section 21E of the Securities Act of 1934. Statements containing the words or phrases will likely result , anticipates , are expected to , will continue , is anticipated , esti projects , believes , expects , intends , target , goal , plans , objective , should or similar expressions identify forward-looking statements appear in documents, reports, filings with the SEC, news releases, written or oral presentations made by our officers or other representatives to analysts, shareholders, investors, news organizations, and others, and discussions with our management and other Company representatives. For such statements, including those contained in this report, we claim the protection of the safe harbor for forward-looking statements contained in the Private Securities Litigation Reform Act of 1995.

Our future results, including results related to forward-looking statements, involve a number of risks and uncertainties that are difficult to predict, including but not limited to those identified herein under Part II, Item 1A. Risk Factors and under Part I, Item 1A. Risk Factors of our Annual Report on Form 10-K for the fiscal year ended January 3, 2016. No assurance can be given that the results reflected in any forward-looking statements will be achieved. Any forward-looking statements made by us or on our behalf speak only as of the date on which such statement is made. Our forward-looking statements are based upon assumptions that are sometimes based upon estimates, data, communications and other information from suppliers, government agencies and other sources that may be subject to revision. We do not undertake any obligation to update or keep current either (i) any forward-looking statements to reflect events or circumstances arising after the date of such statement, or (ii) the important factors that could cause our future results to differ materially from historical results or trends, results anticipated or planned by us, or which are reflected from time to time in any forward-looking statement which may be made by us or on our behalf.

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### **FAMOUS DAVE'S OF AMERICA, INC. AND SUBSIDIARIES**

#### **Additional Information on Famous Dave's**

We are currently subject to the informational requirements of the Exchange Act of 1934, as amended. As a result, we are required to file periodic reports and other information with the SEC, such as annual, quarterly and current reports, proxy and information statements. You are advised to read this Form 10-Q in conjunction with the other reports, proxy statements and other documents we file from time to time with the SEC. If you would like more information regarding Famous Dave's, you may read and copy the reports, proxy and information statements and other documents we file with the SEC, at prescribed rates, at the SEC's public reference room at 100 F Street, N.E., Washington, DC 20549. You may obtain information regarding the operation of the SEC's public reference rooms by calling the SEC at 1-800-SEC-0330. Our SEC filings are also available to the public free of charge at the SEC's website. The address of this website is <http://www.sec.gov>. Our most current SEC filings, such as our annual, quarterly and current reports, proxy statements and press releases are available to the public free of charge on our website.

The address of our website is [www.famousdaves.com](http://www.famousdaves.com). Our website is not intended to be, and is not, a part of this Quarterly Report on Form 10-Q. We will provide electronic or paper copies of our SEC filings (excluding exhibits) to any Famous Dave's shareholder free of charge upon receipt of a written request for any such filing. All requests for our SEC filings should be sent to the attention of Investor Relations at Famous Dave's of America, Inc., 12701 Whitewater Drive, Suite 200, Minnetonka, MN 55343.

#### **Item 3. QUANTITATIVE AND QUALITATIVE DISCLOSURES ABOUT MARKET RISK**

Our Company's financial instruments include cash and cash equivalents and long-term debt. Our Company includes as unrestricted cash and cash equivalents investments with original maturities of three months or less when purchased and which are readily convertible into known amounts of cash. Our Company's unrestricted cash and cash equivalents are not subject to significant interest rate risk due to the short maturities of these instruments. We have no derivative financial instruments. Our total outstanding long-term debt as of October 2, 2016 was approximately \$13.2 million, including our line of credit, term loan and financing lease obligations. The terms of our credit facility with Wells Fargo Bank, National Association, as administrative agent and lender are discussed above under *Management's Discussion and Analysis of Financial Condition and Results of Operations* *Financial Condition, Liquidity and Capital Resources*.

Some of the food products purchased by us are affected by commodity pricing and are, therefore, subject to price volatility caused by weather, production problems, delivery difficulties and other factors that are outside our control. To control this risk in part, we have fixed-priced purchase commitments for food from vendors. In addition, we believe that substantially all of our food is available from several sources, which helps to control food commodity risks. We have secondary source suppliers for certain items and in 2016 we have continued to make this a key area of focus in order to protect the supply chain and to ensure a more fair and competitive pricing environment. We believe we have the ability to increase menu prices, or vary the menu options offered, if needed, in response to a food product price increase.

#### **Item 4. CONTROLS AND PROCEDURES**

Under the supervision and with the participation of our management, including our Chief Executive Officer and Chief Financial Officer, we conducted an evaluation of our disclosure controls and procedures, as such term is defined under Rule 13a-15(e) promulgated under the Securities Exchange Act of 1934, as amended, as of the end of the period covered by this report. Based on this evaluation, our Chief Executive Officer and Chief Financial Officer concluded that our disclosure controls and procedures are effective.

There has been no change in our internal control over financial reporting during the quarterly period covered by this report that has materially affected, or is reasonably likely to materially affect, our internal control over financial reporting.

