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Superior Court of California
County of Los Angeles

SEP 22 2016

Sherri R. Carter, Executive Officer/Clerk
By: Roxanne Arraiga, Deputy



SUPERIOR COURT FOR THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF LOS ANGELES - CENTRAL CIVIL WEST

ADAIRE PURSELL, individually and on
behalf of all others similarly situated,

Plaintiff,

vs.

BUFFALO WILD WINGS
INTERNATIONAL, INC., a Minnesota
corporation; PACIFIC WINGS, LLC, a
Washington limited liability company d/b/a
in California as WESTERN WINGS, LLC,
and DOES 1 through 25, inclusive,

Defendants.

Case No.: BC522083

[CLASS ACTION]

*Assigned for all purposes to The Honorable
Kenneth R. Freeman, Dept. 310*

**[PROPOSED] ORDER GRANTING
PLAINTIFF'S UNOPPOSED MOTION
FOR PRELIMINARY APPROVAL OF
CLASS ACTION SETTLEMENT**

1 The Court, having fully reviewed Plaintiff’s Motion for Preliminary Approval of Class
 2 Action Settlement, the supporting Points and Authorities, the Declaration of Thomas W. Falvey
 3 in support thereof, the Declaration of Michael H. Boyamian in support thereof, the Declaration
 4 of Alex Hartounian in support thereof, the Second Supplemental Declaration of Armand R.
 5 Kizirian (“Kizirian Declaration”) in support thereof, the fully-executed Amended Stipulation of
 6 Class Action Settlement containing a release (“Final Settlement Agreement”) attached as Exhibit
 7 “1” to the Declaration of Kizirian Declaration, the proposed revised Notice of Class Action
 8 Settlement and Allocation Form attached as Exhibit “2” to the Kizirian Declaration, the revised
 9 Exclusion Form attached as Exhibit “3” to the Kizirian Declaration, and the third-party
 10 settlement administrator proposal submitted by CPT Group, Inc. attached as Exhibit “4” to the
 11 Kizirian Declaration, and in recognition of the Court’s duty to make a preliminary determination
 12 as to the reasonableness of any proposed Class Action settlement, and if preliminarily
 13 determined to be reasonable, to ensure proper notice is provided to Putative Class Members in
 14 accordance with due process requirements; and to conduct a Final Approval hearing as to the
 15 good faith, fairness, adequacy and reasonableness of any proposed settlement, THE COURT
 16 HEREBY MAKES THE FOLLOWING DETERMINATIONS AND ORDERS:

17
 18 1. The provisions of the Settlement Agreement are hereby provisionally approved,
 19 subject to further consideration thereof at the Fairness Approval hearing set forth below. The
 20 Court finds that this settlement is sufficiently within the range of reasonableness that notice of
 21 the proposed settlement should be given as provided for in this Order.

22
 23 2. The Court finds, on a preliminary basis, that the Final Settlement Agreement
 24 appears to be within the range of reasonableness of a settlement which could ultimately be given
 25 final approval by this Court; the Court notes that Defendant PACIFIC WINGS, LLC, by and
 26 through its successor for purposes of this action, WINGMEN V, LLC (“Defendant”) has agreed

1 to pay the entire Settlement Amount of \$1,300,000.00, plus the employer's share of payroll
2 taxes, to the Putative Class Members, Class Representative, Class Counsel, the Claims
3 Administrator, and the State of California Labor Workforce and Development Agency, in full
4 satisfaction of the claims as more specifically described in the Final Settlement Agreement;
5

6 It further appears to the Court, on a preliminary basis, that the settlement is fair and
7 reasonable to Putative Class Members when balanced against the probable outcome of further
8 litigation, liability and damages issues, and potential appeals of rulings. It further appears that
9 significant formal and informal discovery, investigation, research, and litigation has been
10 conducted such that counsel for the Parties at this time are able to reasonably evaluate their
11 respective positions. It further appears that settlement at this time will avoid substantial costs,
12 delay and risks that would be presented by the further prosecution of the litigation. It also
13 appears that the proposed Settlement has been reached as the result of intensive, informed and
14 non-collusive negotiations between the Parties;
15

16 3. The Court finds for the purposes of settlement only that: (i) the number of
17 individuals in the Settlement Class is so numerous that joinder would be impractical; (ii) there is
18 a commonality of interests between the Class Representative and the members of the Settlement
19 Class; (iii) there are questions of law and fact that are common to the Settlement Class, and the
20 common questions related to the settlement predominate over individual questions; (iv) the Class
21 Representative's claims are typical of the claims of absent members of the Settlement Class; and
22 (v) the Class Representatives will fairly and adequately represent the interests of the absent
23 members of the Settlement Class.
24

25 ACCORDINGLY, GOOD CAUSE APPEARING, THE MOTION FOR ORDER OF
26 PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENT IS HEREBY GRANTED.

