

  
CLERK OF THE COURT

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**DISTRICT COURT**

**CLARK COUNTY, NEVADA**

MONIQUE KENNEDY, on behalf of  
herself and all others similarly situated,

Plaintiff,

vs.

PORT OF SUBS, INC.; DOES 1 through  
50; inclusive,

Defendant(s).

Case No.: A-19-800823-C  
Dept.: XXIV

**ORDER GRANTING  
FINAL APPROVAL OF CLASS  
ACTION SETTLEMENT**

On September 20, 2022 at or around 9:00 a.m., this Court considered the Joint Motion for Final Approval of Class Action Settlement ("Motion") at hearing. Christian Gabroy and Kaine Messer, of Gabroy | Messer, appeared at the hearing on behalf of Plaintiffs, and Sydney R. Gambee, of Holland & Hart LLP, appeared on behalf of Defendant. Having fully considered the Motion, comments of counsel, the papers and pleadings on file, and all supporting legal authorities, the Court orders as follows:

IT IS HEREBY ORDERED THAT:

1           1.     The Court adopts the defined terms in the Joint Stipulation of Settlement  
2 and Release on file herein (the "Settlement" or the "Agreement").

3           2.     This Court has jurisdiction over the subject matter of this litigation and  
4 personal jurisdiction over the named-Plaintiff, all settlement class members, and  
5 Defendant.

6           3.     The Court confirms as final the following settlement class pursuant to  
7 Nev. R. Civ. P. 23: "all hourly paid non-exempt persons employed by Defendant in the  
8 state of Nevada who earned less than 1 ½ times the applicable minimum wage and  
9 who worked over eight (8) hours in a workday at any time from August 26, 2016 until  
10 June 22, 2022."<sup>1</sup>

11          4.     The Court confirms the appointment of Monique Kennedy as the Class  
12 Representative and the enhancement payment of \$15,000.00 to Monique Kennedy, as  
13 set forth in the Settlement.

14          5.     The Court confirms the appointment of Mark Thierman, Esq., Joshua  
15 Buck, Esq., and Leah Jones, Esq., of Thierman Buck LLP and Christian Gabroy, Esq.,  
16 and Kaine Messer, Esq., of Gabroy | Messer as class counsel for the settlement class  
17 and approves their requests for attorneys' fees of \$282,833.33 and actual litigation  
18 costs under NRS 18.005 of \$5,726.64, respectively.

19          6.     The class notice was distributed to class members, pursuant to this  
20 Court's orders, and fully satisfied the requirements of Nev. R. Civ. P. 23 and any other  
21 applicable law.

22          7.     Pursuant to Nev. R. Civ. P. 23, the Court grants final approval to this  
23 Settlement and finds that the settlement is fair, reasonable, and adequate in all  
24 respects, including the attorneys' fees, costs, and incentive award provisions. The  
25 Court specifically finds that the settlement confers a substantial benefit to settlement  
26 class members, considering the relative strength of plaintiff's claims and defendant's

27 \_\_\_\_\_  
28 <sup>1</sup> Excluding any and all persons who have already individually released claims against  
Defendant for the Released Matters, as defined in the Agreement.

1 defenses and the risk, expense, complexity, and duration of further litigation. The  
2 response of the class supports settlement approval. No class members objected to the  
3 settlement and none requested exclusion from the settlement. The Court further finds  
4 that the settlement is the result of arms'-length negotiations between experienced  
5 counsel representing the interests of both sides, which supports approval of the  
6 settlement in accordance with the standards set forth in the joint motion for final  
7 approval of settlement.

8 8. The Court finds that as of the date of this Order each and every class  
9 member has waived and released claims as set forth in the Settlement and Notice of  
10 Class Action Settlement (the "Notice").

11 9. The Court finds that the Claims Administrator ILYM Group, Inc. is entitled  
12 to \$15,000.00 for administrative fees.

13 10. The Court directs the parties to effectuate the settlement terms as set  
14 forth in the Agreement and the Order Granting Preliminary Approval of Class Action  
15 Settlement entered herein on June 22, 2022 ("Preliminary Approval Order").  
16 Consistent with the Agreement and Preliminary Approval Order, the Defendant shall  
17 fund the settlement account opened and maintained by the Claims Administrator with  
18 the appropriate amount no later than fourteen (14) calendar days following the later of  
19 the notice of entry of this order and the receipt by Defendant of the calculation of  
20 payroll tax from the Claims Administrator, and the Claims Administrator shall calculate  
21 and pay the claims of the class members in accordance with the terms set forth in the  
22 Agreement and Preliminary Approval Order.

