

STATE OF NORTH CAROLINA

IN THE GENERAL COURT OF JUSTICE

SUPERIOR COURT DIVISION

COUNTY OF GUILFORD

FILED

CASE NO. 21-CVS-4489

VICKI POWERS and MATTHEW
WATKINS,

2022 APR 18 A 10:35

Plaintiffs,

GUILFORD CO., C.S.C

BY TW

v.

HOSPITALITY VENTURES)
MANAGEMENT, LLC, HOSPITALITY)
VENTURES MANAGEMENT –)
GREENSBORO, LLC, HOSPITALITY)
VENTURES MANAGEMENT –)
WINSTON-SALEM I, LLC,)
HOSPITALITY VENTURES)
MANAGEMENT – WINSTON-SALEM)
II, LLC, HOSPITALITY VENTURES)
MANAGEMENT – BENTON, LLC, HC)
GREENSBORO VENTURES, LLC, HV-)
WINSTON SALEM I, LLC, WH)
WINSTON CHERRY, LLC, PM)
MEETING VENUE, LLC,)

Defendants.

**ORDER GRANTING PLAINTIFFS’ MOTION FOR PRELIMINARY APPROVAL
OF CLASS ACTION SETTLEMENT, CERTIFYING CLASSES FOR PURPOSE
OF SETTLEMENT, DIRECTING NOTICE TO THE CLASSES, AND
SCHEDULING FAIRNESS HEARING**

WHEREAS, Plaintiffs Vicki Powers and Matthew Watkins, individually and on behalf of all others similarly situated, have reached a settlement (the “Settlement”) with Defendants Hospitality Ventures Management, LLC (“HVMG”), Hospitality Ventures Management – Greensboro, LLC (“HVMG-G”), Hospitality Ventures Management – Winston-Salem I, LLC (“HVMG-WS I”), Hospitality Ventures Management – Winston-Salem II, LLC (“HVMG-WS II”), Hospitality Ventures Management – Benton, LLC (“HVMG-B”), HV Greensboro Ventures, LLC

("HV Greensboro"), HV Winston-Salem I, LLC ("HV Winston-Salem"), SH Winston Cherry, LLC ("SH Winston Cherry"), and PM Meeting Venue, LLC ("PM Meeting Venue") (collectively "Defendants"); and

WHEREAS the Settlement Agreement sets forth terms and conditions of a proposed class action settlement and Plaintiffs have moved, pursuant to North Carolina Rule of Civil Procedure 23, for an order seeking preliminary approval of a class action settlement, certifying the Settlement Classes, appointing Class Counsel and Class Representative, approving class notice, and scheduling a final fairness hearing;

IT IS ORDERED that the motion is GRANTED, subject to the following terms and conditions:

Class Certification for Settlement Purposes Only:

1. The proposed Settlement Agreement submitted with the Motion is preliminarily approved as being within the range of possible final approval;

2. Based upon the submissions of the parties, and for purposes of this settlement only, the Court conditionally makes the following findings:

- a. The members of the Classes defined in the Settlement Agreement are so numerous as to make joinder impracticable;
- b. There are questions of law and fact common to the Classes, and such questions predominate over any questions affecting only individual Class Members;
- c. Plaintiffs' claims are typical of the claims of the Class Members;
- d. Plaintiffs and their counsel can fairly and adequately protect, and have thus far have fairly and adequately protected, the interests of the Class Members in this action; and
- e. A class action is superior to other available methods for fairly and efficiently resolving the controversy placed at issue in this Action.

3. Accordingly, for settlement purposes only, pursuant to North Carolina Rule of Civil Procedure 23, the Court provisionally certifies the following class ("Settlement Classes"):

PTO Settlement Class: All persons who (a) were employed or jointly employed by Defendants, or one of them, at the Greensboro-High Point Marriott, Winston-Salem Marriott, Winston-Salem Embassy Suites, and/or Benton Convention Center, (b) whose employment ended between March 15, 2020 and April 12, 2021, the date of the original filing of the Complaint in this action, and were not reemployed by Defendants as of the date of this Settlement Agreement, (c) had accrued PTO under Defendants' policies, (d) were eligible for payment of accrued PTO at the time of separation of employment under Defendants' policies, and (e) allegedly were not paid for their earned PTO hours upon separation of their employment.

