

**IN THE CIRCUIT COURT OF KNOX COUNTY, ILLINOIS
COUNTY DEPARTMENT, LAW DIVISION**

YEVONNE BATEY , individually and on behalf of all others similarly situated,	:	CASE NO.: 2023LA21
	:	
Plaintiff,	:	CLASS ACTION
	:	
v.	:	
	:	
NORTHLAND RESTAURANT GROUP, LLC d/b/a HARDEE'S ,	:	
	:	
Defendant.	:	
	:	

**[PROPOSED] AGREED ORDER PRELIMINARILY APPROVING CLASS ACTION
SETTLEMENT AND CERTIFYING THE SETTLEMENT CLASS**

Plaintiff Yevonne Batey and Defendant Northland Restaurant Group, LLC d/b/a Hardee’s (“Hardee’s” or “Defendant”) have agreed to settle this Action pursuant to the terms and conditions set forth in an executed Settlement Agreement and Release. The Parties reached the Settlement through arm’s-length negotiations by the Parties’ experienced counsel. Under the Settlement, subject to the terms and conditions therein and subject to Court approval, Plaintiff and the proposed Settlement Class will fully, finally, and forever resolve, discharge, and release their claims.

The Settlement has been filed with the Court, and Plaintiff and Class Counsel have filed an Agreed Motion for Preliminary Approval of Class Settlement. Upon considering the Motion, the Settlement and all exhibits thereto, the record in these proceedings, the representations and recommendations of counsel, and the requirements of law, the Court finds that: (1) this Court has jurisdiction over the subject matter and the Parties to this Action; (2) the proposed Settlement Class meets the requirements of 735 ILCS § 5/2-801 and should be certified for settlement purposes

only; (3) the persons and entities identified below should be appointed Class Representative and Class Counsel; (4) the Settlement is the result of informed, good-faith, arm's-length negotiations between the Parties and their capable and experienced counsel, and is not the result of collusion; (5) the Settlement is within the range of reasonableness and should be preliminarily approved; (6) the proposed Notice program and proposed forms of Notice satisfy 735 ILCS § 5/2-801 and constitutional due process requirements, and are reasonably calculated under the circumstances to apprise the Settlement Class of the pendency of the Action, class certification, the terms of the Settlement, Class Counsel's application for an award of attorneys' fees and expenses ("Fee Application") and request for Service Award for Plaintiff, and their rights to opt-out of the Settlement Class or object to the Settlement, Class Counsel's Fee Application, and/or the request for Service Award for Plaintiff; (7) good cause exists to schedule and conduct a Final Approval Hearing, to assist the Court in determining whether to grant Final Approval of the Settlement and enter the Final Approval Order, and whether to grant Class Counsel's Fee Application and request for Service Awards for Plaintiff; and (8) the other related matters pertinent to the Preliminary Approval of the Settlement should also be approved.

Based on the foregoing, **IT IS HEREBY ORDERED AND ADJUDGED** as follows:

1. As used in this Preliminary Approval Order, unless otherwise noted, capitalized terms shall have the definitions and meanings accorded to them in the Settlement.
2. The Court has jurisdiction over the subject matter and Parties to this proceeding.
3. Venue is proper in this Court.

Provisional Class Certification and Appointment of Class Representative and Class Counsel

4. The Court finds, for settlement purposes, that the 735 ILCS § 5/2-801 factors are present and that certification of the proposed Settlement Class is appropriate. The Court therefore

provisionally certifies the following Settlement Class.

All individuals who work or worked for Defendant in the State of Illinois and who used a finger scan timekeeping system without first executing a written consent in connection with their employment with Defendant from July 31, 2018 to present.

The Settlement Class excludes the following: (1) the trial judge presiding over this case; (2) Defendant, as well as any parent, subsidiary, affiliate, or control person of Defendant; (3) any of the Released Parties; (4) the immediate family of any such person(s); (5) any Settlement Class Member who has timely opted out of this proceeding; and (6) Plaintiff's Counsel, their employees, and their immediate family.

