

UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION  
WASHINGTON, D.C. 20549

FORM S-8

REGISTRATION STATEMENT  
UNDER  
THE SECURITIES ACT OF 1933

**NATHAN'S FAMOUS, INC.**

(Exact name of registrant as specified in its charter)

**Delaware**

(State or Other Jurisdiction of Incorporation or Organization)

**11-3166443**

(I.R.S. Employer Identification Number)

**One Jericho Plaza  
Jericho, NY 11753**

(Address of Principal Executive Offices, Zip Code)

**Nathan's Famous, Inc. 2019 Stock Incentive Plan**  
(Full Title of the Plan)

**Eric Gatoff  
Nathan's Famous, Inc.  
Chief Executive Officer  
One Jericho Plaza  
Jericho, NY 11753**

(Name and Address of Agent for Service)

**(516) 338-8500**

(Telephone Number, Including Area Code,  
of Agent for Service)

**Copy to:**

**Wayne A. Wald, Esq.  
Palash I. Pandya, Esq.  
Akerman LLP**

**520 Madison Avenue, 20<sup>th</sup> Floor  
New York, New York 10022  
(212) 880-3800**

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, a smaller reporting company or an emerging growth company. See the definitions of "large accelerated filer," "accelerated filer," "smaller reporting company" and "emerging growth company" in Rule 12b-2 of the Exchange Act.

Large accelerated filer

Non-accelerated filer

Accelerated filer

Smaller reporting company

Emerging growth company

If an emerging growth company, indicate by check mark if the registrant has elected not to use the extended transition period for complying with any new or revised financial accounting standards provided pursuant to Section 7(a)(2)(B) of the Securities Act.

CALCULATION OF REGISTRATION FEE

Title of Each Class of Securities to be Registered	Amount to be Registered (1)	Proposed Maximum Offering Price Per Share	Proposed Maximum Aggregate Offering Price	Amount of Registration Fee
Common Stock (par value \$0.01 per share) to be issued under the Nathan's Famous, Inc. 2019 Stock Incentive Plan	369,584	\$ 53.05(2)	\$ 19,606,432(2)	\$ 2,545

- (1) Pursuant to Rule 416(a) of the Securities Act of 1933, as amended (the "Securities Act"), this Registration Statement shall also cover any additional shares of the Registrant's Common Stock, par value \$0.01 per share (the "Common Stock"), that become issuable under the Nathan's Famous, Inc 2019 Stock Incentive Plan by reason of any stock dividend, stock split, recapitalization or other similar transaction effected without receipt of consideration that increases the number of the Registrant's outstanding shares of Common Stock.
- (2) Estimated in accordance with Rule 457(c) and (h) under the Securities Act solely for the purpose of calculating the registration fee on the basis of \$53.05, the average of the high and low prices of the Registrant's Common Stock as reported on the NASDAQ Global Market on July 28, 2020.

NATHAN'S FAMOUS, INC.  
REGISTRATION STATEMENT ON FORM S-8

PART I

Item 1. Plan Information.\*

Item 2. Registration Information and Employee Plan Annual Information.\*

\*The documents containing the information required by Part I of Form S-8 will be sent or delivered to the participants as specified by Rule 428(b) (1) under the Securities Act of 1933, as amended (the "Securities Act"). In accordance with the rules and regulations of the Securities and Exchange Commission (the "SEC") and the instructions to Form S-8, such documents are not being filed as part of this Registration Statement or as prospectuses or prospectus supplements pursuant to Rule 424 under the Securities Act. These documents and the documents incorporated by reference in this Registration Statement pursuant to Item 3 of Part II of this Registration Statement, constitute a prospectus that meets the requirements of Section 10(a) of the Securities Act.

