

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

ALFREDO JOSE HUERTA,)
SEFERINO CARRILLO GOMEZ)
individually and on behalf of all)
similarly situated persons)
)
Plaintiffs,)
)
vs.)
)
SIMON K'S, LTD. D/B/A SIMON'S)
RESTAURANT, SIMON KRINGAS,)
CHRIST KRINGAS and)
KATHERINA IOANOU)
)
Defendants.)

No. 1:11-cv-06800

HONORABLE JEFFREY T. GILBERT

ORDER GRANTING FINAL APPROVAL OF SETTLEMENT,

AND NOW, on this 2nd day of July, 2013, the Parties having filed a Joint Motion for Preliminarily Approval of Class Action Settlement Agreement, a Settlement Agreement, Plaintiffs' Counsel's Motion for Attorneys' Fees and Costs, a Joint Motion for Final Approval of Class Action Settlement Agreement, and an Amended Joint Motion for Final Approval of Class Action Settlement; and the Court, having considered the Agreement as well as the testimony, evidence, and supporting papers during the fairness hearing held before the Court on June 5, 2013 and as continued to July 2, 2013; and the Court noting that no objections were filed to the Agreement; and the Court finding that there were no objections to the fee and cost petition of Plaintiffs' counsel; and the Court having considered the entire record and all relevant matters;

It is hereby **ORDERED**:

- On February 21, 2013, the Court entered its Preliminary Approval Order regarding the Class Action Settlement Agreement reached between the class of Plaintiffs and all Defendants in this case.
- In the Preliminary Approval Order, the Court approved the form of notice for the Class. The Court finds that notices were mailed to all class members for whom mailing addresses were available, posted at Defendants' restaurant, and published in Hoy newspaper. Two class members have opted-out of the settlement and no objections were filed or received.
- The Court finds that the notice provided to the Settlement Class Members has been given in an adequate and sufficient manner and that such notice constitutes the best notice practicable, satisfying the requirements of Section 216(b) of the FLSA, FRCP 23 and due process in all respects.
- The Court finds that the settlement is in the best interest of all parties and a fair, reasonable and adequate resolution of a bona fide dispute over FLSA provisions and state Illinois Minimum Wage Law and Illinois Wage Payment and Collection Act claims. The Court further concludes that the Class Action Settlement is the result of good faith, arms length negotiations. In coming to this conclusion, the Court has taken into consideration its mediation of the Parties' settlement negotiations, the strength of the Plaintiffs' case, the Defendants' ability to pay and Defendants' settlement offer, the risk, complexity, length and expense of litigation, the timing of the proposed settlement, the lack of opposition to the settlement among the Settlement Class, and the opinion of counsel for both parties.

- The Court grants final approval of the Class Action Settlement Agreement as amended. The Parties are required and directed to carry out all terms of the Class Action Settlement Agreement, as provided therein and as modified by agreement of the parties as set forth in the Amended Joint Motion for Final Approval. The Court further approves the following terms of settlement:

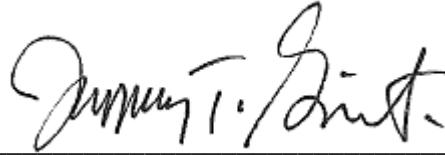
- The Settlement Class is certified pursuant to Federal Rule of Civil Procedure 23 and pursuant to Section 216(b) of the FLSA.
- Defendants must create a Settlement Fund in the amount of \$135,000.00 to be distributed as follows:
 - The approved Settlement Administrator, First Class Inc., has already received distribution of \$5,704.00, from the Settlement fund, for the costs of administration.
 - Each of the 88 members of the Settlement Class will receive an apportioned amount of the settlement fund, based on the following formula: \$12.27 a week for each week worked in the class period. Based upon the aforementioned formula, a total of \$56,785.56 from the settlement fund will be distributed among the class members.
 - Prairie State Legal Services (DuPage Branch) and DuPage Legal Assistance Foundation are approved as the recipients of \$10.44 (the settlement fund residue) plus any unclaimed funds (checks sent to class members that are not cleared within 120 days), and any funds remaining from the apportionment previously distributed to the Settlement Administrator, as cy pres recipients. Such funds shall be split evenly between the two cy pres recipients;

- Class Counsel's rates: \$525.00/hr. for Colleen McLaughlin; \$325.00/hr. for Elissa Hobfoll; \$125.00/hr. and \$160.00/hr. for Jacob Gilbert; and \$50.00/hr. and \$150.00/hr. for administrative and paralegal work are affirmed and an award of \$64,000.00 in attorney fees, expenses, and costs is granted to Class Counsel;
 - Named Plaintiff Alfredo Huerta will receive \$7,000.00 as an Enhancement Payment.
 - Named Plaintiff Seferino Carillo Gomez will receive \$1,500.00 as an Enhancement Payment.
- The Court directs the Defendants to prepare and deliver all settlement checks, including Settlement Class Member awards, Enhancement Payments, and Attorneys Fees, to the Settlement Administrator within 45 days of the entry of this Order, as agreed by the Parties and otherwise in accordance with the terms of the Class Action Settlement Agreement.
 - Parties shall arrange for distribution of the Settlement Funds in accordance with paragraph 7 of the Class Action Settlement Agreement.
 - After 120 days have passed since the distribution of the Settlement Fund, or at such sooner time as the Settlement Administrator determines all checks have been cashed or returned as undeliverable, Parties shall prepare an accounting of all Unclaimed Funds. Any unclaimed checks will be cancelled.
 - No later than 10 days after the accounting of all Unclaimed Funds has been made, Defendants will issue cy pres award checks to the Cy pres recipients and deliver to Class Counsel the cy pres award checks for distribution by Class Counsel..
 - Parties shall file a final accounting with the Court as to the Settlement Fund disbursements, inclusive of any monies paid to cy pres recipients, on or before December 31, 2013.

- Concurrent with or within 5 business days after the final accounting is submitted to the Court, Counsel for the Parties shall file an agreed motion requesting entry of final judgment, dismissing this case with prejudice.

SO ORDERED.

Dated: July 2, 2013

A handwritten signature in black ink, appearing to read "Jeffrey T. Gilbert", written in a cursive style.

MAGISTRATE JUDGE JEFFREY T. GILBERT