5. Specifically, the Court finds, for settlement purposes and conditioned on final certification of the proposed class and on the entry of the Final Approval Order, that the Settlement Class satisfies the following factors of 735 ILCS § 5/2-801:

(a) Numerosity: In the Action, approximately 416 individuals are members of the proposed Settlement Class. The proposed Settlement Class is thus so numerous that joinder of all members is impracticable.

(b) Commonality: “[C]ommonality requires the plaintiff to demonstrate that the class members ‘have suffered the same injury,’” and the plaintiff’s common contention “must be of such a nature that it is capable of classwide resolution – which means that determination of its truth or falsity will resolve an issue that is central to the validity of each one of the claims in one stroke. *Wal-Mart Stores, Inc. v. Dukes*, 131 S. Ct. 2541, 2551 (2011) (citation omitted). Here, the commonality requirement is satisfied. Multiple questions of law and fact centering on Defendant’s class-wide practices are common to the Plaintiff and the Settlement Class, are alleged to have injured all members of the Settlement Class in the same way, and would generate common answers central to the viability of the claims were this case to proceed to trial.

(c) Typicality: The Plaintiff's claims are typical of the Settlement Class because they concern the same alleged Defendant's practices, arise from the same legal theories, and allege the same types of harm and entitlement to relief.

(d) Adequacy: Adequacy relates to: (1) whether the proposed class representative has interests antagonistic to the class; and (2) whether the proposed class counsel has the competence to undertake the litigation at issue. Here, adequacy is satisfied because there are no conflicts of interest between the Plaintiff and the Settlement Class, and Plaintiff has retained competent counsel to represent them and the Settlement Class. Class Counsel regularly engage in consumer class litigation, complex litigation, and other litigation similar to this Action, and have brought substantial resources to the prosecution of the Action. Moreover, the Plaintiff and Class Counsel have vigorously and competently represented the Settlement Class in the Action.

(e) Predominance and Superiority: 735 ILCS § 5/2-801 is satisfied because the common legal and alleged factual issues here predominate over individualized issues, and resolution of the common issues for the members of the Settlement Class in a single, coordinated proceeding is superior to thousands of individual lawsuits addressing the same legal and factual issues. With respect to predominance, common questions present a significant aspect of the case and can be resolved for all members of the Settlement Class in a single adjudication. In a liability determination, those common issues would predominate over any issues that are unique to individual members of the Settlement Class. Moreover, each member of the Settlement Class has claims that arise from the same or similar alleged Defendant's practices as well as the same legal theories.

6. The Court appoints Plaintiff Yevonne Batey, as the Class Representative.

7. The Court appoints the following attorneys and firms as Class Counsel: Mark Hammervold of Hammervold Law, LLC and Rachel Dapeer of Dapeer Law, P.A.

8. The Court recognizes that Defendant reserves all of their defenses and objections against and rights to oppose any request for class certification in the event that the proposed Settlement does not become Final for any reason. Defendant also reserves its defenses to the merits of the claims asserted in the event the Settlement does not become Final for any reason.

Preliminary Approval of the Settlement

9. At the preliminary approval stage, the Court's task is to evaluate whether the Settlement is within the "range of reasonableness." 4 *Newberg on Class Actions* § 11.26. Settlement negotiations that involve arm's length, informed bargaining with the aid of experienced counsel support a preliminary finding of fairness. *See Manual for Complex Litigation*, Third, § 30.42 (West 1995) ("A presumption of fairness, adequacy, and reasonableness may attach to a class settlement reached in arm's-length negotiations between experienced, capable counsel after meaningful discovery.") (internal quotation marks omitted).