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### **FAMOUS DAVE'S OF AMERICA, INC. AND SUBSIDIARIES**

## **PART II. OTHER INFORMATION**

### **Item 1. LEGAL PROCEEDINGS**

From time to time, we are involved in various legal actions arising in the ordinary course of business. In the opinion of our management, the ultimate dispositions of these matters will not have a material adverse effect on our consolidated financial position and results of operations. Currently, there are no significant legal matters pending except as described below.

Famous Dave's of America, Inc. (Famous Dave's) filed a complaint on July 14, 2015, against a group of former franchisees in California seeking injunctive relief and damages for: (1) Federal Trademark Infringement; (2) Federal Trademark Dilution; (3) Federal Unfair Competition; (4) Federal Trade Dress Dilution; (5) Trademark Infringement under California Business and Professions Code § 14200; (6) Trademark Dilution under California Business and Professions Code §14200; (7) Common Law Trademark Infringement; (8) Unfair Competition under California Business and Professions Code § 17200; (9) False Advertising; (10) Breach of Contract; (11) Breach of Implied Covenant of Good Faith and Fair Dealing; and (12) Intentional Interference with Contract. The claims stem from the former franchisees breaches of their franchise agreements, including the failure to pay franchise fees and their continued operation of five restaurants utilizing Famous Dave's intellectual property without authorization. After two defendants in the case, Kurt Schneiter and M Mart 1, filed a demurrer to the Complaint, Famous Dave's filed an Amended Complaint on October 9, 2015, reasserting the same claims. The case is captioned Famous Dave's of America, Inc., v. SR El Centro FD, Inc., et al., Case No. BC589329, and is currently pending before the Honorable Elihu M. Berle in the Superior Court of Los Angeles. By court order, dated June 6, 2016, Famous Dave's successfully obtained a preliminary injunction, enjoining the former franchisee defendants from using Famous Dave's intellectual property, including its trademarks and restaurant system. The preliminary injunction is currently the subject of a pending interlocutory appeal which Famous Dave's intends to oppose vigorously.

On July 28, 2015, these franchisees (the Plaintiffs) filed a complaint against Famous Dave's in the South Judicial District of the Superior Court of the County of Los Angeles. On March 10, 2016, Plaintiffs re-filed this Complaint as a First Amended Cross-Complaint [Famous Dave's of America, Inc. v. SR El Centro, Inc., et al., Superior Court of the State of California, County of Los Angeles, Central Division, Case No. BC589329] alleging that Famous Dave's breached the Franchise Agreements for these restaurants by failing to provide certain marketing support and access to customer contact data, vendors, internet reporting and support to Plaintiffs, and failing to provide operations and preferred practices training to Plaintiffs' designated representative. Plaintiffs further allege that such conduct by Famous Dave's is a breach of the covenant of good faith and fair dealing. Plaintiffs also allege that Famous Dave's aided and abetted John and Allan Gantes in breach of their fiduciary duty to Plaintiffs. Plaintiffs are seeking compensatory damages in amount not less than \$20 million, punitive damages, costs and attorneys' fees.

### **Item 1A. RISK FACTORS**

The most significant risk factors applicable to the Company are described in Part I, Item 1A Risk Factors of our Annual Report on Form 10-K for the year ended January 3, 2016, as updated by this Part II, Item 1A Risk Factors and our subsequent filings with the Securities and Exchange Commission. There have been no material changes from the risk factors previously disclosed in our Annual Report on Form 10-K except as follows.

If we do not maintain compliance with our credit agreement with Wells Fargo, Wells Fargo may accelerate our obligation to repay all amounts outstanding.

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**FAMOUS DAVE'S OF AMERICA, INC. AND SUBSIDIARIES**

For the quarter ended October 2, 2016, we were in compliance with all covenants of the Credit Agreement except the Adjusted Leverage Ratio and the Minimum Consolidated EBITDA covenant.

For the quarter ended October 2, 2016, the Adjusted Leverage Ratio was 5.57:1.00, which is higher than the maximum Adjusted Leverage Ratio permitted by the Credit Agreement of 5.50:1.00.

For the quarter ended October 2, 2016, our Adjusted EBITDA was \$1.0 million, which is less than the minimum Adjusted EBITDA permitted by the Credit Agreement of \$1.5 million for this quarter.

It is an Event of Default under the Credit Agreement if Borrowers fail to comply with either the Adjusted Leverage Ratio or Minimum Adjusted EBITDA covenant or any other covenant. Upon an Event of Default, the Lender has the right to declare the unpaid principal amount of all outstanding loans; all interest accrued and unpaid thereon, and all other amounts owing or payable hereunder or under any other loan document to be immediately due and payable, as well as to exercise its other rights as a secured creditor. In addition, we are prohibited under the Credit Agreement from making dividends or distributions from one Borrower to another Borrower and purchasing common stock pursuant to a board-approved stock purchase program.

