

SEP 18 2024

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15 and on behalf of all others similarly situated

16
17 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
18 **FOR THE COUNTY OF SAN JOAQUIN**

19 YOLUNDRIA ROOKS, individually, and on
20 behalf of all others similarly situated,

21 Plaintiff,

22 v.

23 HOT CAKES RESTAURANT GROUP, INC.
24 DBA DENNY'S; and DOES 1 through 10,
25 inclusive,

26 Defendants.

Case No.: STK-CV-UOE-2022-0011056

*Consolidated with Case No. STK-CV-UOE-
2022-0008840*

*Assigned for all purposes to:
Hon. Robert T. Waters, Dept. 11B*

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

Date: **OCT 22 2024**
Time: 9:00 a.m.
Dept.: 11B

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

FILED BY FAX

1 **[PROPOSED] ORDER**

2 Having reviewed Plaintiff Yolundria Rooks' ("Plaintiff") Motion for Preliminary
3 Approval of Class Action Settlement ("Motion"), the Declaration of John G. Yslas, Plaintiff's
4 declaration, and the Class Action and PAGA Settlement Agreement and Class Notice
5 ("Settlement Agreement"), and good cause appearing, the Court finds and orders as follows:

6 1. The Court finds on a preliminary basis that the Settlement Agreement appears to
7 be fair, adequate, and reasonable and therefore meets the requirements for preliminary approval.
8 The Court grants preliminary approval of the Settlement and the Settlement Class based on the
9 terms set forth in the Settlement Agreement between Plaintiff and Defendant Hot Cakes
10 Restaurant Group, Inc. dba Denny's ("Defendant" or "Denny's"), attached to the Declaration of
11 John G. Yslas in Support of Plaintiff's Motion for Preliminary Approval of Class Action
12 Settlement as **Exhibit 1**.

13 2. The Settlement falls within the range of reasonableness of a settlement which
14 could ultimately be given final approval by this Court, and appears to be presumptively valid,
15 subject only to any objections that may be raised at the Final Approval Hearing and final
16 approval by this Court. The Court notes that Defendant has agreed to create a common fund of
17 \$240,000.00 to cover (a) settlement payments to Class Members who do not validly opt out; (b)
18 a \$10,000.00 allocation toward civil penalties under the Private Attorneys General Act, 75% of
19 which (\$7,500.00) will be paid to the State of California, Labor & Workforce Development
20 Agency and 25% of which (\$2,500.00) will be paid to eligible Aggrieved Employees; (c) Class
21 Representative service payment of up to \$10,000.00 to Plaintiff; (d) Class Counsel's attorneys'
22 fees, not to exceed 33 1/3% of the Gross Settlement Amount (i.e., \$80,000.00), and up to
23 \$20,000.00 in costs for actual litigation expenses incurred by Class Counsel; and (e) Settlement
24 Administration Costs of up to \$8,750.00.

25 3. The Court preliminarily finds that the terms of the Settlement appear to be within
26 the range of possible approval, pursuant to California Code of Civil Procedure § 382 and
27 applicable law. The Court finds on a preliminary basis that: (1) the Settlement amount is fair
28 and reasonable to the Class Members when balanced against the probable outcome of further

1 litigation relating to class certification, liability and damages issues, and potential appeals; (2)
2 significant informal discovery, investigation, research, and litigation have been conducted such
3 that counsel for the Parties at this time are able to reasonably evaluate their respective positions;
4 (3) settlement at this time will avoid substantial costs, delay, and risks that would be presented
5 by the further prosecution of the litigation; and (4) the proposed Settlement has been reached as
6 the result of intensive, serious, and non-collusive negotiations between the Parties with the
7 assistance of a well-respected class action mediator. Accordingly, the Court preliminarily finds
8 that the Settlement Agreement was entered into in good faith.