10. The Court preliminarily approves the Settlement, together with all exhibits thereto, as fair, reasonable, and adequate. The Court finds that the Settlement was reached in the absence of collusion, is the product of informed, good-faith, arm's-length negotiations between the Parties and their capable and experienced counsel. The Court further finds that the Settlement, including the exhibits thereto, is within the range of reasonableness and possible judicial approval, such that: (a) a presumption of fairness is appropriate for the purposes of preliminary settlement approval; and (b) it is appropriate to effectuate notice to the Settlement Class, as set forth below and in the Settlement, and schedule a Final Approval Hearing to assist the Court in determining whether to grant Final Approval to the Settlement and enter a Final

Approval Order.

Approval of Class Notice

11. The Court approves the form and content of the Class notices, substantially in the forms attached to the Settlement. The Court further finds that the Class Notice program described in the Settlement is the best practicable under the circumstances. The Class Notice program is reasonably calculated under the circumstances to inform the Settlement Class of the pendency of the Action, certification of a Settlement Class, the terms of the Settlement, Class Counsel's attorney's fees application and the request for Service Award for Plaintiff, and their rights to opt-out of the Settlement Class or object to the Settlement. The Class notices and Class Notice program constitute sufficient notice to all persons entitled to notice. The Class notices and Class Notice program satisfy all applicable requirements of law, including, but not limited to, 735 ILCS § 5/2-801 and the Constitutional requirement of Due Process.

12. KCC Class Action Services, LLC shall serve as the Administrator.

13. The Administrator shall implement the Class Notice program, as set forth below and in the Settlement, using the Class notices substantially in the forms attached to the Settlement and approved by this Preliminary Approval Order. Notice shall be provided to the members of the Settlement Class pursuant to the Class Notice program, as specified in the Settlement and approved by this Preliminary Approval Order. The Class Notice program shall include, to the extent necessary, mail and e-mail Notice, and the Long-Form Notice, as set forth in the Settlement and below.

14. Notice. The Administrator shall administer Notice as set forth in the Settlement which shall be commenced no later than 30 days following this Preliminary Approval Order.

15. Settlement Website and IVR. The Administrator shall establish a Settlement Website and an Interactive Voice Response (“IVR”) or similar system to answer questions about the Settlement as a means for Settlement Class members to obtain notice of, and information about, the Settlement. The Settlement Website and IVR shall be established as soon as practicable following Preliminary Approval, but no later than 30 days following this Preliminary Approval Order. The Settlement Website shall include the Settlement, the Long-Form Notice, the Preliminary Approval Order, and other such documents as Class Counsel and counsel for Defendant agrees to include. These documents shall remain on the Settlement Website, and the IVR say remain live, until at least 90 days following the payment of settlement claim payments.

16. The Administrator is directed to perform all substantive responsibilities with respect to effectuating the Class Notice program, as set forth in the Settlement.

Final Approval Hearing, Opt-Outs, and Objections

17. **A Final Approval Hearing shall be held before this Court on October 7, 2024 at 9:00 a.m. to determine whether to grant Final Approval to the Settlement and to enter a Final Approval Order, and whether Class Counsel’s Fee Application and request for Service Awards for the Class Representative should be granted.** The hearing will be in Courtroom 202 via Zoom. The Zoom information and links can be found at: <http://www.9thjudicial.org/zoomrooms.html>.

18. Any person within the Settlement Class who wishes to be excluded from the Settlement Class may exercise their right to opt-out of the Settlement Class by following the opt-out procedures set forth in the Settlement and in the Notices at any time during the Opt-Out Period.

To be valid and timely, opt-out requests must be received by all those listed in the Long-Form Notice on or before the last day of the Opt-out Period, which is 20 days before the Final Approval Hearing (“Opt-Out Deadline”), and mailed to the addresses indicated in the Long Form Notice.

