

**DISTRICT COURT
CLARK COUNTY, NEVADA**

LONDON AARON, on behalf of herself and all others similarly situated,

Plaintiff,

vs.

WENDY'S OF LAS VEGAS, INC., an Ohio corporation; CEDAR ENTERPRISES, INC., an Ohio Corporation; NCR CORPORATION, a Maryland corporation; RADIANT SYSTEMS, INC., a Georgia corporation; and DOES 1 through 100, Inclusive,

Defendants.

WENDY'S OF LAS VEGAS, INC., an Ohio corporation; CEDAR ENTERPRISES, INC., an Ohio corporation,

Cross-Claimants,

vs.

NCR CORPORATION, a Maryland corporation; RADIANT SYSTEMS, INC., a Georgia corporation; ROE CORPORATIONS I through X, inclusive,

Cross-Defendants.

Case No. A-18-774902-C

Dept. XI

ORDER

(1) CONDITIONALLY CERTIFYING SETTLEMENT CLASS;

(2) PRELIMINARILY APPROVING THE CLASS SETTLEMENT;

(3) APPOINTING CLASS REPRESENTATIVES AND CLASS COUNSEL;

(4) APPROVING CLASS NOTICES AND RELATED MATERIALS;

(5) APPOINTING SETTLEMENT ADMINISTRATOR; AND

(6) SCHEDULING FINAL APPROVAL HEARING.

On January 14, 2020, a hearing was held on the joint motion of Plaintiff LONDON AARON ("Plaintiff") and Defendants WENDY'S OF LAS VEGAS, INC., and CEDAR ENTERPRISES, INC., (collectively "Defendants"), for certification of a settlement class in this action, preliminary approval of the parties' proposed settlement, approval of the notices to be sent to the class about the settlement and related forms, appointing a settlement administrator (the "Settlement Administrator"), and the setting of a date for the hearing on final approval of the settlement.

Having read and considered the papers on the motion, the arguments of counsel, and the law, and good cause appearing therefor, the Court orders as follows:

1 **IT IS ORDERED:**

2 1. The Court has jurisdiction over this action and the parties' proposed settlement
3 under Article 6, section 6, of the Nevada Constitution and NRS 4.370(1), as Plaintiff has alleged
4 an amount in controversy in excess of \$15,000.

5 2. The proposed settlement class satisfies the requirements of a class action
6 settlement under Rule 23 of the Nevada Rules of Civil Procedure because (a) the settlement class
7 is so numerous that joinder of all class members in the action would be impracticable; (b) there
8 are questions of law and fact common to the settlement class members; (c) Plaintiff's claims are
9 typical of the claims belonging to the settlement class members; (d) Plaintiff will fairly and
10 adequately protect the interests of the settlement class members; (e) questions of law and fact
11 predominate over any questions affecting individual settlement class members; and (d) a class
12 action is superior to other available methods for the fair and efficient adjudication of the
13 controversy.

14 3. The following class of persons are certified in this action solely for the purposes of
15 the Settlement:

16 All persons who worked for Defendant WENDY'S OF LAS VEGAS in
17 the state of Nevada as an hourly paid, non-exempt employee paid less than
18 \$12.38 per hour ("Covered Position") at any time from May 22, 2015,
through March 13, 2017 ("Covered Period").

19 4. The parties' Settlement Agreement (the "Settlement") (Declaration of Leah L.
20 Jones, Ex. 1) is granted preliminary approval as it meets the criteria for preliminary settlement
21 approval. The Settlement falls within the range of possible approval as fair, adequate, and
22 reasonable, and appears to be the product of arm's-length and informed negotiations, and to treat
23 all Class Members fairly.

