

The Honorable Bryan Chushcoff

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON  
IN AND FOR THE COUNTY OF PIERCE

BAILEY O. STEBBINS, individually and on  
behalf of all those similarly situated,

Plaintiff,

vs.

BIGHORN FIVE GUYS ACQUISITIONS,  
LLC, a foreign limited liability company,

Defendant.

No. 23-2-06950-7

~~PROPOSED~~ ORDER  
CONDITIONALLY CERTIFYING  
SETTLEMENT CLASS, GRANTING  
PRELIMINARY APPROVAL OF CLASS  
ACTION SETTLEMENT,  
AUTHORIZING NOTICE, AND  
SETTING FINAL FAIRNESS HEARING  
  
(CLERK'S ACTION REQUIRED)

This matter came before the Court on Plaintiff's Motion for Conditional Settlement Class Certification and Preliminary Approval of Class Action Settlement ("Plaintiff's Motion"). In conjunction with Plaintiff's Motion, Plaintiff has filed a copy of the Parties' signed Settlement Agreement, attached as Exhibit 1 to the Declaration of James B. Pizl in support of Plaintiff's Motion.

WHEREAS, the Court has considered Plaintiff's Motion, the Parties' signed Settlement Agreement, and all of the other pleadings, papers, and filings herein;

WHEREAS, as used herein, all terms defined in the Parties' Settlement Agreement shall have the same meaning here; and

WHEREAS, good cause appearing that the Parties' Settlement Agreement is within the range of reasonableness and is presumptively valid,

1           1.       NOW, THEREFORE, IT IS HEREBY ORDERED as follows:

2           Pursuant to Washington Superior Court Civil Rule 23(a) and (b)(3), and in conjunction  
3 with the Settlement Agreement, the Court hereby certifies this case as a class action, solely for  
4 purposes of implementing the Parties' Settlement Agreement, on behalf of the following proposed  
5 Settlement Class:

6                     All individuals employed by Bighorn Five Guys Acquisitions, LLC as  
7 restaurant workers paid on an hourly basis in Washington State at any time  
8 between November 22, 2021 and December 15, 2023.

9           The Settlement Class shall exclude any persons who opt out of the Settlement Class in accordance  
10 with the terms of the Settlement Agreement and Paragraph 17 of this Order.

11           2.       The Court finds that the prerequisites of CR 23(a) and (b)(3) have been satisfied for  
12 the Settlement Class for the purpose of settlement only. Specifically, the Court finds as follows:

13           a.       The Settlement Class, which consists of approximately 650 individuals, is  
14 so numerous that joinder of all members is impracticable. In reaching this conclusion, the  
15 Court has considered not just the number of Settlement Class Members, but the interests  
16 of judicial efficiency, the relatively small value of many Settlement Class Member claims,  
17 and other factors relevant to the interest and ability of employees to individually join or  
18 bring claims against a current or former employer.

19           b.       There are questions of law and fact common to the Settlement Class for  
20 settlement purposes, including, but not limited to: whether Defendant provided rest breaks  
21 and meal periods in compliance with Washington law; and whether Defendant  
22 compensated Settlement Class Members with additional wages if and when rest breaks and  
23 meal periods were not provided in compliance with Washington law.

24           c.       The claims of the Named Plaintiff are typical of the claims of the Settlement  
25 Class, and the Named Plaintiff and Class Counsel will fairly and adequately protect the  
26 interests of the Settlement Class, for settlement purposes.

1           d.       Certification of a Settlement Class under CR 23(b)(3) is appropriate for  
2 settlement purposes because questions of law and fact common to all Settlement Class  
3 Members predominate over any questions affecting only individual members, and a class  
4 action is superior to other available means for the fair and efficient resolution of this  
5 controversy. Such common questions of law and fact include, but are not limited to those  
6 identified in subparagraph (b) above.

7           3.       Pursuant to CR 23, Named Plaintiff Bailey O. Stebbins is hereby appointed and  
8 designated, for all purposes, as the Class Representatives of the Settlement Class, and James B.  
9 Pizl and Entente Law PLLC are hereby appointed and designated as Class Counsel for the  
10 Settlement Class.

11           4.       Class Counsel is authorized to act on behalf of the Settlement Class with respect to  
12 all acts or consents required by or which may be required pursuant to the Settlement Agreement.

13           5.       The Court preliminarily approves the Parties' Settlement Agreement as fair,  
14 reasonable, and adequate. This approval is preliminary and is subject to modification at the time  
15 of final settlement approval upon a showing of appropriate cause.

16           6.       The Court finds that a Settlement Guardian ad Litem is not necessary for Settlement  
17 Class Members who are minors under SPR 98.16W(c) given the appointment of Class Counsel.

