

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

JULI WINTJEN, *on behalf of herself and others*  
*similarly situated,*

Plaintiff,

v.

DENNY'S, INC.,

Defendant.

**2:19-CV-00069-CCW**

**ORDER**

**AND NOW**, this 6th day of August 2024, upon consideration of Plaintiff Sarah Gower's Unopposed Motion for Preliminary Approval of Collective and Class Action Partial Settlement ("Motion"), ECF No. 307, the Settlement Agreement, as amended ("Agreement"), ECF Nos. 309-1, 328, the Declarations of Gerald D. Wells, III, ECF No 309, and Darren W. Ford, ECF No. 310, the accompanying memorandum of law, ECF No. 308, and all other papers and proceedings herein, it is hereby **ORDERED** that:

1. The Motion is **GRANTED**, and the settlement of this action is preliminarily approved for the reasons given in the opinion accompanying this order. The proposed settlement class is provisionally certified pursuant to Federal Rule of Civil Procedure 23(a) and (b)(3). The partial settlement class is defined as follows: "All Tipped Employees of Defendant identified on "Exhibit A" submitted to the Court on March 14, 2024." ECF No. 306 at 4.

2. The "Notice of Settlement" form ("Notice Form") filed as Exhibit B at ECF No. 328-2 and the notice protocols described in paragraph 5.9 of the Agreement are approved pursuant to Rule 23(c)(2)(B).

3. On or before **August 20, 2024**, Denny's shall provide the claims administrator a

list of the Settlement Class Members, as specified in paragraph 5.6 of the Agreement.

4. On or before **August 26, 2024**, the claims administrator shall send the Notice Form to all class members as set forth in Exhibit B in ECF No. 328-2, as specified in paragraph 5.9(A) of the Agreement.

5. On or before **August 26, 2024**, the claims administrator shall create a settlement website and make available the required documents as specified in paragraph 5.9(E) of the Agreement.

6. On or before **October 10, 2024**, class members who wish to exclude themselves from the settlement shall mail their written request for exclusion, following the procedures described in paragraph 5.11 of the Agreement and on the Notice Form. All Class Members who do not personally and timely request to be excluded from the class are enjoined from proceeding against the Defendant on the claims in this action and settlement in accordance with the terms of the Agreement.

7. On or before **October 10, 2024**, class members who wish to object to the settlement shall mail their written objections, following the procedures described in paragraph 5.10 of the Agreement and on the Notice Form.

8. The law firms Connolly Wells & Gray, LLP and Lynch Carpenter, LLP are appointed interim class counsel per Rule 23(g)(3) and shall ensure that the notice process contemplated by the Agreement is followed.

9. On or before **October 10, 2024**, class members who seek to challenge the calculation of their estimated settlement payment or the required deductions must submit a declaration following the procedures set forth on the Notice Form and in 5.8(6) of the Agreement.

10. Pursuant to Rule 23(e)(2), a hearing addressing final approval of the settlement (the “Fairness Hearing”) will be held on **December 5, 2024**, at 3:00 p.m. via telephonic conference. During this hearing, the Court will hear from any objectors or other class members who wish to address the Court and will hear argument from class counsel regarding, *inter alia*, the following issues: whether the settlement warrants final approval under Civil Rule 23(e)(2); whether the service award should be approved; and whether the attorney’s fees and costs sought by class counsel should be approved under Rule 23(h). This hearing shall be subject to adjournment by the Court without further notice to class members other than that which may be posted by the Court.

11. On or before **November 7, 2024**, class counsel shall file all papers in support of the final approval of the settlement and the associated issues described in paragraph 10 above with the exception of the following:

- a. On or before **August 13, 2024**, Plaintiffs Wintjen and Gower, by and through class counsel, shall file their Motion, Opening Brief, and all evidence or other submissions relating to the value of class counsel’s services.
- b. On or before **August 23, 2024**, Defendant shall disclose, in accordance with Fed. R. Civ. P. 26(a)(2)(C), any expert witness whose testimony they intend to introduce in opposition to class counsel’s motion.
- c. On or before **September 5, 2024**, Defendant shall file its Opposition Brief and supporting submissions.
- d. On or before **September 12, 2024**, Class Counsel shall file its Reply Brief. However, if Class Counsel determines that it wishes to rely on a rebuttal expert in its reply, on or before **September 12, 2024**, Class Counsel shall instead

disclose, in accordance with Fed. R. Civ. P. 26(a)(2)(C), any such expert witness and, upon such disclosure, on or before **September 19, 2024**, Class Counsel shall file its Reply Brief.

BY THE COURT:

/s/ Christy Criswell Wiegand  
CHRISTY CRISWELL WIEGAND  
United States District Judge

cc (via ECF email notification):

All Counsel of Record