1 4. The Court finds that the Notice of Proposed Class Action Settlement and
2 Allocation Form fully advises Putative Class Members of the proposed settlement, of
3 preliminary Court approval of the proposed Settlement, exclusion timing and procedures, dispute
4 resolution procedures, and of the Final Approval Hearing. These documents fairly and
5 adequately advise Putative Class Members of the terms of the proposed Settlement and the
6 benefits available to Putative Class Members thereunder, as well as their right to exclude
7 themselves from the Class and procedures for doing so, and of the Final Approval Hearing and
8 the right of Putative Class Members to file documentation in objection and to appear in
9 connection with said hearing; the Court further finds that said Notice clearly comports with all
10 constitutional requirements including those of due process;

11
12 ACCORDINGLY, GOOD CAUSE APPEARING, THE COURT HEREBY APPROVES
13 THE PROPOSED NOTICE OF PROPOSED CLASS ACTION SETTLEMENT.

14
15 5. The mailing to the present and last known addresses of the Putative Class
16 Members constitutes an effective method of notifying Putative Class Members of their rights
17 with respect to the Settlement; ACCORDINGLY, IT IS HEREBY ORDERED as follows:

18
19 (a) Within thirty (30) days, Defendant shall forward to the appointed Claims
20 Administrator, CPT Group, Inc., a database (in an electronic spreadsheet format) of all Putative
21 Class Members, including full names, last known addresses, telephone numbers, hire and
22 termination dates, and social security numbers ("Class Information"), during the Class Period
23 (September 20, 2009 through the date of this Order);

24 ///

25 ///

26 ///

1 (b) Within thirty (30) days, the Claims Administrator, CPT Group, Inc., shall mail to
2 each member of the Settlement Class, by first class, postage pre-paid, the Notice of Class Action
3 Settlement, written in both English and Spanish. All mailings shall be made to the present and/or
4 last known mailing address of the Putative Class Members based on Defendant's records, as well
5 as addresses that may be located by the Claims Administrator, who will conduct standard address
6 searches in cases of returned mail. The Court finds that the mailing of notices to Putative Class
7 Members as set forth in this paragraph is the best means practicable by which to reach Putative
8 Class Members and is reasonable and adequate pursuant to all constitutional and statutory
9 requirements including all due process requirements;

10
11 6. IT IS FURTHER ORDERED that all:

12
13 (a) Requests for Exclusion must be mailed to the Claims Administrator, postmarked
14 on or before the 45th day after the Notice Packet was mailed to the relevant Putative Class
15 Member, excepting Putative Class Members who had Notice Packets re-mailed, who shall have
16 until the 60th day after the Notice Packet was re-mailed to them;

17
18 (b) Objections must be filed with the Court as described in the Class Notice and also
19 served on Class Counsel and on Defense Counsel, postmarked on or before the 45th day after the
20 Notice Packet was mailed to the relevant Putative Class Member, excepting Putative Class
21 Members who had Notice Packets re-mailed, who shall have until the 60th day after the Notice
22 Packet was re-mailed to them

23
24 7. IT IS FURTHER ORDERED that the Final Approval Hearing shall be held before
25 the undersigned at 9:00 a.m., on February 2, 2017, at the above-entitled court located at 600 S.
26 Commonwealth Ave., Los Angeles, California 90005 to consider the fairness, adequacy and

1 reasonableness of the proposed Settlement preliminarily approved by this Order of Preliminary
2 Approval, and to consider the application of Class Counsel for an award of reasonable attorneys'
3 fees, litigation expenses, Class Representative Service Payment, and for costs of claims
4 administration incurred;

5
6 8. IT IS FURTHER ORDERED that all briefs in support of final approval of the
7 Settlement and for Award of Attorneys' Fees, Costs, Class Representative Service Awards, and
8 Putative Class Member Service Awards shall be served and filed with the Court by January 3,
9 2017.

10
11 9. IT IS FURTHER ORDERED that pending final determination of whether this
12 proposed Settlement should be granted final approval, no Putative Class Member, either directly
13 or representatively, or in any other capacity, shall commence or prosecute any action or
14 proceeding asserting any of the Putative Class Members' Released Claims, as defined in the
15 Settlement Agreement, against Defendant in any court or tribunal;

16
17 10. IT IS FURTHER ORDERED that any party to this case, including Putative Class
18 Members, may appear at the Final Approval Hearing in person or by counsel, and may be heard
19 to the extent allowed by the Court, in support of or in opposition to, the Court's determination of
20 the good faith, fairness, reasonableness and adequacy of the proposed Settlement, the requested
21 attorneys' fees and litigation expenses, and any Order of Final Approval and Judgment regarding
22 such Settlement, fees and expenses; provided, however, that no person, except Class Counsel and
23 counsel for Defendant, shall be heard in opposition to such matters unless such person has
24 complied with the conditions set forth in the Notice of Proposed Class Action Settlement which
25 conditions are incorporated therein;

26 ///

1 The Court expressly reserves the right to adjourn or continue the Final Approval Hearing
2 from time-to-time without further notice to the Putative Class Members.

3
4 **IT IS SO ORDERED.**

5 Dated: SEP 22 2016

KENNETH R. FREEMAN

THE HONORABLE KENNETH R. FREEMAN
JUDGE OF THE SUPERIOR COURT OF
CALIFORNIA, COUNTY OF LOS ANGELES

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