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12 *Attorneys for Plaintiffs*

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14  
15 UNITED STATES DISTRICT COURT

16 NORTHERN DISTRICT OF CALIFORNIA, OAKLAND DIVISION

17  
18 HOLLY GEHL; CHRIS ARMENTA;  
et al. each on behalf of himself/herself,  
19 and on behalf of all others similarly  
situated,

20 Plaintiffs,

21 vs.

22 T-BIRD RESTAURANT GROUP,  
23 INC., a California corporation; T-BIRD  
NEVADA, LLC, a Nevada Limited  
24 Liability Company; and DOES 1  
through 100, Inclusive,

25 Defendants.  
26

Case No. 4:13-cv-05961-KAW

[Judge Kandis A. Westmore]

**JOINT MOTION FOR HEARING  
ON DATA ISSUES RE CLASS  
ACTION SETTLEMENT**

Trial Date: None

1 The parties to the above-captioned action, through their attorneys of record,  
2 hereby respectfully request a hearing with the Court to discuss newly discovered  
3 data issues as follows:

4 WHEREAS, the parties entered into a settlement following mediation on May  
5 5, 2015 where the number of class members was believed to be close to 10,000  
6 current and former hourly employees based upon Defendant's February 2015  
7 research into its payroll records;

8 WHEREAS, Plaintiffs' Motion for Preliminary Approval of Settlement, in  
9 which defendants joined, was heard on August 20, 2015;

10 WHEREAS, on August 24, 2015, following the hearing on Plaintiffs' Motion  
11 for Preliminary Approval of Settlement, the Parties filed a joint supplemental  
12 submission regarding notice to class members of settlement and claims procedures  
13 (Dkt. No. 132), and a revised [Proposed] Order Granting Preliminary Approval of  
14 Class Action Settlement (Dkt. No. 134);

15 WHEREAS, on September 28, 2015, the Court issued an Order Granting  
16 Preliminary Approval of Class Action Settlement (Dkt. No. 135);

17 WHEREAS, pursuant to the Order Granting Preliminary Approval of Class  
18 Action Settlement (Dkt. No. 135), defendant T-Bird Restaurant Group, Inc. again  
19 researched its payroll system to obtain the information required by the Court's Order  
20 (Dkt. No. 135, ¶8.d. ( name, address, telephone number, social security number,  
21 locations worked, dates of employment) and transmitted that information to the  
22 Third Party Administrator ("TPA") on November 2, 2015. Thereafter, the Third  
23 Party Administrator worked to prepare the data for mailing the claims forms (due to  
24 be mailed on November 17, 2015 under the terms of the Court's Order (Dkt. No.  
25 135)). On November 11, 2015, the TPA transmitted a final spreadsheet that  
26 indicated 13,361 Class Members. This number appears to include 1193 Class  
27 Members who began working for defendant between February 2015 when defendant

1 formerly researched the potential number of class members, and September 28,  
2 2015, the cutoff date for determining Class Membership. The 13,361 Class Member  
3 list also appears to include 2854 individuals who were employed by defendant  
4 between November 2009 and February 2015 but whom were not on the list of  
5 potential class members pulled by defendant in February 2015. Those individuals  
6 were former employees who had been coded as “purged” from the payroll system  
7 and were inadvertently excluded from the report pulled in February 2015;

8 WHEREAS, the plaintiffs’ counsel and defendant’s counsel are meeting and  
9 conferring in an attempt to determine the best course of action;

10 WHEREAS, the parties believe that the situation should be brought to the  
11 Court’s attention so as to ensure that the Court’s preliminary determination as to the  
12 reasonableness of the class action settlement remains satisfied;

13 WHEREAS, the parties request a hearing at the Court’s earliest convenience  
14 to present this matter to the Court; and

15 WHEREAS, the parties request that the Court temporarily suspend all future  
16 action dates set forth in the Order Granting Preliminary Approval of Class Action  
17 Settlement (Dkt. No. 135) to prevent any potential Class Notice mailings claims  
18 processes that may be revised by the Court at the requested hearing.

19  
20 THEREFORE, IN LIGHT OF THE FOREGOING, THE PARTIES HEREBY  
21 JOINTLY REQUEST:

22 That the Court set a hearing at the Court’s earliest convenience to present the  
23 matter concerning the data issues that came to light on November 11, 2015, and

24 That the Court temporarily suspend all future action dates set forth in the  
25 Order Granting Preliminary Approval of Class Action Settlement (Dkt. No. 135)  
26 pending the Court’s requested hearing on the data matter.

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IT IS SO STIPULATED.

DATED: November 20, 2015

WOLF, RIFKIN, SHAPIRO,  
SCHULMAN & RABKIN, LLP

By:           /s/ Eric Levinrad          

ERIC LEVINRAD

Attorneys for Plaintiffs

DATED: November 20, 2015

LATHROP & GAGE, LLP

By:           /s/ Allison Wallin          

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INC. and T-BIRD NEVADA, LLC

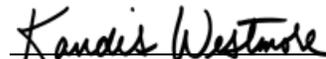
1 **~~PROPOSED~~ ORDER**

2 WHEREFORE upon consideration of the parties' Joint Motion for Hearing  
3 on Data Issues re Class Action Settlement, IT IS HEREBY ORDERED that a  
4 Hearing on the Data Issues is set for **December 17, 2015 at 11:00 AM**. On or  
5 before December 7, 2015, the parties shall submit a joint brief outlining how, if at  
6 all, the newly discovered potential class members impact the Court's prior  
7 determination granting preliminary approval of the class action settlement (Dkt. No.  
8 135). Additionally, the parties shall provide new proposed future action dates, as  
9 well as a proposed order setting new action dates.

13 It is further ORDERED that all future action dates set forth in the Order  
14 Granting Preliminary Approval of Class Action Settlement (Dkt. No. 135) are  
15 HEREBY SUSPENDED pending the Hearing on the Data Issues as set forth above.

17 IT IS SO ORDERED.

19 Dated: November 20, 2015

21   
22 KANDIS A. WESTMORE  
23 United States Magistrate Judge