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FILED
ALAMEDA COUNTY
JUN 28 2017
CLERK OF THE SUPERIOR COURT
By yesrada Deputy

10
11 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
12 **COUNTY OF ALAMEDA**
13

14 NANCY STOUT, on behalf of herself and
all others similarly situated,

15 Plaintiff,

16 vs.

17 EINSTEIN NOAH RESTAURANT GROUP,
INC., a Delaware corporation doing business
18 in California; and DOES 1 through 10,
inclusive,

19 Defendants.
20

Case No.: RG15786192

CLASS ACTION

**[PROPOSED] ORDER GRANTING FINAL
APPROVAL OF CLASS ACTION
SETTLEMENT AND JUDGMENT**

Judge: Hon. George Hernandez, Jr.
Department: 17
Hearing: June 28, 2017
Time: 2:30 p.m.
Reservation No.: R-1829333

21
22 This matter has come before the Honorable George C. Hernandez, Jr. in Department 17 of the
23 above-entitled Court, on Plaintiff Nancy Stout's ("Plaintiff") Motion for Final Approval of Class
24 Action Settlement and Application for Attorneys' Fees, Costs, and Class Representative Enhancement
25 Award. The parties appeared through their counsel.
26

27 On February 22, 2017, the Court granted Plaintiff's Motion for Preliminary Approval of Class
28 Action Settlement and entered an Order Granting Preliminary Approval of Class Action Settlement

1 ("Preliminary Approval Order"), thereby preliminarily approving the settlement of the above-
2 captioned action in accordance with the parties' Stipulation of Resolution ("Settlement Agreement"),
3 which, together with the exhibits attached thereto, sets forth the terms and conditions for settlement
4 and dismissal of the action. Pursuant to the parties' Joint Stipulation to Amend Order Granting Motion
5 for Preliminary Approval of Class Action Settlement ("Joint Stipulation"), on March 24, 2017, the
6 Court entered an Order amending its previous Preliminary Approval Order and revising the
7 implementation schedule.

8 The entire matter of the proposed settlement having been duly noticed, and having been fully
9 considered by the Court, based upon the moving papers filed by Plaintiff, the accompanying
10 declarations and exhibits filed therewith, and all other papers and records filed in this action, the Court
11 finds as follows:

12 1. This Order hereby incorporates by reference the definitions in the Settlement
13 Agreement, and all terms used herein shall have the same meanings as set forth in that Settlement
14 Agreement.

15 2. The proposed settlement is the product of serious, informed, non-collusive negotiations,
16 has no obvious deficiencies, does not improperly grant preferential treatment to the class representative
17 or certain segments of the class, and is fair, reasonable, and adequate in all respects.

18 3. The Class Notice mailed to Class Members fully and accurately informed the Class of
19 all material elements of the proposed settlement and of their opportunity to object or to request
20 exclusion from the settlement; was the best notice practicable under the circumstances; was valid, due,
21 and sufficient notice to all Class Members; and complied fully with the California Code of Civil
22 Procedure, the United States Constitution, due process, and other applicable law. The Class Notice
23 fairly and adequately described the settlement and provided Class Members adequate instructions and
24 a variety of means to obtain additional information. A full opportunity has been afforded to Class
25 Members to participate in the Final Fairness and Approval Hearing.

26 4. / The Settlement Class is defined as all current and former non-exempt employees of
27 Defendant who worked at one or more of the company's retail store locations in California between
28 September 17, 2011 and February 22, 2017, with the exception of the following individuals who timely

1 requested exclusion from the settlement: Stacey Chavez, Emily Brunett, Tammy Matsuki, Aaron Yi,
2 and Erik McAnally.

3 5. No objections to the settlement have been made.

4 6. The \$58,500 allocated to the settlement administrator's estimated costs are reasonable
5 and shall be paid to the settlement administrator out of the Gross Settlement Amount.

6 7. The \$221,030.26 (one-third of the Gross Settlement Amount) allocated under the
7 Settlement Agreement for Class Counsel's award of attorneys' fees is warranted, fair, and reasonable.
8 Class Counsel capably represented the Class and negotiated a settlement well-received by Settlement
9 Class Members, and which has been approved by this Court. The Court recognizes Class Counsel's
10 diligent and vigorous representation of the Class throughout this litigation. The attorneys of Clark Law
11 Group and United Employees Law Group have spent hundreds of hours bringing this case to a
12 successful resolution, with no guarantee of payment for their services.