On November 9, 2016, the Borrowers and the Lender entered into a Forbearance Agreement pursuant to which the Lender agreed to forbear from exercising its rights and remedies under the Credit Agreement relating to the existing defaults during a Forbearance Period ending December 9, 2016 or on the earlier date of any other Event of Default under the Credit Agreement or breach of the Forbearance Agreement. Under the Forbearance Agreement, we have agreed not to request and Wells Fargo is not obligated to make any further extensions of credit to us under the Credit Agreement. During the Forbearance Period, we intend to closely manage our expenses and cash balances to prevent a working capital shortfall. At November 9, 2016, the principal amount outstanding under the Facility was \$9.9 million, along with approximately \$595,000 in letters of credit for real estate locations.

During the first nine months of fiscal 2016 the Company generated approximately \$2.7 million in cash from operating activities compared to \$2.1 million in the comparable period of the prior year. As of October 2, 2016, the Company ended the third quarter with total net debt of approximately \$5.8 million. This compares to \$11.4 million of net debt as of September 27, 2015.

During the Forbearance Period, the Company intends to finalize its refinancing arrangement. As a result of the Events of Default at October 2, 2016 and given the length of the Forbearance Period, all outstanding obligations under the Credit Agreement were classified as current liabilities.

If we are unable to successfully refinance the Credit Facility during the Forbearance Period, comply with the other terms of the Credit Agreement, comply with the terms of the Forbearance Agreement or extend the Forbearance Period as needed to successfully complete an amendment or restructuring, Wells Fargo would be entitled to accelerate and declare due all amounts outstanding under the Credit Agreement. In the event of such acceleration, our available cash would be insufficient to repay all amounts due under the Credit Agreement without obtaining alternative debt financing, equity financing or a combination thereof.

There can be no assurance that we will comply, successfully refinance or restructure the Credit Agreement, comply with the terms of the Forbearance Agreement or the Credit Agreement, or successfully negotiation an extension of the Forbearance Period if needed.

As a result of the Events of Default at October 2, 2016 and given the length of the Forbearance Period, all outstanding obligations under the Credit Agreement were classified as current liabilities.

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**FAMOUS DAVE'S OF AMERICA, INC. AND SUBSIDIARIES**

**Item 5. OTHER INFORMATION**

*Forbearance Agreement*

The Company and each of its subsidiaries is a Borrower under that certain Third Amended and Restated Credit Agreement dated May 8, 2015 with Wells Fargo, National Association as administrative agent and lender. In order to address the two financial covenant violations resulting in an Event of Default under the Credit Agreement, the Borrowers and Wells Fargo entered into a forbearance agreement dated November 9, 2016. Pursuant to Forbearance Agreement, Wells Fargo agreed to forbear from exercising its rights and remedies under the Credit Agreement relating to the existing defaults during for a Forbearance Period ending December 9, 2016 or on the earlier date of any other Event of Default under the Credit Agreement or breach of the forbearance agreement. Under the forbearance agreement, we have agreed not to request and Wells Fargo is not obligated to make any further extensions of credit to us under the Credit Agreement.

The foregoing summary of the Forbearance Agreement is qualified in all respects by Forbearance Agreement; please refer to the full text of the Forbearance Agreement filed as Exhibit 10.1 to this Quarterly Report on Form 10-Q.

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**FAMOUS DAVE S OF AMERICA, INC. AND SUBSIDIARIES**

**Item 6. EXHIBITS**

- |         |  |
|---------|--|
| 10.1    | Forbearance Agreement dated November 9, 2016 by and among Famous Dave s of America, Inc., D&D of Minnesota, Inc., Lake & Hennepin BBQ and Blues, Inc., Famous Dave s Ribs, Inc., Famous Dave s Ribs-U, Inc., and Famous Dave s Ribs of Maryland, Inc., each as borrowers, and Wells Fargo Bank, National Association, as administrative agent and lender |
| 10.2    | Employment Agreement dated October 11, 2016 between Famous Dave s of America and Doug Renegar  |
| 31.1    | Certification of Chief Executive Officer pursuant to Section 302 of the Sarbanes-Oxley Act of 2002   |
| 31.2    | Certification of Chief Financial Officer pursuant to Section 302 of the Sarbanes-Oxley Act of 2002   |
| 32.1    | Certification of Chief Executive Officer and Chief Financial Officer pursuant to 18 U.S.C. 1350 as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002   |
| 101.INS | XBRL Instance Document   |
| 101.SCH | XBRL Schema Document   |
| 101.CAL | XBRL Calculation Linkbase Document   |
| 101.LAB | XBRL Label Linkbase Document   |
| 101.PRE | XBRL Presentation Linkbase Document  |
| 101.DEF | XBRLTaxonomy Extension Definition Linkbase Document  |

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**FAMOUS DAVE S OF AMERICA, INC. AND SUBSIDIARIES**

**SIGNATURES**

Pursuant to the requirements of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned, thereunto duly authorized.

**FAMOUS DAVE S OF AMERICA, INC.  
( Registrant )**

Dated: November 16, 2016

By: /s/ Michael Lister  
Michael Lister  
Chief Executive Officer/Chief Operating Officer  
Director (Principal Executive Officer)

Dated: November 16, 2016

/s/ Dexter Newman  
Dexter Newman  
Chief Financial Officer and Secretary  
(Principal Financial Officer)

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**EXHIBIT INDEX**

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