

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

FILED
Superior Court of California
County of Sacramento
09/06/2024
V. Aleman, Deputy

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SACRAMENTO**

SHAUNTAY CANNON, individually
and on behalf of all others similarly
situated,

Plaintiffs,

vs.

AMS RESTAURANTS, LLC; and DOES
1 through 20, inclusive,

Defendants.

Case No. 34-2022-00330211

*Assigned for all purposes to:
Hon. Lauri A. Damrell,
Dept. 28*

**~~[PROPOSED]~~ ORDER GRANTING
PRELIMINARY APPROVAL OF CLASS
ACTION SETTLEMENT**

Date: September 6, 2024
Time: 9:00 a.m.
Dept: 28

Reservation No. A-330211-001

1 **RECITALS**

2 WHEREAS, the above-entitled action is pending before this Court as a putative class
3 action (the “Action”);

4 WHEREAS, on October 23, 2023, plaintiff Shauntay Cannon (the “Named Plaintiffs”),
5 individually and on behalf of the Class, and defendant AMS Restaurants, LLC (“Defendant”)
6 (collectively, the “Parties”) entered into a class action settlement, the terms and conditions of
7 which are set forth in the parties’ Class Action and PAGA Settlement Agreement. Thereafter,
8 on May 30, 2024, the Parties entered into an Amended Class Action and PAGA Settlement
9 Agreement (the “Settlement” or “Settlement Agreement”). Unless otherwise provided in this
10 Order, all capitalized terms shall have the same meaning as set forth in the Settlement Agreement.

11 WHEREAS, Plaintiff Shauntay Cannon (“Plaintiff”), individually and on behalf of all
12 current and former hourly paid or non-exempt employees in the State of California during the
13 Class Period (defined in ¶ 4 below), has applied to this Court for an order preliminarily approving
14 the settlement of the Action in accordance with the Settlement, which sets forth the terms and
15 conditions for a proposed settlement upon the terms and conditions set forth therein. (Plaintiff
16 and Defendant shall be collectively referred to herein as the “Parties”); and

17 WHEREAS, on February 2, 2024 and September 6, 2024, this Court reviewed Named
18 Plaintiff’s preliminary approval motion, the memorandum of points and authorities in support
19 thereof, the declarations in support thereof, the Settlement Agreement, and the proposed form of
20 Class Notice.

21 NOW, THEREFORE, IT IS HEREBY ORDERED, ADJUDGED, AND DECREED
22 THAT:

23 **A. ORDER PRELIMINARILY APPROVING CLASS SETTLEMENT**

24 1. This Order incorporates by reference the definitions in the Settlement attached as
25 Exhibit 1 to the Supplemental Declaration of Alexander G.L. Davies in Support of Plaintiff’s
26 Motion for Preliminary Approval of Class Action Settlement and all terms defined therein shall
27 have the same meaning in this Order.
28

2. It appears to the Court on a preliminary basis that (a) the Settlement is fair, adequate and reasonable; (b) the Gross Settlement Amount and Net Settlement Amount are fair, adequate and reasonable when balanced against the probable outcome of further litigation relating to liability and damages issues; (c) sufficient investigation and research have been conducted such that counsel for the Parties at this time are able to reasonably evaluate their respective positions; (d) settlement at this time will avoid additional costs by all Parties, as well as avoid the delay and risks that would be presented by the further prosecution of the Action; and (e) the Settlement has been reached as the result of non-collusive, arms-length negotiations.

3. With respect to the Class and for purposes of proceeding pursuant to California Code of Civil Procedure § 382 for approval of the Settlement only, the Court finds on a preliminary basis that (a) Class Members are ascertainable and so numerous that joinder of all Class Members is impracticable; (b) there are questions of law and fact common to the Class that predominate over any questions affecting only individual Class Members; (c) Plaintiff's claims are typical of the Class' claims; (d) class certification is a superior method for implementing the Settlement and adjudicating this Action in a fair and efficient manner; (e) the Class Representatives can fairly and adequately protect the Class' interests; and (f) Class Counsel are qualified to serve as counsel for the Class.

4. Accordingly, solely for purposes of effectuating this Settlement, this Court conditionally certifies the class for settlement purposes only. The Class Period is October 4, 2021 to April 19, 2024, or the date when 31,000 total Workweeks have accrued, whichever is earlier. The Class is defined as follows: "all persons currently or formerly employed by Defendant as an hourly paid or non-exempt employee in the State of California at any time during the Class Period, and who have not signed an arbitration agreement with Defendant."

