

**STATE OF MICHIGAN
IN THE WAYNE COUNTY CIRCUIT COURT**

THOMAS LUCA, JR., individually and on behalf of all others similarly situated,

Plaintiff,

vs.

HBF APU JV, LLC; HOJEIJ BRANDED FOODS, LLC, AP UNITED, LLC; and THE PARADIES SHOPS, LLC d/b/a PARADIES LAGARDERE TRAVEL RETAIL,

Defendants.

Case No. 21-010733-CZ

Hon. John A. Murphy

PRELIMINARY APPROVAL ORDER

This matter comes before the Court on Plaintiff's Unopposed Motion for Preliminary Approval of Class Action Settlement, Conditional Class Certification, and for Authorization of Class Notice (the "Motion"). The Court has considered the arguments and evidence in Plaintiff's Motion and, finding good cause and a reasonable basis therefor, **IT IS HEREBY ORDERED** that the Unopposed Motion for Preliminary Approval of Class Action Settlement filed by Plaintiff Thomas Luca, Jr. is **GRANTED** as follows:

1. The Settlement Agreement including the Detailed Class Notice, Summary Class Notice, Publication Notice and claim forms attached to the Settlement Agreement as Exhibits A through D (notices) and Exhibit H (claim form) are preliminarily approved.

2. The Class is provisionally certified as a class of all persons residing in the United States who made a credit or debit card purchase from the Gordon Biersch, Fountain Bar and/or Bigalora

Wood Fired Cucina restaurants located at the Detroit Metropolitan Wayne County Airport (“DTW”) on or after August 1, 2019 and prior to March 31, 2020, and received a printed receipt at the point of sale or transaction.

3. Defendants will notify Class Members of the settlement in the manner specified under Section 6.2 of the Settlement Agreement. Defendants will pay all costs associated with claims administration and providing notice to Class Members. No later than ten (10) calendar days before the filing date of Plaintiff’s application or motion in support of the Final Approval Order and Judgment, Defendants will provide Plaintiff with a declaration or declarations from the Claims Administrator confirming compliance with the terms of the Settlement Agreement and setting forth the number of Class Members who submitted valid claims.

4. The Claims Administrator shall make available an electronic copy of this preliminary approval Order in a prominent location on the Settlement Website. The Claims Administrator shall include a statement, in a prominent location on each Class Notice, informing class members that a copy of this Order is available on the Settlement Website.

5. Class Members who want to receive a voucher under the Settlement Agreement must accurately and completely fill out a Claim Form and submit it to the Claims Administrator electronically or by U.S. mail within 180 days after the first issuance of the Class Notices. Timeliness of a Claim Form shall be determined by the date postmarked by the postal service or other expedited delivery service, or, if submitted electronically through the Settlement Website, the date the Claims Administrator receives the Claim Form, as evidenced by the transmission receipt.

6. Class Members who have not submitted a timely written exclusion request pursuant to paragraph 8 below who want to object to the Settlement Agreement must file a written objection and/or a notice of intention to appear with the Court, and serve copies on Class Counsel and Defendants’ Counsel no later than 180 calendar days after the date of this Order. The Objection must:

(a) state the Settlement Class Member's full name, current, address and telephone number; (b) state that the Settlement Class Member objects to the Settlement, in whole or in part; and (c) set forth the legal and factual bases for the objection. Any Settlement Class Member who wishes to object and appear at the final approval hearing in person instead of submitting only written objections must include in the written objection a notice of intention to appear at the final approval hearing. Class Counsel is to respond to any Objections and file any additional materials in support of final approval no later than seven (7) days before the final approval hearing.

7. Class Members who fail to object to the Settlement Agreement will: (a) be deemed to have waived their right to object to the Settlement Agreement; (b) be foreclosed from objecting to the Settlement Agreement; and (c) not be entitled to speak at the Fairness Hearing.

8. Class Members who want to be excluded from the settlement must send a written request to the Claims Administrator postmarked on or before 180 days after the first issuance of the Class Notices. The written request must contain the excluded person's name and address and must be signed by the person requesting exclusion. A Class Member who desires to be excluded but who fails to comply with the opt-out procedure set forth herein shall not be excluded from the class. The Claims Administrator shall compile a list of all Class Members who timely send such a written request for exclusion and provide a copy of that list to the Clerk of the Court and to Class Counsel seven (7) days before the Final Settlement Hearing.

9. Plaintiff Luca is conditionally certified as the Class Representative to implement the Parties' settlement in accordance with the Settlement Agreement. Lynch Carpenter LLP is appointed as Class Counsel. Plaintiff and Class Counsel must fairly and adequately protect the Class's interests.

10. Nothing in this Order, the Settlement, or the Settlement Agreement, is or may be construed as, an admission or concession on any point of fact or law by or against any Party.

11. Final Approval Hearing. A Final Approval Hearing shall be held before this Court on July 22, 2022 at 9:00am. The Court will hold a hearing to determine whether the Settlement Agreement should be finally approved as fair, reasonable, and adequate. All papers supporting Final Approval of the Settlement Agreement must be filed no later than seven (7) calendar days before the Hearing. This court may order the Hearing to be postponed, adjourned, or continued. If that occurs, Defendants will not be required to provide additional notice to Class Members.

BY THE COURT:

/s/ John A. Murphy
12/22/2021

DATED: _____, 2021

MCR 2.119(D) Stipulation

Pursuant to MCR 2.119(D), Plaintiff's motion and entry of this Order are uncontested for settlement purposes, the parties have stipulated to the entry of the above Order and notice and hearing on entry of the above Order is waived.

/s/ Nick Suci III
Nick Suci III
Barbat Mancour & Suci PLLC
Kelly K. Iverson
Lynch Carpenter, LLP
Counsel for Plaintiff and the Proposed Class

/s/ Timothy J. Kramer
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