18           7.       The Court approves the proposed form, content, and distribution method of the  
19 Notice of Settlement ("Notice") that is attached as Exhibit A to the Settlement Agreement.

20           8.       The Court hereby appoints CPT Group Class Action Administrators as Settlement  
21 Administrator responsible for establishing a Qualified Settlement Fund ("QSF") pursuant to IRC  
22 § 468B(g), mailing Notices and settlement awards to Settlement Class Members, processing any  
23 opt-outs or objections, calculating and paying taxes to the appropriate entities, and processing and  
24 filing all appropriate tax forms and documents.

25           9.       Consistent with the terms of the Settlement Agreement, the Settlement  
26 Administrator is hereby directed to mail, or cause to be mailed, by first-class mail, a copy of the

1 Notice to each Settlement Class Member or the parent or guardian of Settlement Class Members  
2 who are minors at the time of the mailing no later than twenty-one (21) calendar days following  
3 the date of this Order.

4 10. Pursuant to CR 23, the Court hereby finds and concludes that the form and manner  
5 of giving notice by mailing the Notice to each individual Settlement Class Member or the parent  
6 or guardian of Settlement Class Members who are minors at the time of the mailing, as required  
7 by the Settlement Agreement and by this Order, is the best notice practicable under the  
8 circumstances. Said notice procedures fully satisfy the requirements of CR 23(c)(2) and CR 23(e)  
9 and the requirements of due process.

10 11. The Court preliminarily approves Settlement Class Counsel's request for an  
11 attorneys' fees award of \$90,000 or 30% of the Maximum Settlement Amount, plus actual  
12 litigation costs of up to \$8,000 to be paid from the Maximum Settlement Amount. This approval  
13 is preliminary and is subject to modification at the time of final settlement approval upon a showing  
14 of appropriate cause.

15 12. The Court preliminarily approves up to \$14,000 to be paid from the Maximum  
16 Settlement Amount to compensate CPT Group Class Action Administrators for its services  
17 provided in the administration of the settlement. This approval is preliminary and is subject to  
18 modification at the time of final settlement approval upon a showing of appropriate cause.

19 13. The Court preliminarily approves a Service Award of \$7,500 to Bailey Stebbins in  
20 recognition of his role in this case and service to the Settlement Class. This approval is preliminary  
21 and is subject to modification at the time of final settlement approval.

22 14. The Court preliminarily approves an award of \$7,500.00 to Bailey Stebbins for the  
23 full release of his known and unknown claims with Defendant. This approval is preliminary and  
24 is subject to modification at the time of final settlement approval.

25 15. On April 19, 2024, at 9:00 a.m., a Final Settlement Approval Hearing shall be held  
26 before the Honorable Bryan Chushcoff at the Pierce County Superior Court in Tacoma,

1 Washington, to determine whether the Court should approve the fairness, adequacy, and  
2 reasonableness of the terms and conditions of the Settlement Agreement and whether the Court  
3 should enter the Parties' proposed Final Order and Judgment.

4 16. Pursuant to Pierce County Local Court Rules, Plaintiff shall file memoranda or  
5 other papers they may wish to submit in support of the proposed Settlement Agreement no later  
6 than seven (7) court days before the Final Settlement Approval Hearing. The memoranda shall  
7 confirm that the mailing of the Notice was completed in accordance with the requirements of this  
8 Order, provide information concerning the individuals that have opted out of the settlement and  
9 any objections received, and address any applicable information under SPR 98.16W(e) with  
10 respect to Settlement Class Members who are minors. A draft copy of these pleadings shall be  
11 provided to Defendant at least 5 days before filing.

12 17. Any person who is eligible to exclude him or herself from the Settlement Class  
13 under the terms of the Settlement Agreement must do so by following the instructions for  
14 requesting exclusion as set forth in the Notice. All requests for exclusion from the Settlement  
15 Class must be postmarked to the Settlement Administrator no later than forty-five (45) days after  
16 the date of mailing of the Notice, in accordance with the instructions in the Notice and the terms  
17 and requirements of the Settlement Agreement, or they shall be deemed void and ineffective.  
18 Settlement Class Members who do not exclude themselves from the settlement will be bound by  
19 any final judgment and the release as set forth in the parties' Settlement Agreement and the Notice.

20 18. Any Settlement Class Member may enter an appearance through counsel of such  
21 Settlement Class Member's own choosing and at such Settlement Class Member's own expense.  
22 Any Settlement Class Member who does not personally appear or otherwise enter an appearance  
23 at the Final Settlement Approval Hearing shall be deemed to be represented by Class Counsel in  
24 this litigation as provided above.