5. Plaintiff Shauntay Cannon ("Named Plaintiff") is hereby preliminarily appointed and designated, for all purposes, as the class representative and the following attorneys are hereby preliminarily appointed and designated as counsel for the Class ("Class Counsel"): Samuel A. Wong, Kashif Haque, Jessica L. Campbell and Alexander G.L. Davies of the Aegis Law Firm, PC. Class Counsel is authorized to act on behalf of the Class Members with respect to all acts or

1 consents required by, or which may be given pursuant to, the Settlement, and such other acts
2 reasonably necessary to consummate the Settlement. Any Class Member may enter an appearance
3 either personally or through counsel of such individual's own choosing and at such individual's
4 own expense. Any Class Member who does not enter an appearance or appear on his or her own
5 will be represented by Class Counsel.

6 6. Should, for whatever reason, the Settlement not become final, the fact that the
7 Parties were willing to stipulate to certification of the Class as part of the Settlement shall have no
8 bearing on, nor be admissible in connection with, the issue of whether a class should be certified in
9 a non-settlement context.

10 7. The Court hereby approves the definition of the Gross Settlement Amount and Net
11 Settlement Amount, and the calculation of Class Member settlement payments, as set forth in the
12 Settlement.

13 8. At the final approval hearing, the Court will determine the amount of Class
14 Counsel's attorneys' fees and Class Counsel's litigation expenses.

15 9. The Court preliminarily approves the Enhancement Award to the Named Plaintiff
16 of up to \$10,000.00.

17 10. The Court hereby approves, as to form and content, the Class Notice attached as
18 Exhibit A, to be distributed to Class Members. The Court finds that distribution of the Class Notice,
19 substantially in the manner and form set forth in the Settlement and this Order, meets the
20 requirements of due process, is the best notice practicable under the circumstances, and shall
21 constitute due and sufficient notice to all persons entitled thereto.

22 11. The Court hereby appoints CPT Group, Inc., as Settlement Administrator and
23 hereby directs the Settlement Administrator to mail or cause to be mailed to Class Members the
24 Class Notice, by first class mail using the procedures set forth in the Settlement. Class Members
25 who wish to participate in the Settlement do not need to respond to the Class Notice.

26 12. All costs of mailing of the Notice of Settlement, whether foreseen or not, shall be
27 paid from the Gross Settlement Amount, including the cost of searching for Class Members'
28

addresses as provided in the Settlement and all other reasonable costs of the Settlement Administrator, up to \$14,500.00 as provided in the Settlement.

13. Schedule for any objections, requests for exclusion, or claims submission by class members:

- a. Not later than fifteen (15) days after the Court grants Preliminary Approval of the Agreement, or by Sept. 23, 2024 at 5:00 ~~a.m.~~/p.m., Defendant will deliver the Class Data to the Administrator, in the form of a Microsoft Excel spreadsheet.
- b. Using best efforts to perform as soon as possible, and in no event later than fourteen (14) calendar days after receiving the Class Data, or by October 7, 2024 at 5:00 ~~a.m.~~/p.m., the Administrator will send to all Class Members identified in the Class Data, via first-class United States Postal Service ("USPS") mail, the Class Notice, with Spanish translation, substantially in the form attached hereto as Exhibit A.
- c. Class Members who wish to exclude themselves (opt-out of) the Settlement Class must send the Administrator, by fax, email, or mail, a signed written Request for Exclusion not later than forty-five (45) calendar days after the Administrator mails the Class Notice, by November 21, 2024 at 5:00 ~~a.m.~~/p.m.
- d. A Participating Class Member who elects to send a written objection to the Administrator must do so not later than forty-five (45) calendar days after the Administrator's mailing of the Class Notice, by November 21, 2024 at 5:00 ~~a.m.~~/p.m.
- e. Class Members do not need to submit a claim to participate in the Settlement, but need to submit any workweek / pay period disputes in writing not later than forty-five (45) calendar days after the Administrator's mailing of the Class Notice, by November 21, 2024 at 5:00 ~~a.m.~~/p.m.
- f. The deadlines for Class Members' written objections, Challenges to Workweeks and/or Pay Periods, and Requests for Exclusion will be extended an additional

fourteen (14) days beyond the forty-five (45) days otherwise provided in the Class Notice for all Class Members whose notice is re-mailed.

