

IN THE CIRCUIT COURT OF THE NINETEENTH JUDICIAL CIRCUIT
LAKE COUNTY, ILLINOIS

FILED

MAR 26 2021

BRENNA STRUCK and TYLER JONES,
*individually and on behalf of all others similarly
situated,*

Plaintiffs,

v.

WOODMAN'S FOOD MARKET,

Defendant.

Case No. 2021-CH-00000053

Eric Cantagut Weinstein
CIRCUIT CLERK

PRELIMINARY APPROVAL ORDER

This matter having come before the Court on Plaintiff's Motion for and Memorandum in Support of Preliminary Approval of Class Action Settlement of the above-captioned matter (the "Action") between Plaintiffs Brenna Struck and Tyler Jones ("Plaintiffs") and Woodman's Food Market, Inc. ("Defendant" or "Woodman's"), as set forth in the Class Action Settlement Agreement (the "Settlement Agreement"), and the Court having duly considered the papers and arguments of counsel, the Court hereby finds and orders as follows:

1. Unless defined herein, all capitalized terms in this Order shall have the meanings ascribed to them in the Settlement Agreement.
2. The Court has conducted a preliminary evaluation of the settlement set forth in the Settlement Agreement. Based on this preliminary evaluation, the Court finds that the Settlement Agreement meets all applicable requirements of Section 2-801 of the Illinois Code of Civil Procedure for settlement purposes only, including that the Settlement Class is sufficiently numerous that joinder of all members is impracticable, that there are questions of law and fact common to members of the Settlement Class that predominate, that the representative parties will

fairly and adequately protect the interests of the Settlement Class, and that class treatment is an appropriate method for the fair and efficient adjudication of the controversy.

3. The Court further finds that: (i) there is a good cause to believe that the settlement is fair, reasonable, and adequate; (ii) the Settlement Agreement has been negotiated at arm's length between experienced attorneys familiar with the legal and factual issues of this case; and (iii) the settlement warrants Notice of its material terms to the Settlement Class for its consideration and reaction.

4. Pursuant to Section 2-801 of the Illinois Code of Civil Procedure, and for settlement purposes only, the Court certifies the following Settlement Class, consisting of:

All current and former employees of Defendant who used a finger scanner time clock at a facility owned or operated by Defendant in the State of Illinois between March 10, 2015 and the date of Preliminary Approval without first being provided BIPA disclosures and executing written consent.

Excluded from the Settlement Class are (a) persons who executed a settlement agreement and release with Defendant releasing and/or waiving their BIPA claims; (b) any Judge presiding over this action and members of their families; (c) Defendant, Defendant's subsidiaries, parent companies, successors, predecessors, and any entity in which Defendant or its parents have a controlling interest; (d) persons who properly execute and file a timely request for exclusion from the Settlement Class; and (e) the legal representatives, successors, heirs or assignees of any such excluded persons.

5. For settlement purposes only, the Court hereby approves the appointment of Plaintiffs Brenna Struck and Tyler Jones as Class Representatives for the Settlement Class.

6. For settlement purposes only, the Court hereby approves the appointment of the following attorneys as Class Counsel and finds that they are competent and capable of exercising the responsibilities of Class Counsel:

Gary M. Klinger
Mason Lietz & Klinger LLP
227 W. Monroe Street, Suite 2100
Chicago, IL 60606
(202) 429-2290
gklinger@masonllp.com

7. On June 25, 2021 at 9:15 a.m. in Room C407 or at such other date and time later set by Court Order, this Court will hold a Final Approval Hearing on the fairness, adequacy, and reasonableness of the Settlement Agreement, and to determine whether to grant: (a) final approval of the Settlement Agreement; (b) Class Counsel's application for a Fee Award; and (c) a service award to the Class Representatives. No later than two weeks prior to the Objection/Exclusion deadline, Plaintiffs must file their papers in support of Class Counsel's application for fees, costs, and a service awards, and no later than June 11, 2021 Plaintiffs must file their papers in support of final approval of the Settlement Agreement, which shall include a response to any objections.

8. Pursuant to the Settlement Agreement, KCC Class Action Services, LLC is hereby appointed as the Settlement Administrator and shall be required to perform all of the duties of the Settlement Administrator as set forth in the Settlement Agreement and this Order.