25 19. Any Settlement Class Member who has not validly requested exclusion may submit  
26 written objections to the Settlement Agreement by mailing to the Settlement Administrator, at the

1 address provided in the Notice, a written statement in accordance with the instructions in the Notice  
2 containing the substance of his or her objection (including any briefs and supporting papers) no  
3 later than forty-five (45) days after the date of mailing of the Notice. Any Settlement Class Member  
4 who presents written objections in the manner prescribed above and who provides a Notice of  
5 Intention to Appear may also appear personally or through counsel at the Final Settlement  
6 Approval Hearing to express the Settlement Class Member's views regarding the Settlement  
7 Agreement. Only Settlement Class Members who object to the Settlement Agreement in  
8 accordance with the procedures set forth in this Order and the Notice, shall be permitted to appeal  
9 or otherwise seek review of any decision approving the Settlement Agreement. Any Settlement  
10 Class Member who does not make his or her objection in the manner provided for herein shall be  
11 deemed to have waived such objection and shall forever be foreclosed from making any objection  
12 (by appeal or otherwise) to the proposed settlement.

13 20. Pending this Court's ruling on final approval of the Settlement Agreement, the  
14 Named Plaintiff and all Settlement Class Members, and any person or entity allegedly acting on  
15 behalf of Settlement Class Members, either directly, representatively or in any other capacity, are  
16 enjoined from filing or prosecuting any claims, suits or administrative proceedings regarding  
17 claims released in the Settlement Agreement. This injunction is necessary to protect and effectuate  
18 the settlement, this Order, and the Court's flexibility and authority to effectuate this settlement and  
19 to enter judgment when appropriate, and is ordered in aid of the Court's jurisdiction and to protect  
20 its judgments.

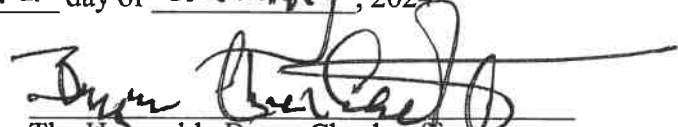
21 21. The Final Settlement Approval Hearing, and all dates provided for herein, may,  
22 without further notice to the Settlement Class, be continued or adjourned by order of this Court.


23 22. Consistent with the Settlement Agreement, neither this Order, nor the fact or  
24 substance of the Settlement Agreement, shall be considered a concession or admission, nor shall  
25 they be used as evidence in any proceeding for the purpose of establishing Defendant's liability or  
26 wrongdoing.

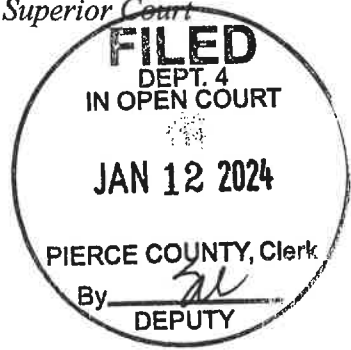
1           23. This action shall be stayed pending further proceedings in connection with the  
2 effectuation of the settlement, except such actions and proceedings that may be necessary to  
3 implement the settlement and this Order. Counsel for the Parties are hereby authorized to utilize  
4 all reasonable and mutually agreed procedures in connection with the administration of the  
5 settlement which are not materially inconsistent with either this Order or the terms of the  
6 Settlement Agreement.

7           24. In the event the Settlement Agreement does not become effective in accordance  
8 with the terms of the Settlement Agreement, or the Settlement Agreement is not finally approved,  
9 or the Settlement Agreement is terminated, canceled, or fails to become effective for any reason,  
10 this Order shall be vacated and rendered null and void; the Parties shall be returned to the status  
11 quo ex ante, for all litigation purposes, as if no settlement had been negotiated or entered into; the  
12 Settlement Class shall be decertified, and all claims and defenses previously asserted by the Parties  
13 shall be reinstated and the Court shall enter further appropriate orders governing the proceedings  
14 and establishing a revised case schedule in this matter.

15                           IT IS SO ORDERED this 12<sup>th</sup> day of January, 2024

16  
17   
18 The Honorable Bryan Chushcoff  
19 Judge, Pierce County Superior Court

19 Presented by:  
20 ENTENTE LAW PLLC  
21 /s/ James B. Pizl   
22 James B. Pizl, WSBA #28969  
23 Justin O. Abbasi, WSBA #53582  
24 Ari M. Robbins Greene, WSBA #54201  
25 Attorneys for Plaintiff

26  


1 Copy Received; Approved as to Form;  
2 Notice of Presentation Waived:

3 LITTLER MENDELSON P.C.

4 */s/ Breanne Martell*

5 

---

Breanne Martell, WSBA #39632

Brian Rho, WSBA #51209

6 *Attorneys for Defendant*

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26