

Illoldi v. Koi NY LLC

United States District Court for the Southern District of New York

October 7, 2016, Decided; October 7, 2016, Filed

Case No: 1:15-cv-6838 (VEC)

Reporter

2016 U.S. Dist. LEXIS 140685

EDUARDO ILLOLDI and JACLYN SILVER, on behalf of themselves and all others similarly situated, Plaintiffs, - against- KOI NY LLC d/b/a KOI RESTAURANT and KOI NY DOWNTOWN LLC d/b/a KOI SOHO, Defendants.

Core Terms

settlement, reconsideration, awards, named plaintiff, set forth, attorney's, certifies, purposes, amounts, parties, costs, meets, days

Counsel: [*1] For Eduardo Illoldi on behalf of himself and all others similarly situated, Plaintiff: Armando Aguirre Ortiz, Brian Scott Schaffer, Fitapelli & Schaffer LLP, New York, NY USA.

For Francisco Corte, Samuel Lopez, Cesar Aldana, Celerino Jeronimo Amaro, Jaclyn Silver, Jose Rafael Martinez, Paola Montero, Juan Caba, Edwin Marini, Daniel Nunez, Sofia Rakell Castillo, Alan Ipanaque, Bonnie Hudson, Plaintiffs: Brian Scott Schaffer, LEAD ATTORNEY, Fitapelli & Schaffer LLP, New York, NY USA.

For Koi NY Llc doing business as Koi Restaurant, Koi NY Downtown Llc doing business as Koi SoHo, Defendants: Nicholas Joseph Fortuna, LEAD ATTORNEY, Allyn & Fortuna, LLP, New York, NY; Paula Lopez, Allyn & Fortuna, LLP, New York, NY USA.

Judges: Hon. Valerie E. Caproni, United States District Judge.

Opinion by: Valerie E. Caproni

Opinion

FINAL JUDGMENT AND ORDER GRANTING PLAINTIFFS' MOTION FOR FINAL APPROVAL OF CLASS ACTION SETTLEMENT

Having considered Plaintiffs' Motion for Final Approval of

Class Action Settlement, the supporting memorandum of law and the Declaration of Brian S. Schaffer and exhibits thereto, the oral arguments presented at the October 7, 2016 Fairness Hearing; and the complete record in this matter, for the reasons set [*2] forth therein and stated on the record at the Fairness Hearing and for good cause shown,

IT IS HEREBY ORDERED, ADJUDGED AND DECREED, THAT:

1. This Order incorporates by reference the definitions in the parties' Settlement Agreement and Release (the "Settlement Agreement") dated May 20, 2016.

2. This Court approves the settlement and all terms set forth in the Settlement Agreement and finds that the settlement is, in all respects, fair, reasonable, adequate, and not a product of collusion. See [Fed. R. Civ. P. 23\(e\)](#); [Sukhnandan v. Royal Health Care of Long Island LLC, No. 12 Civ. 4216 \(RLE\), 2014 U.S. Dist. LEXIS 105596, 2014 WL 3778173, at *4 \(S.D.N.Y. July 31, 2014\)](#).

3. The Court certifies the following class under [Fed. R. Civ. P. 23\(e\)](#) (the "Class") for settlement purposes:

All persons who work or have worked as servers, bussers, runners, bartenders, barbacks, and all other employees who worked similar positions and were paid at the tip credit minimum wage at Koi Restaurant located at 40 West 40th Street, New York, New York 10018 and/or Koi SoHo located at 246 Spring Street, New York, New York 10013 between August 28, 2009 and April 7, 2016;

4. For the purposes of settlement, the Court finds that the Class meets the requirements for class certification under [Fed. R. Civ. P. 23\(a\)](#) and [\(b\)\(3\)](#).

5. In addition, Plaintiffs' counsel meets the adequacy requirement of [Rule 23\(a\)\(4\)](#) and the Court certifies Plaintiffs' counsel [*3] as Class Counsel, and the named Plaintiffs as Class Representatives.

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6. The Court finds reasonable the service awards for the Named Plaintiffs in the amounts of \$15,000 to Eduardo Illoldi and \$15,000 to Jaclyn Silver in recognition of the services they rendered on behalf of the Class. The amounts shall be paid from the settlement fund.
7. The Court grants Class Counsel's request for \$266,666.67, which is 33.3% of the settlement, and reimbursement of \$4,743.32 in costs and expenses reasonably expended litigating and resolving the lawsuit. The fee award is justified by the work that Class Counsel did negotiating the settlement and conducting the litigation, the ultimate recovery, and the risk that Class Counsel undertook in bringing the claims.
8. If no party seeks reconsideration or rehearing of this Order, the "Effective Date" of the settlement will be 30 days after the Order is entered.
9. If rehearing or reconsideration of this Order is sought, the "Effective Date" of the Settlement will be after any and all avenues of rehearing or reconsideration is permitted, and the time for seeking such review has expired, and the Judgment and rulings on service awards and attorneys' fees and reasonable [*4] costs have not been modified, amended or reversed in any way.
10. Within two (2) calendar days after the Effective Date, the Claims Administrator will disburse settlement checks to Class Members, Court-approved attorney's fees and costs, and Court-approved service awards.
11. The Court will retain jurisdiction over the interpretation and implementation of the Settlement Agreement.
12. The parties shall abide by all terms of the Settlement Agreement.
- It is so ORDERED this 7th day of October, 2016.
- /s/ Valerie E. Caproni
- Hon. Valerie E. Caproni, United States District Judge