Upon written or oral request, any of the documents incorporated by reference in Item 3 of Part II of this Registration Statement (which documents are incorporated by reference in this Section 10(a) Prospectus), other documents required to be delivered to eligible employees pursuant to Rule 428(b) or additional information about the Nathan's Famous, Inc. 2019 Stock Incentive Plan are available without charge by contacting:

Nathan's Famous, Inc.  
One Jericho Plaza  
Jericho, NY 11753  
Attn: Investor Relations  
Tel: (516) 338-8500

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## PART II

### INFORMATION REQUIRED IN THE REGISTRATION STATEMENT

#### Item 3. Incorporation by Reference.

Nathan's Famous, Inc. (the "Company" or the "Registrant") is subject to the informational requirements of the Securities Exchange Act of 1934, as amended (the "Exchange Act") and, in accordance therewith, files reports and other information with the SEC. The following documents are incorporated herein by reference:

- (a) The Company's Annual Report on Form 10-K for the fiscal year ended March 29, 2020, filed with the SEC on [June 12, 2020](#).
- (b) The Company's Current Reports on Form 8-K filed with the SEC on [April 27, 2020](#) and [June 5, 2020](#).
- (c) The description of the class of securities to be offered which is contained in a registration statement filed under Section 12 of the Securities Exchange Act of 1934 (File No. 0-3189), including any amendments or reports filed for the purpose of updating that description..

In addition, all documents filed by the Registrant pursuant to Sections 13(a), 13(c), 14 and 15(d) of the Exchange Act (other than portions of such documents deemed not to be filed) on or after the date of this Registration Statement and prior to the filing of a post-effective amendment to this Registration Statement which indicates that all securities offered have been sold or which deregisters all securities then remaining unsold shall be deemed to be incorporated by reference in this Registration Statement and to be part hereof from the respective dates of filings of such documents.

Any statement contained in a document incorporated or deemed to be incorporated by reference herein shall be deemed to be modified or superseded for purposes of this Registration Statement to the extent that a statement contained herein or in any other subsequently filed document which also is or is deemed to be incorporated by reference herein modifies or supersedes such statement. Any statement so modified or superseded shall not be deemed, except as so modified or superseded, to constitute a part of this Registration Statement. Nothing in this Registration Statement shall be deemed to incorporate information furnished but not filed with the SEC pursuant to Item 2.02 or Item 7.01 of Form 8-K.

#### Item 4. Description of Securities.

Not applicable.

#### Item 5. Interests of Named Experts and Counsel.

None.

#### Item 6. Indemnification of Directors and Officers.

As permitted by the Delaware General Corporation Law ("DGCL"), the Company's Certificate of Incorporation, as amended, limits the personal liability of a director or officer to the Company for monetary damages for breach of fiduciary duty of care as a director or officer. Liability is not eliminated for (i) any breach of the director's or officer's duty of loyalty to the Company or its stockholders, (ii) acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of law, (iii) unlawful payment of dividends or stock purchase or redemptions pursuant to Section 174 of the DGCL, or (iv) any transaction from which the director derived an improper personal benefit. payments are made by the Company to such officers and directors.

#### **Delaware Law**

The Company is subject to Section 203 of the DGCL, which prevents an "interested stockholder" (defined in Section 203, generally, as a person owning 15% or more of a corporation's outstanding voting stock) from engaging in a "business combination" with a publicly-held Delaware corporation for three years following the date such person became an interested stockholder, unless: (i) before such person became an interested stockholder, the board of directors of the corporation approved the transaction in which the interested stockholder became an interested stockholder or approved the business combination; (ii) upon consummation of the transaction that resulted in the interested stockholder's becoming an interested stockholder, the interested stockholder owns at least 85% of the voting stock of the corporation outstanding at the time the transaction commenced (subject to certain exceptions), or (iii) following the transaction in which such person became an interested stockholder, the business combination is approved by the board of directors of the corporation and authorized at a meeting of stockholders by the affirmative vote of the holders of 66% of the outstanding voting stock of the corporation not owned by the interested stockholder. A "business combination" includes mergers, stock or asset sales and other transactions resulting in a financial benefit to the interested stockholder.