4. Excluded from the Settlement Classes are (1) persons who are employees, directors, officers, and agents of Defendants; (2) persons who timely and properly exclude themselves from the Settlement Class as provided herein; (3) anyone who has previously executed a written release of all claims against Defendants related to allegedly uncompensated PTO and would otherwise be a member of the Settlement Class; and (4) the Court, the Court's immediate family, and Court staff.

Class Counsel and Class Representative

5. Karl S. Gwaltney of Maginnis Howard and Robert Willis of the Law Office of Robert J. Willis, P.A. are appointed as Class Counsel.

6. Plaintiffs Vicki Powers and Matthew Watkins are appointed as the representatives of the Settlement Classes.

Preliminary Approval

7. The Settlement Agreement is preliminarily approved as describing a settlement that is within the range of settlements that the Court would find to be fair, reasonable, and adequate.

8. The Court's preliminary approval is subject to the right of any Class Member to challenge the Settlement and to show cause, if any exists, why a Final Order and Judgment dismissing the Action based on the Settlement should not be entered, after due and adequate notice has been provided to the Classes and a fairness hearing has been held as otherwise ordered herein.

9. The Court finds that the Settlement resulted from arm's-length negotiations, extensive investigation, and motions practice, and that the proposed settlement is sufficiently fair and reasonable so as to warrant notice thereof to the Settlement Class, and to warrant a hearing concerning the settlement and the terms set forth in the Settlement Agreement.

Fairness Hearing

10. A hearing (the "Fairness Hearing") shall be held before this Court on June 27, 2022 at the Guilford County Courthouse, Courtroom 3G, 201 S. Eugene Street, Greensboro, North Carolina 27401, to determine whether (a) the Settlement Classes provisionally certified herein in fact satisfy each of the prerequisites for class certification set forth in North Carolina Rule of Civil Procedure 23; (b) the settlement proposal described in the Settlement Agreement is fair, reasonable, and adequate; (c) orders granting final approval of the Settlement, entering final judgment and dismissing Plaintiffs' Complaint, as provided in the Settlement Agreement, should be entered; and (d) the applications of Class Counsel for the payment of attorneys' fees, costs, and expense and Plaintiffs' service award should be approved.

11. At the Fairness Hearing, the Court will consider any objections presented by the Settlement Class members and the parties' responses to any such objections.

Pre-Hearing Notice

12. The Court approves, as to form and content the Claim Form, the Long Form Notice, the Postcard Notices, and Summary Email Notices (Exhibits A-C to the Settlement Agreement) and finds that the emailing, mailing, and distribution of the notices meet the requirements of Rule 23 of the North Carolina Rules of Civil Procedure and due process, and is the best notice practicable under the circumstances.

13. The Notice Period must commence within fifteen (15) calendar days after the entry of this Preliminary Approval Order and should be substantially complete no later than forty-five (45)

days after the entry of this Preliminary Approval Order via electronic mail, first-class mail, an Internet website, and a toll-free number as set forth in the Settlement Agreement.

Requests for Exclusion From Class

14. Any Class Member who wishes to be excluded from the proposed settlement must send a written request for exclusion to the Claims Administrator, in care of the post office box rented for that purpose, no later than fifteen (15) days prior to the Final Approval Hearing.

15. Requests for exclusion must contain the following:

- a. the Class Member's name, address and telephone number;
- b. a statement by the Class Member that he/she wants to be excluded from the Class;
- c. the name and docket number of this Action; and
- d. the Class Member's original signature.

16. Any Class Member who does not send a timely written request for exclusion meeting the conditions described in the foregoing paragraph shall be bound by the final settlement and by all subsequent proceedings, orders and judgments in this Action, even if such person has pending or subsequently initiates litigation or other proceedings against any Released Parties relating to matters or the claims released in this Action.

Objections to Settlement

17. Any Settlement Class Member who does not file a timely written request for exclusion may object, as described in this Order, to the fairness, reasonableness, or adequacy of the Settlement. However, Class Members may not seek to exclude themselves from the Settlement Classes *and* file an objection to the proposed settlement.

18. Any member of the Settlement Classes who wishes to object to any aspect of the settlement must deliver to Class Counsel and Defendant's Counsel, and file with the Court, no later

than fifteen (15) days prior to the Final Approval Hearing. Written objections must include: (i) the objector's name, address, and telephone number; (ii) the name of this Action and the case number; (iii) a statement of each objection; (iv) proof of class membership, and (v) a written brief detailing the specific basis for each objection, including any legal and factual support the objector wishes to bring to the Court's attention and any evidence the objector wishes to introduce in support of the objection.