9 4. A final fairness hearing on the question of whether the proposed Settlement,
10 attorneys' fees and costs to Class Counsel, payment to the State of California, Labor &
11 Workforce Development Agency for its share of the settlement of claims for penalties under the
12 Private Attorneys General Act, and the class representatives' enhancement awards should be
13 finally approved as fair, reasonable and adequate as to the members of the Class is hereby set
14 in accordance with the Implementation Schedule set forth below.

15 5. The Court provisionally certifies for settlement purposes only the following class
16 (the "Class"): "all persons employed by Defendant in California and classified as hourly paid,
17 non-exempt workers who worked for Defendant during the Class Period."

18 6. "Class Period" means the period from November 30, 2018 through June 17, 2024.

19 7. The Court finds, for settlement purposes only, that the Settlement Class meets the
20 requirements for certification under California Code of Civil Procedure § 382 in that: (1) the
21 Settlement Class Members are so numerous that joinder is impractical; (2) there are questions
22 of law and fact that are common, or of general interest, to all Settlement Class Members, which
23 predominate over individual issues; (3) Plaintiff's claims are typical of the claims of the
24 Settlement Class Members; (4) Plaintiff and Class Counsel will fairly and adequately protect
25 the interests of the Settlement Class Members; and (5) a class action is superior to other
26 available methods for the fair and efficient adjudication of the controversy.

27 8. The Court appoints as Class Representative, for settlement purposes only,
28 Plaintiff. The Court further preliminarily approves Plaintiff's ability to request an incentive

award up to \$10,000.00.

9. The Court appoints, for settlement purposes only, John G. Yslas, Jeffrey C. Bils, Aram Boyadjian, and Andrew Sandoval of Wilshire Law Firm, PLC, as Class Counsel. The Court further preliminarily approves Class Counsel's ability to request attorneys' fees of up to one-third of the Gross Settlement Amount (i.e., \$80,000.00), and costs not to exceed \$20,000.00.

10. The Court appoints Phoenix Settlement Administrators, Inc. as the Settlement Administrator with reasonable administration costs estimated not to exceed \$8,750.00.

11. The Court approves, as to form and content the Class Notice, attached to the Settlement Agreement. The Court finds on a preliminary basis that plan for distribution of the Notice to Settlement Class Members satisfies due process, provides the best notice practicable under the circumstances, and shall constitute due and sufficient notice to all persons entitled thereto.

12. The Parties are ordered to carry out the Settlement according to the terms of the Settlement Agreement.

13. Any Class Member who does not timely and validly request exclusion from the Settlement may object to the Settlement Agreement.

14. The Court orders the following Implementation Schedule:

EVENT:	DEADLINE:
Defendant to provide Class List to the Settlement Administrator	November 8, 2024 (21 days after MPA hearing)
Settlement Administrator to mail the Notice Packets	November 22, 2024 (14 days after receipt of Class Data)
Class Member Response Deadline	January 21 2025 (60 days after mailing Notice to Class)
Class Member Deadline to Object	January 21, 2025 (60 days after mailing Notice to Class)

1 EVENT:	DEADLINE:
2 Deadline for Administrator to Submit 3 Declaration in Support of Motion for Final 4 Approval	February 5, 2025 – 14 days before the last day to file Plaintiff’s Motion for Final Approval, Request for Attorney’s Fees and Costs, and Service Awards to Plaintiff
6 Deadline to file Motion for Final Approval, 7 Request for Attorney’s Fees and Costs, and 8 Service Awards to Plaintiff	February 10, 2025 (16 court days before the calendared Final Approval Hearing)
9 Proposed Final Approval Hearing	March 5, 2025 at 9:00 a.m.

11 15. The Court further ORDERS that, pending further order of this Court, all
12 proceedings in this lawsuit, except those contemplated herein and in the settlement, are stayed.

13 **IT IS SO ORDERED.**

16 DATE:

Hon. Robert T. Waters
San Joaquin County Superior Court