19. Any Settlement Class Member may object to the Settlement, Class Counsel’s Fee Application, or the request for Service Awards for Plaintiff. Any such objections must be mailed to the Clerk of the Court, Class Counsel, and Defendant’s Counsel, at the addresses indicated in the Long-Form Notice. For an objection to be considered by the Court, the objection must be postmarked no later than 20 days before the Final Approval Hearing, as set forth in the Notice. To be valid, an objection must include the following information:

- 1) A heading that includes the case name and case number;
- 2) The Class Member’s full name, address, telephone number, and if represented by counsel, the name, address, and telephone number of counsel;
- 3) A statement of all objector’s objections to the Settlement including the legal and factual basis for each objection;
- 4) A statement of whether Class Member intends to appear at the Final Approval Hearing, either with or without counsel, and if with counsel, the name of counsel who will attend; and
- 5) A list of all persons who will be called to testify at the Final Approval Hearing in support of the objection.

The Class Member must file the objection with the Court (using the Court’s electronic filing system or in any manner in which the Court accepts filings).

Further Papers in Support of Settlement and Attorney’s Fee Application

20. Plaintiff and Class Counsel shall file their Motion for Final Approval of the Settlement, Fee Application and request for Service Awards for Plaintiff, no later than 30 days before the Final Approval Hearing.

21. Plaintiff and Class Counsel shall file their responses to timely filed objections to the Motion for Final Approval of the Settlement, the Fee Application and/or request Service Awards for Plaintiffs no later than 15 days before the Final Approval Hearing.

Effect of Failure to Approve Settlement

22. If the Settlement is not finally approved by the Court, or for any reason the Parties fail to obtain a Final Approval Order as contemplated in the Settlement, or the Settlement is terminated pursuant to its terms for any reason, then the following shall apply:

(a) All orders and findings entered in connection with the Settlement shall become null and void and have no further force and effect, shall not be used or referred to for any purpose whatsoever, and shall not be admissible or discoverable in any other proceeding;

(b) Nothing in this Preliminary Approval Order is, or may be construed as, any admission or concession by or against Defendant or Plaintiff on any point of fact or law; and

(c) Neither the Settlement terms nor any publicly disseminated information regarding the Settlement, including, without limitation, the Class Notice, court filings, orders and public statements, may be used as evidence. In addition, neither the fact of, nor any documents relating to, either Party's withdrawal from the Settlement, any failure of the Court to approve the Settlement and/or any objections or interventions may be used as evidence.

Stay/Bar of Other Proceedings

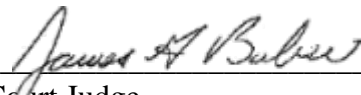
23. All proceedings in the Action are stayed until further order of the Court, except as may be necessary to implement the terms of the Settlement. Pending final determination of whether the Settlement should be approved, Plaintiff, all persons in the Settlement Class, and persons purporting to act on their behalf are enjoined from commencing or prosecuting (either directly, representatively or in any other capacity) against any of the Released Parties any action or proceeding in any court, arbitration forum or tribunal asserting any of the Released Claims.

24. The Case Management Conference previously set for July 10, 2024 at 9:30 am is hereby stricken.

25. Based on the foregoing, the Court sets the following schedule for the Final Approval Hearing and the actions which must take place before and after it:

<u>Event</u>	<u>Date</u>	<u>Timeline</u>
Deadline to Commence Notice	Aug. 1, 2024	30 days after Preliminary Approval Order
Deadline for filing Motion for Final Approval of the Settlement and Class Counsel's Fee Application and expenses, and for Service Awards	Sept. 8, 2024	30 days before the Final Approval Hearing
Deadline for opting-out of the Settlement and for submission of Objections	Sept. 17, 2024	20 days before the Final Approval Hearing
Deadline for Responses to Objections	Sept. 23, 2024	15 days before the Final Approval Hearing
Final Approval Hearing	Oct. 7, 2024, 9:00 am	

DONE and ORDERED at 7/8/2024, _____, this ____ day of _____, 20__.



 Circuit Court Judge

Copies furnished to: Counsel of Record

APPROVED FOR ENTRY:

s/ Mark Hammervold

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¹ Ms. Dapeer filed Rule 707 statement on May 21, 2024.