19. Class Members may raise an objection either on their own or through an attorney hired at their own expense. If the objection is made through an attorney, the written objection must also include: (1) the identity and number of the Settlement Class members represented by objector's counsel; (2) the number of such represented Settlement Class members who have opted out of the Settlement Class; and (3) the number of such represented Settlement Class members who have remained in the Settlement Class and have not objected. If the attorney intends to seek fees and expenses from anyone other than the objectors he or she represents, the attorney shall also file with the Court and serve upon Class Counsel and Defense Counsel the following: (1) the amount of fees sought by the attorney for representing the objector and the factual and legal justification for the fees being sought; (2) a statement regarding whether the fees being sought were calculated on the basis of a lodestar, contingency, or other method; (3) the number of hours already spent by the attorney and an estimate of the hours to be spent in the future; and (4) the attorney's hourly rate.

20. Any Class Member who fails to comply with the provisions of the subsections concerning objections shall waive and forfeit any and all rights he or she may have to appear separately and/or object, and shall be bound by all the terms of the settlement and by all proceedings, orders, and judgments in this Action.

Retention of Administrator

21. The Court authorizes CPT Group to administer certain aspects of the settlement, including providing notice to the Classes; establishing and maintaining the Settlement Website; receiving and maintaining correspondence regarding requests for exclusion, intervention, and objections to the settlement; responding to inquiries from Settlement Class members received through the Settlement Website, or by first-class mail or by telephone; and assisting Defendants' Counsel and Class Counsel with other aspects of the settlement as necessary and directed by Counsel.

22. CPT Group will also serve as the Claims Administrator.

23. The Claims Administrator shall perform the following duties: (a) prepare the Notice Plan; (b) disseminate the Notice of Class Settlement; (c) process claim forms and opt-out forms; (d) receive and serve on Class Counsel, Defendant's Counsel, and the Court any written objections and opt-out requests; determine the amounts of the awards due to eligible Settlement Class members in accord with the terms and procedures set forth herein; (e) report, in summary or narrative form, to Class Counsel and Defendant's Counsel regarding the completion of the tasks identified in this paragraph; (f) issue other reports and provide any and all files, documents, and data related to the Settlement Agreement, upon request, to Defendant's Counsel, or Class Counsel; (g) carry out other related tasks in accordance with the terms of the Settlement Agreement; and (h) agree to employ their best efforts to faithfully and fully perform any and all obligations and duties imposed on the Claims Administrator pursuant to the Settlement Agreement and its exhibits and amendments (if any).

Effect of Final Approval

24. If the settlement proposed by the Parties is finally approved, the Court shall enter a separate order approving the settlement, entering judgment and dismissing, with prejudice, the Class Action Complaint.


25. Such order and judgment shall be fully binding with respect to all Settlement Class Members and shall release Defendants and the Released Persons, as defined in the Settlement Agreement, from any and all claims or causes of action that are based upon, arise from or are related to, directly or indirectly, the Released Class Claims.

Schedule

26. The following deadlines shall apply unless modified by further order of the Court:
- a. Notices in the form of the Exhibits to the Settlement Agreement shall be sent to Class Members via first class mail and electronic mail, as provided in the Settlement, within 14 days after entry of this Order, on or before May 2, 2022.
 - b. The Notices shall be made available through the Settlement Website no later than the date the first Class Notice is sent by e-mail.
 - c. The notice period shall run until June 2, 2022.
 - d. Any notices to appear at the Final Approval hearing shall be filed on or before June 10, 2022.
 - e. Any exclusions and objections to the Settlement shall be submitted on or before June 10, 2022.
 - f. The Fairness Hearing shall be held at 10 AM on June 27, 2022 at the Guilford County Courthouse, Courtroom 3G, 201 S. Eugene Street, Greensboro, North Carolina 27401.
 - g. The parties shall file and serve papers in support of final approval of the settlement, including any responses to proper and timely objections filed thereto, by June 20, 2022.

- h. Class Counsel shall file with this Court their petition for an award of attorneys' fees and reimbursement of expenses and request for service awards to the Plaintiffs no later than on June 20, 2022.

IT IS SO ORDERED this 18th day of April, 2022.



Superior Court Judge Presiding *B.A. M. G.*