9. The Court approves the Claim Form and Class Notices which are attached to the Settlement Agreement as Exhibits A, B, and C. The Court also approves the proposed plan for giving Notice to the Settlement Class, via direct Notice in the U.S. Mail, as fully described in the Settlement Agreement. The plan for giving Notice, in form, method, and content, fully complies with the requirements of 735 ILCS 5/2-803, constitutes the best practicable notice under the circumstances, satisfies due process, and is due and sufficient notice to all persons entitled thereto. In addition, the Court finds that no notice other than that specifically identified in the Settlement Agreement is necessary in this Action.

10. The Court hereby directs the Parties and the Settlement Administrator to complete all aspects of the notice plan set forth in Section 4 of the Settlement Agreement no later than fourteen (14) days after entry of this Order (the “Notice Completion Deadline”).

11. Persons in the Settlement Class shall be bound by all determinations and orders pertaining to the settlement, including the release of all claims to the extent set forth in the Settlement Agreement, whether favorable or unfavorable, unless such persons in the Settlement Class request exclusion from the Settlement Class in a timely and proper manner, as hereinafter provided. Persons in the Settlement Class who do not timely and validly request exclusion shall be so bound even if they have previously initiated or subsequently initiate litigation or other proceedings against the Defendant or any of the Released Parties relating to the Released Claims under the terms of the Settlement Agreement.

12. Class Members who wish to receive a Settlement Payment shall complete and submit claim forms no later than 46 days after the Notice Completion Deadline and in accordance with the terms and conditions of the Settlement Agreement. The Settlement Administrator shall accept and process claim forms in accordance with the Settlement Agreement.

13. All persons who are in the Settlement Class and who wish to exclude themselves from the Settlement Class must submit their request for exclusion in writing no later than the Objection/Exclusion deadline, which is 46 days after the Notice Completion Deadline. To be valid, any request for exclusion must (a) be in writing; (b) identify the case name *Brenna Struck et al. v. Woodman's Food Market, Inc.*, Case No. 2021-CH-00000053; (c) state the full name and current address of the person in the Settlement Class seeking exclusion; (d) be signed by the person(s) seeking exclusion; and (e) be postmarked or received by the Settlement Administrator on or before the Objection/Exclusion Deadline. Each request for exclusion must also contain a statement to the

effect that “I hereby request to be excluded from the proposed Settlement Class in *Brenna Struck et al. v. Woodman’s Food Market, Inc.*, Case No. . 2021-CH-00000053.” A request for exclusion that does not include all of the foregoing information, that is sent to an address other than that designated in the Notice, or that is not postmarked or delivered to the Settlement Administrator within the time specified, shall be invalid and the person serving such a request shall be deemed to remain a Settlement Class Member and shall be bound as a Settlement Class Member by this Settlement Agreement, if approved.

14. Any Settlement Class Member may comment in support of, or in opposition to, the Settlement Agreement at his or her own expense; provided, however, that all comments and objections must (1) be filed with the Clerk of the Court, and (2) be postmarked or delivered to Class Counsel and Defendant’s counsel as described in the Notice, no later than the Objection/Exclusion Deadline. Any Settlement Class Member who intends to object to this Settlement Agreement must include in his or her written objection: (a) the Settlement Class Member’s full name and current address; (b) a statement that he or she believes himself or herself to be a member of the Settlement Class; (c) the specific grounds for the objection; (d) all documents or writings that the Settlement Class Member desires the Court to consider; (e) the name and contact information of any and all attorneys representing, advising, or in any way assisting the objector in connection with the preparation or submission of the objection or who may profit from the pursuit of the objection; and (f) a statement indicating whether the objector intends to appear at the Final Approval Hearing (either personally or through counsel, who must file an appearance or seek *pro hac vice* admission).

15. No Settlement Class Member shall be entitled to be heard, and no objection shall be considered, unless the requirements set forth in this Order and in the Settlement Agreement are

fully satisfied. Any Settlement Class Member who does not make his or her objection to the Settlement Agreement in the manner provided herein, or who does not also timely provide copies to the designated counsel of record for the Parties at the addresses set forth herein, shall be deemed to have waived any such objection by appeal, collateral attack, or otherwise, and shall be bound by the Settlement Agreement, the releases contained therein, and all aspects of the Final Approval Order.

16. Pending the final determination of the fairness, reasonableness, and adequacy of the proposed settlement, no Class Member may prosecute, institute, commence, or continue any lawsuit (individual action or class action) with respect to the Released Claims against any of the Released Parties.