23 11. The Complaint is dismissed with prejudice.

24 12. This Court hereby permanently enjoins Plaintiff and all Class Members  
25 who have not timely requested exclusion from the Settlement in accordance with the  
26 Agreement's terms from filing or prosecuting any claims, suits or administrative  
27 proceedings (including filing claims with the Nevada Office of the Labor Commissioner)  
28 regarding claims released by the Settlement.

13. The Court retains jurisdiction to enforce the terms of the settlement,  
including the payment of the settlement fund.

**IT IS SO ORDERED.**

Dated this 20th day of September, 2022



**1BB 13F 6EFA B709  
Erika Ballou  
District Court Judge**

Respectfully submitted by:

Approved as to form and content:

GABROY | MESSER

HOLLAND & HART LLP

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*Attorneys for Defendant*

*Attorneys for Plaintiff/  
Class Counsel*

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Kaine Messer <[kmesser@gabroy.com](mailto:kmesser@gabroy.com)>

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## Kennedy v. Port of Subs / Order Granting Final Approval of Class Action Settlement

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**Sydney R. Gambee** <[SRGambee@hollandhart.com](mailto:SRGambee@hollandhart.com)>

Tue, Sep 20, 2022 at 11:37 AM

To: Kaine Messer <[kmesser@gabroy.com](mailto:kmesser@gabroy.com)>

Cc: Steve Peek <[S.Peek@hollandhart.com](mailto:S.Peek@hollandhart.com)>, Josh Buck <[josh@thiermanbuck.com](mailto:josh@thiermanbuck.com)>, Christian Gabroy <[christian@gabroy.com](mailto:christian@gabroy.com)>, Araceli <[Araceli@thiermanbuck.com](mailto:Araceli@thiermanbuck.com)>, Gabroy Law Assistant <[assistant@gabroy.com](mailto:assistant@gabroy.com)>, Gabroy Law <[clerk@gabroy.com](mailto:clerk@gabroy.com)>, Jillian Parker <[gm.attache@gabroy.com](mailto:gm.attache@gabroy.com)>

Hi Kaine,

Attached are our minor revisions, both in tracked changes and clean copy. If you agree with these revisions, please feel free to add my e-signature and submit.

Thank you,

Sydney

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**Sydney R. Gambee**

Associate, Holland & Hart LLP

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**From:** Kaine Messer <[kmesser@gabroy.com](mailto:kmesser@gabroy.com)>

**Sent:** Tuesday, September 20, 2022 10:40 AM

**To:** Sydney R. Gambee <[SRGambee@hollandhart.com](mailto:SRGambee@hollandhart.com)>

**Cc:** Steve Peek <[S.Peek@hollandhart.com](mailto:S.Peek@hollandhart.com)>; Josh Buck <[josh@thiermanbuck.com](mailto:josh@thiermanbuck.com)>; Christian Gabroy <[christian@gabroy.com](mailto:christian@gabroy.com)>; Araceli <[Araceli@thiermanbuck.com](mailto:Araceli@thiermanbuck.com)>; Gabroy Law Assistant <[assistant@gabroy.com](mailto:assistant@gabroy.com)>; Gabroy Law <[clerk@gabroy.com](mailto:clerk@gabroy.com)>; Jillian Parker <[gm.attache@gabroy.com](mailto:gm.attache@gabroy.com)>

**Subject:** Kennedy v. Port of Subs / Order Granting Final Approval of Class Action Settlement

External Email

Sydney,

Pursuant to the Court's ruling this morning, attached please find the updated Order Granting Final Approval of Class Action Settlement. Please kindly confirm if we may add your e-signature and submit.

Thank you,

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**2 attachments**



**22-09-20 Final Approval Order HH revisions[19861887v3].DOC**  
67K



**22-09-20 Final Approval Order HH clean[19861887v4].DOC**  
64K

1 **CSERV**

2  
3 DISTRICT COURT  
4 CLARK COUNTY, NEVADA

5  
6 Monique Kennedy, Plaintiff(s) CASE NO: A-19-800823-C  
7 vs. DEPT. NO. Department 24  
8 Port of Subs, Inc., Defendant(s)  
9

10 **AUTOMATED CERTIFICATE OF SERVICE**

11 This automated certificate of service was generated by the Eighth Judicial District  
12 Court. The foregoing Order was served via the court's electronic eFile system to all  
13 recipients registered for e-Service on the above entitled case as listed below:

14 Service Date: 9/20/2022

15 Valerie Larsen	vllarsen@hollandhart.com
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