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The provisions of Section 203 of the DGCL could have the effect of delaying, deferring or preventing a change in the control of the Company.

The Company maintains a directors and officers insurance and company reimbursement policy. The policy insures directors and officers against unindemnified loss arising from certain wrongful acts in their capacities and reimburses the Company for such loss for which the Company has lawfully indemnified the directors and officers. The policy contains various exclusions, none of which relate to the offering hereunder. The Company also has agreements with its directors and officers providing for the indemnification thereof under certain circumstances.

Item 7. Exemption from Registration Claimed.

Not applicable.

Item 8. Exhibits.

<u>Exhibit Number</u>	<u>Description</u>
4.1	Certificate of Incorporation. (Incorporated by reference to Exhibit 3.1 to Registration Statement on Form S-1 No. 33-56976.)
4.2	Amendment to the Certificate of Incorporation, filed December 15, 1992. (Incorporated by reference to Exhibit 3.2 to Registration Statement on Form S-1 No. 33-56976.)
<a href="#">4.3</a>	<a href="#">By-Laws, as amended. (Incorporated by reference to Exhibit 3.1 to Form 8-K dated November 1, 2006.)</a>
4.4	Specimen Stock Certificate. (Incorporated by reference to Exhibit 4.1 to Registration Statement on Form S-1 No. 33-56976.)
<a href="#">5.1</a>	<a href="#">Opinion of Akerman LLP*</a>
<a href="#">10.1</a>	<a href="#">Registrant's 2019 Stock Incentive Plan (incorporated herein by reference to Registrant's Proxy Statement filed on July 26, 2019)+</a>
<a href="#">23.1</a>	<a href="#">Consent of Marcum LLP*</a>
<a href="#">23.2</a>	<a href="#">Consent of Akerman LLP (included in Exhibit 5.1)*</a>
<a href="#">24.1</a>	<a href="#">Power of Attorney (see signature page)*</a>

\* filed herewith

+ compensatory plan or arrangement

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Item 9. Undertakings.

1) The undersigned Registrant hereby undertakes:

a) To file, during any period in which offers or sales are being made, a post-effective amendment to this Registration Statement:

i) To include any prospectus required by Section 10(a)(3) of the Securities Act;

ii) To reflect in the prospectus any facts or events arising after the effective date of the Registration Statement (or the most recent post-effective amendment thereof) which, individually or in the aggregate, represent a fundamental change in the information set forth in this Registration Statement. Notwithstanding the foregoing, any increase or decrease in volume of securities offered (if the total dollar value of securities offered would not exceed that which was registered) and any deviation from the low or high end of the estimated maximum offering range may be reflected in the form of prospectus filed with the Commission pursuant to Rule 424(b) if, in the aggregate, the changes in volume and price represent no more than a 20 percent change in the maximum aggregate offering price set forth in the "Calculation of Registration Fee" table in the effective Registration Statement; and,

iii) To include any material information with respect to the plan of distribution not previously disclosed in the Registration Statement or any material change to such information in the Registration Statement;

*provided, however,* that paragraphs (a)(1)(i) and (a)(1)(ii) do not apply if the information required to be included in a post-effective amendment by those paragraphs is contained in reports filed or furnished to the Commission by the Registrant pursuant to Section 13 or 15(d) of the Exchange Act that are incorporated by reference in this Registration Statement.

b) That, for the purpose of determining any liability under the Securities Act, each such post-effective amendment shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial *bona fide* offering thereof.

c) To remove from registration by means of a post-effective amendment any of the securities being registered which remain unsold at the termination of the offering.

2) The undersigned Registrant hereby undertakes that, for purposes of determining any liability under the Securities Act, each filing of the Registrant's annual report pursuant to Section 13(a) or 15(d) of the Exchange Act (and, where applicable, each filing of an employee benefit plan's annual report pursuant to Section 15(d) of the Exchange Act) that is incorporated by reference in the registration statement shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial *bona fide* offering thereof.