17. A hearing (the "Final Approval Hearing") shall be held before the Court on June 25, 2021 at 9:15 a.m. in Room C301 of the Lake County Courthouse, 18 N. County St., Waukegan, Illinois (or at such other time or location as the Court may without further notice direct) for the following purposes:

- a. to finally determine whether the applicable prerequisites for settlement class action treatment under 735 ILCS 5/2-801 have been met, and that the Class Representatives and Class Counsel adequately represented the Settlement Class for purposes of entering into and implementing the Settlement Agreement;
- b. to determine whether the settlement is fair, reasonable and adequate, and should be approved by the Court;
- c. to determine that Notice (1) was implemented pursuant to the Settlement Agreement and Preliminary Approval Order, (2) constitutes the best practicable notice under the circumstances, (3) constitutes notice that is reasonably

calculated, under the circumstances, to apprise the Settlement Class of the pendency of the Action and their rights to object to or exclude themselves from this Settlement Agreement and to appear at the Final Approval Hearing, (4) is reasonable and constitutes due, adequate, and sufficient notice to all persons entitled to receive notice, and (5) fulfills the requirements of the Illinois Code of Civil Procedure, the Due Process Clause of the both the Illinois Constitution and the United States Constitution, and the rules of the Court;

- d. to determine whether the judgment as provided under the Settlement Agreement should be entered, including an order prohibiting Settlement Class Members from further pursuing claims released in the Settlement Agreement;
- e. to consider the application for a Fee Award;
- f. to consider the application for a service award to the Class Representatives;
- g. to consider all payments to be made pursuant to the Settlement Agreement;
- h. to dismiss the action with prejudice; and
- i. to rule upon such other matters as the Court may deem appropriate.

18. The Final Approval Hearing may be postponed, adjourned, transferred or continued by order of the Court without further notice to the Settlement Class. At or following the Final Approval Hearing, the Court may enter a judgment approving the Settlement Agreement and a Final Approval Order in accordance with the Settlement Agreement that adjudicates the rights of all Settlement Class Members.

19. The Settlement Agreement and the proceedings and statements made pursuant to the Settlement Agreement or papers filed relating to the Settlement Agreement and this Order, are not and shall not in any event be described as, construed as, offered or received against the

Released Parties as evidence of and/or deemed to be evidence of any presumption, concession, or admission by any Released Party of the truth of any fact alleged by Plaintiffs; the validity of any claim that has been or could have been asserted in the Action or in any litigation; the deficiency of any defense that has been or could have been asserted in the Action or in any litigation; or any liability, negligence, fault, or wrongdoing of any of the Released Parties. Defendant has denied and continues to deny the claims asserted by Plaintiffs. Notwithstanding, nothing contained herein shall be construed to prevent a Party from offering the Settlement Agreement into evidence for the purpose of enforcing the Settlement Agreement.

20. The certification of the Settlement Class shall be binding only with respect to the settlement of the Action. In the event that the Settlement Agreement fails to become effective, is overturned on appeal, or does not become final for any reason, the Settlement Agreement shall be null and void *ab initio*, the Parties shall be restored to their respective positions in the Action as of the date of the signing of the Settlement Agreement, and no reference to the Settlement Class, the Settlement Agreement, or any documents, communications, or negotiations related in any way thereto shall be made for any purpose.

21. All discovery and pretrial proceedings in this Action are stayed and suspended until further order of this Court.

22. **Summary of Deadlines:**

The preliminary approved Settlement shall be administered according to its terms pending the Final Approval Hearing. Deadlines arising under the Settlement Agreement and this Order include but are not limited to:

Notice Completion Deadline: April 9, 2021 (14 Days after Preliminary Approval)

Deadline to Opt-Out/Object from Settlement: May 11, 2021 (46 Days after Preliminary Approval)

Motion for Incentive Awards, Attorneys' Fees and Costs Deadline: April 27, 2021 (14 Days Prior to Deadline to Opt-Out/Object)

Motion for Final Approval Deadline: June 11, 2021 (14 Days prior to the Final Approval Hearing)

Replies in Support of Incentive Awards, Attorneys' Fees and Costs: June 18, 2021 (7 Days Prior to the Final Approval Hearing)

Final Approval Hearing: June 25, 2021 at 9:15 a.m.

Claims Deadline: May 11, 2021 (46 Days After Preliminary Approval Order is Entered)

IT IS ORDERED.

ENTERED: March 26, 2021

JUDGE: _____

A handwritten signature in black ink, appearing to be 'A. C.', written over a horizontal line.