14. Any Class Member may choose to opt-out of and be excluded from the Class as provided in the Class Notice by submitting a written Request for Exclusion to the Settlement Administrator within the time period described therein. Any such person who chooses to opt-out of and be excluded from the Class will not be entitled to any recovery under the Settlement and will not be bound by the Settlement or have any right to object, appeal or comment thereon. Class Members who have not requested exclusion or opted-out shall be Participating Class Members and bound by all determinations of the Court, the Settlement, and the Final Judgment.

15. A Final Fairness and Approval Hearing shall be held before this Court on ~~January 6, 2025 at 9:00 A.M.~~ [or on a later date that is convenient with the Court, on January 10, 2024 at 9:00 a.m./~~p.m.~~] in Department 22 of the above-entitled Court, located at 720 9th Street Sacramento, CA 95814, also known as the Gordon D. Schaber Sacramento County Courthouse. All papers in support of final approval and related awards for fees and costs must be filed and served at least 16 court days before the final approval hearing.

16. Any Participating Class Member may object to the Settlement by following the instructions for submitting objections that are set forth in the Settlement and Class Notice, and may appear at the Final Fairness and Approval Hearing. The Court shall retain final authority with respect to the consideration and admissibility of any objections. Any Participating Class Member who objects to the Settlement shall be bound by the order of the Court.

17. The Settlement is not a concession or admission, and shall not be used against Defendant or the other Released Parties, as an admission or indication with respect to any claim of any fault or omission by Defendant or the other Released Parties. Whether or not the Settlement is finally approved, neither the Settlement, nor any document, statement, proceeding or conduct related to the Settlement, nor any reports or accounts thereof, shall in any event be construed as, offered or admitted in evidence as, received as or deemed to be evidence of a presumption, concession, indication or admission by the Defendant or the other Released Parties of any liability,

1 fault, wrongdoing, omission, concession or damage in the Action, or in any other action or
2 proceeding, except for purposes of enforcing the Settlement once it receives final approval.

3 18. If, for any reason, the Court does not grant final approval of the Class Settlement,
4 all evidence and proceedings held in connection therewith will be without prejudice to the status
5 quo ante rights of the parties to the litigation as more specifically set forth in the Settlement
6 Agreement.

7 19. Jurisdiction is hereby retained over this Action, the Parties to the Action, and each
8 of the Class Members for all matters relating to this Action, and this Settlement, including
9 (without limitation) all matters relating to the administration, interpretation, effectuation, and/or
10 enforcement of this Settlement and this Order.

11 **B. ORDER PRELIMINARILY APPROVING THE PAGA SETTLEMENT**

12 20. The Court preliminarily approves the following representative group of employees
13 as governed by the PAGA Settlement:

14 All persons currently or formerly employed by Defendant as an hourly paid
15 or non-exempt employee in the State of California at any time during the
16 PAGA Period (October 4, 2021 to April 19, 2024, or the date when 31,000
17 total Workweeks have accrued, whichever is earlier), and who have not
18 signed an arbitration agreement with Defendant.

19 21. The Court grants preliminary approval of the PAGA Settlement pursuant to the
20 terms and conditions contained in the Settlement Agreement. The Court finds that the terms of the
21 PAGA Settlement are fair and reasonable and approves the PAGA Settlement pursuant to Labor
22 Code § 2699(l)(2).

23 22. At the Final Fairness and Approval Hearing set as provided in Paragraph 15 above,
24 the Court will determine whether to grant final approval of the PAGA Settlement.

25 23. Because a PAGA action is not a class action, Aggrieved Employees may not opt out
26 of, or object to, the PAGA Settlement.

27 * * * *

1 24. Pending the Final Approval and Fairness Hearing, all proceedings in this Action,
2 other than proceedings necessary to carry out or enforce the terms of the Settlement and this Order,
3 are hereby stayed.

4 25. The Court reserves the right to adjourn or continue the date of any hearing and all
5 dates provided for in the Settlement without further notice to Class Members, and retains
6 jurisdiction to consider all further applications arising out of or connected with the proposed
7 Settlement.

8
9 DATED: September 6, 2024



Honorable Lauri A. Damrell
Judge of the Superior Court