24 5. The parties' proposed notice plan, with class notices revised per the Court's
25 instructions, is constitutionally sound because individual notices will be mailed to all Class
26 Members whose identities are known to the parties, and such notice is the best notice practicable.
27 The parties' proposed (i) Notice of Proposed Settlement of Class Action, Conditional
28 Certification of Settlement Class, Preliminary Approval of Settlement, and Hearing Date for Final

1 Court Approval, and (ii) proposed Claim Form (*id.*, Exhibits. A and B) (the “Class Notice
2 Packets”) are sufficient to inform members of the Class of the terms of the Settlement, their rights
3 under the Settlement, their rights to object to the settlement, their right to receive a proportionate
4 Settlement Share or to opt out and not to participate in the Settlement, and the processes for doing
5 so, and the date and location of the final approval hearing, and therefore are approved.

6 6. Any member of the settlement class who submits a timely claim form within 30
7 days after the date the Settlement Administrator mails the Notice Packet, up through and
8 including March 16, 2020, will receive a Settlement Share.

9 7. Those members of the Class who wish to comment on, object to, or opt out of the
10 Settlement have until 30 days after the mailing of the Class Notice Packets, up through and
11 including March 16, 2020, to submit their comments, objections, or opt-out notices pursuant to
12 the procedures set forth in those packets.

13 8. Simpluris is appointed to act as the Settlement Administrator, pursuant to the terms
14 set forth in the Settlement.

15 9. Plaintiff London Aaron is appointed Class Representative.

16 10. Mark R. Thierman, Joshua D. Buck, and Leah L. Jones of Thierman Buck, LLP,
17 and Christian Gabroy and Kaine Messer of Gabroy Law Offices, are appointed Class Counsel.

18 11. The Class Notice Packet will be disseminated according to the notice plan
19 described in the Settlement Agreement and substantially in the form submitted by the parties.
20 Proof of distribution of notice will be filed by the parties at or prior to the final approval hearing.

21 12. Defendants are directed to provide to the Settlement Administrator as soon as
22 possible using best efforts, and in no event later than 10 business days after the date of entry of
23 this order, the Class Data as specified by the Settlement Agreement and Plaintiff’s Class Counsel
24 shall provide to the Settlement Administrator any and all information regarding current addresses
25 of Class Members.

26 13. The Settlement Administrator is directed to mail the approved Class Notice Packet
27 by first-class mail to members of the class as soon as possible using best efforts, and in no event
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1 later than 10 business days after receipt of the Class Data from Defendants.

2 14. A final hearing will be held on April 16, 2020, at 9:00 a.m., to determine whether
3 the Settlement should be granted final approval as fair, reasonable, and adequate as to the
4 settlement class members. The Court will hear all evidence and argument necessary to evaluate
5 the Settlement and will consider Plaintiffs' Motion for Final Approval of the Settlement,
6 Settlement Administrator's Fees and Expenses, Class Representative Payments, and Class
7 Counsel's Attorneys' Fees and Costs. Settlement class members and their counsel may support or
8 oppose the Settlement and the Motion for Final Approval of the Settlement, Settlement
9 Administrator's Fees and Expenses, Class Representative Payments, and Class Counsel's
10 Attorneys' Fees and Costs. if they so desire, as set forth in the Class Notice Packets; settlement
11 class members may comment on the Settlement and Plaintiff's Motion for Final Approval of the
12 Settlement, Settlement Administrator's Fees and Expenses, Class Representative Payments, and
13 Class Counsel's Attorneys' Fees and Costs.

14 15. Any settlement class member may appear at the final approval hearing in person or
15 by his or her own attorney, and show cause why the Court should not approve the Settlement, or
16 object to Plaintiff's Motion for Final Approval of the Settlement, Settlement Administrator's Fees
17 and Expenses, Class Representative Payments, and Class Counsel's Attorneys' Fees and Costs.
18 For any comments or objections to be considered at the hearing, the settlement class member
19 must file written objections and/or comments with the Clerk of Court indicating briefly the nature
20 of his/her comments, support or objection, and mailed to Class Counsel, not later than 30 days
21 from the date of mailing of the Notice packets, that is, up through and including March 16, 2020.

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