13 8. Class Counsel's litigation costs of \$12,112.07 are warranted, fair and reasonable, and
14 were necessary to the prosecution of this class action.

15 **IT IS HEREBY ORDERED that:**

16 1. This Court approves the Settlement Agreement.

17 2. This Court Orders payment of the settlement funds to be distributed in accordance with
18 the Settlement Agreement and the parties' Joint Stipulation as follows:

- 19 a. \$221,030.26 to Clark Law Group for Class Counsel's reasonable attorneys' fees,
20 with \$198,927.26 being distributed upon the Effective Date, and, as described
21 below, the remaining \$22,103 being held in trust by the settlement administrator
22 pending the Court's approval of a final compliance status report;
- 23 b. \$12,112.07 to Clark Law Group for Class Counsel's reasonable litigation costs
24 incurred during the prosecution of this class action;
- 25 c. \$58,500 to CPT Group, Inc. for costs incurred in the administration of this
26 settlement;
- 27 d. The remainder of the settlement funds are to be distributed to Settlement Class
28 Members in accordance with the terms of the Settlement Agreement; and

1 e. Any funds not deposited by Settlement Class Members within the timeframe
2 established by the Settlement Agreement shall be redistributed to the cy pres
3 beneficiary, Legal Aid at Work, as directed in the Court's February 22, 2017
4 Preliminary Approval Order.

5 3. With the exception of the following individuals, Stacey Chavez, Emily Brunett, Tammy
6 Matsuki, Aaron Yi, and Erik McAnally, who timely requested exclusion from the settlement, entry of
7 this Order Granting Final Approval of Class Action Settlement and Judgment ("Final Approval Order
8 and Judgment"), shall constitute a full and complete bar against Settlement Class Members as to all the
9 claims released by the Settlement Agreement.

10 4. Nothing contained in the Settlement Agreement, the Preliminary Approval Order, this
11 Final Approval Order and Judgment, or any other Order entered in this action shall constitute an
12 admission or determination of liability by or against Defendant, or any other Released Parties with
13 respect to any of the claims and causes of action asserted by the Settlement Class, and shall not be
14 offered in evidence in any action or proceeding against Defendant, or any other Released Parties in any
15 court, administrative agency, or other tribunal for any purpose whatsoever, other than to the extent
16 necessary to enforce the provisions of the Settlement Agreement or this Final Approval Order and
17 Judgment.

18 5. By operation of the entry of this Final Approval Order and Judgment, as of the Effective
19 Date, the parties, settlement administrator, and Settlement Class Members are ordered to perform their
20 respective duties and obligations under the Settlement Agreement.

21 6. If the settlement does not become final and effective in accord with the terms of the
22 Settlement Agreement, then this Final Approval Order and Judgment shall be rendered null and void
23 and shall be vacated and, in such event, all orders entered, including but not limited to all releases
24 delivered in connection herewith, shall be null and void.

25 7. This Court orders the settlement administrator to hold 10-percent (10%) of Class
26 Counsel's attorneys' fees award, or \$22,103, in its trust account, pending the submission and approval
27 of a final compliance status report after completion of the distribution process.

28 8. This Court orders that a Final Compliance Hearing be held on JAN. 30, 2018

1 at 2:30 (~~2:00~~/p.m.) in Department 17 of the above-entitled Court. Class Counsel shall file the
2 compliance status report at least five court days prior to the Final Compliance Hearing.

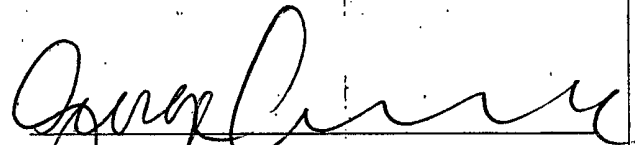
3 Now, therefore, **IT IS HEREBY ORDERED, ADJUDGED, AND DECREED THAT:**

4 1. Except as set forth above and in the Settlement Agreement, Plaintiff and Settlement
5 Class Members shall take nothing by their Complaint in this action; and

6 2. Pursuant to the Settlement Agreement and California Rule of Court 3.769(h), the Court
7 will retain jurisdiction over the parties to enforce the terms of this Final Approval Order and Judgment.

8 **IT IS SO ORDERED.**

9
10 Date: 6/28/2017


Hon. George C. Hernandez, Jr.
Alameda Superior Court Judge