3) Insofar as indemnification for liabilities arising under the Securities Act may be permitted to directors, officers and controlling persons of the Registrant pursuant to the foregoing provisions, or otherwise, the Registrant has been advised that in the opinion of the Commission such indemnification is against public policy as expressed in the Securities Act and is, therefore, unenforceable. In the event that a claim for indemnification against such liabilities (other than the payment by the Registrant of expenses incurred or paid by a director, officer or controlling person of the Registrant in the successful defense of any action, suit or proceeding) is asserted by such director, officer or controlling person in connection with the securities being registered, the Registrant will, unless in the opinion of its counsel the matter has been settled by controlling precedent, submit to a court of appropriate jurisdiction the question whether such indemnification by it is against public policy as expressed in the Securities Act and will be governed by the final adjudication of such issue.

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SIGNATURES

Pursuant to the requirements of the Securities Act, the Registrant certifies that it has reasonable grounds to believe that it meets all of the requirements for filing on Form S-8 and has duly caused this Registration Statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the Town of Jericho, State of New York, on this 30th day of July 2020.

NATHAN'S FAMOUS, INC.

By: /s/ Eric Gatoff

Name: Eric Gatoff

Title: Chief Executive Officer

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POWER OF ATTORNEY AND SIGNATURES

KNOW ALL PERSONS BY THESE PRESENTS, that each person whose signature appears below does hereby constitute and appoint Eric Gatoff and Robert Steinberg, with full power of substitution and full power to act, his true and lawful attorney-in-fact and agent to act for him in his name, place and stead, in any and all capacities, to sign any and all amendments (including post-effective amendments) to this registration statement, any and all registration statements filed pursuant to Rule 462(b) of the Securities Act of 1933 (including post-effective amendments) to register additional securities and to file the same, with all exhibits thereto, and other documents in connection therewith, with the Securities and Exchange Commission, granting unto said attorneys-in-fact and agents, and each of them, full power and authority to do and perform each and every act and thing requisite or necessary to be done in order to effectuate the same as fully, to all intents and purposes, as they or he might or could do in person, hereby ratifying and confirming all that said attorneys-in-fact and agents or any of them or their or his substitute or substitutes, may lawfully do or cause to be done by virtue hereof.

Pursuant to the requirements of the Securities Act of 1933, this registration statement has been signed below by the following persons in the capacities and on the dates indicated.

<b>Signature</b>	<b>Title</b>	<b>Date</b>
<u>/s/ Howard Lorber</u> Howard Lorber	Executive Chairman and Director	July 30, 2020
<u>/s/ Eric Gatoff</u> Eric Gatoff	Chief Executive Officer and Director	July 30, 2020
<u>/s/ Robert Steinberg</u> Robert Steinberg	Vice President – Finance, Chief Financial Officer, Treasurer and Secretary	July 30, 2020
<u>/s/ Wayne Norbitz</u> Wayne Norbitz	Director	July 30, 2020
<u>/s/ Robert J. Eide</u> Robert J. Eide	Director	July 30, 2020
<u>/s/ Barry Leistner</u> Barry Leistner	Director	July 30, 2020
<u>/s/ Brian Genson</u> Brian Genson	Director	July 30, 2020
<u>/s/ Attilio F. Petrocelli</u> Attilio F. Petrocelli	Director	July 30, 2020
<u>/s/ Charles Raich</u> Charles Raich	Director	July 30, 2020
<u>/s/ Andrew Levine</u> Andrew Levine	Director	July 30, 2020





Akerman LLP  
520 Madison Avenue  
20th Floor  
New York, NY 10022

T: 212 880 3800  
F: 212 880 8965

July 30, 2020

Nathan's Famous, Inc.  
One Jericho Plaza  
Jericho, NY 11753

Re: Registration Statement on Form S-8

Ladies and Gentlemen:

We have acted as counsel to Nathan's Famous, Inc., a Delaware corporation (the "Corporation"), in connection with the preparation of the Registration Statement on Form S-8 (the "Registration Statement") filed by the Corporation with the Securities and Exchange Commission ("Commission") on the date hereof pursuant to the Securities Act of 1933, as amended (the "Securities Act"), relating to the offering and sale of up to 369,584 shares (the "Shares") of the Corporation's authorized common stock, par value \$0.01 per share (the "Common Stock") issuable in accordance with the terms of the Corporation's 2019 Stock Incentive Plan (the "Plan").

This opinion is being delivered in accordance with the requirements of Item 601(b)(5) of Regulation S-K under the Securities Act.

In connection therewith, we have examined and relied upon the original or a copy, certified to our satisfaction, of (i) the certificate of incorporation and bylaws of the Corporation, each as amended to the date hereof; (ii) records of corporate proceedings of the Corporation related to the Plan, (iii) the Registration Statement and exhibits thereto; and (iv) such other documents and instruments as we have deemed necessary for the expression of the opinions herein contained. In making the foregoing examinations, we have assumed the genuineness of all signatures and the authenticity of all documents submitted to us as originals, and the conformity to original documents of all documents submitted to us as certified or photostatic copies. As to various questions of fact material to this opinion, we have relied, to the extent we deemed reasonably appropriate, upon representations of officers or directors of the Corporation and upon documents, records, and instruments furnished to us by the Corporation, without independently checking or verifying the accuracy of such documents, records, and instruments.

Based upon the foregoing examination, we are of the opinion that: (i) the Shares have been duly authorized, and, (ii) when the Shares have been issued upon full payment in accordance with the terms of the Plan and any awards made under the Plan (and any agreements or certificates issued in accordance with the Plan), such Shares will be validly issued, fully paid and nonassessable.

[akerman.com](http://akerman.com)

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We express no opinion as to matters governed by laws of any jurisdiction other than the federal securities laws of the United States and the Delaware General Corporation Law. We neither express nor imply any obligation with respect to any other laws or the laws of any other jurisdiction or of the United States. For purposes of this opinion, we assume that the Shares will be issued in compliance with all applicable state securities or blue sky laws.

This opinion letter speaks only as of the date hereof. We assume no obligation to update or supplement this opinion letter if any applicable laws change after the date of this opinion letter or if we become aware after the date of this opinion letter of any facts, whether existing before or first arising after the date hereof, that might change the opinion expressed above.

This opinion letter is furnished in connection with the filing of the Registration Statement and may not be relied upon for any other purpose without our prior written consent in each instance. Further, no portion of this letter may be quoted, circulated or referred to in any other document for any other purpose without our prior written consent.

We hereby consent to the filing of this opinion letter with the Commission in connection with the filing of the Registration Statement referred to above. In giving this consent, we do not admit that we are within the category of persons whose consent is required under Section 7 of the Securities Act or the Rules and Regulations of the Commission issued thereunder.

Sincerely,

/s/ Akerman LLP

**AKERMAN LLP**

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INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM'S CONSENT

We consent to the incorporation by reference in this Registration Statement of Nathan's Famous, Inc. on Form S-8 of our report dated June 12, 2020, with respect to our audits of the consolidated financial statements of Nathan's Famous, Inc. and Subsidiaries as of March 29, 2020 and March 31, 2019 for the fifty-two weeks ended March 29, 2020 and the fifty-three weeks ended March 31, 2019, and our report dated June 12, 2020 with respect to our audit of internal control over financial reporting of Nathan's Famous, Inc. and Subsidiaries as of March 29, 2020 appearing in the Annual Report on Form 10-K of Nathan's Famous, Inc. for the year ended March 29, 2020.

Our report on the consolidated financial statements refers to a change in the method of accounting for leases in 2020 due to the adoption of ASU No. 2016-02, Leases (Topic 842), as amended, effective April 1, 2019 using the modified retrospective approach.

/s/ Marcum LLP

Marcum LLP  
New York, New York  
July 30, 2020

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