

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS**

AMY COOK, DEVIN MUSCARELLA and the)	
Certified Class,)	Case No. 3:13-cv-01289-SMY-SCW
)	
Plaintiffs,)	
)	
v.)	
)	
APPLEBEE’S SERVICES, INC.)	
)	
Defendant.)	

**ORDER PRELIMINARILY APPROVING PROPOSED CLASS SETTLEMENT,
SCHEDULING HEARING FOR FINAL APPROVAL AND
APPROVING PROPOSED CLASS NOTICE**

The Court having considered Plaintiff’s Unopposed Motion for Preliminary Approval of the Parties’ Class Action Settlement (Doc. 89), supporting memorandum and the exhibits thereto including the Settlement Agreement (Doc. 90) and the presentation of Counsel during the preliminary approval hearing on April 12, 2017, and being otherwise fully advised in the premises, orders, adjudges, and decrees, pursuant to Federal Rules of Civil Procedure, Rule 23, that:

1. The Court finds that the proposed settlement is within the range of possible approval and hereby preliminarily approves the Settlement Agreement and the Settlement set forth therein. The Settlement Agreement is the result of arm’s-length negotiations between experienced attorneys who are familiar with wage and hour class action litigation generally, and with the legal and factual issues of this case in particular.

2. The Court has previously granted class certification of a vacation pay class. Amy Cook and Devin Muscarella are Class Representatives, and Jamie G. Sypulski, Law Office Jamie Golden Sypulski, and Douglas M. Werman, Werman Salas, P.C., are Class Counsel.

3. The Court now hereby appoints Analytics Consulting LLC to perform the duties of Settlement Administrator.

4. Class Members shall not be required to submit a claim form to participate in the Settlement and receive a monetary award.

5. The Court approves, as to form and content, the short-form Class Notice attached as Exhibit B to the Class Action Settlement Agreement, and finds that the distribution of the Class Notice set forth in that Agreement: (1) meets the requirements of federal law and due process; (2) is the best notice practicable under the circumstances; and (3) shall constitute due and sufficient notice to all individuals entitled thereto.

6. Within seven (7) days of this Order, Defendant shall provide the Settlement Administrator and Class Counsel with a complete list of all Class Members. That list shall include Class Members' names, social security numbers, employee identification number and Class Member's last-known mailing address and telephone number.

7. Within thirty (30) days of this Order, the Settlement Administrator shall mail a short-form Class Notice to Class Members in accordance with the Notice provisions of the Agreement.

8. Within forty-five (45) days of the date of the initial mailing of the Class Notice, Class Members objecting to any term of the settlement must do so in writing and consistent with the relevant provision of the Agreement. The written objection must be sent to the Settlement Administrator, postmarked on or before this date.

9. Within forty-five (45) days of the date of the initial mailing of the Class Notice, Class Members who wish to exclude themselves from the proposed Settlement must submit a written request for exclusion to the Settlement Administrator. Class members submitting opt-out

statements shall sign and date the statement, include their address and the last four digits of the social security number they used while working for Defendant. No later than ten (10) days after the objection and exclusion deadline, the Settlement Administrator shall furnish to Class Counsel and Defendant's Counsel a complete list of all Class Members who have timely requested exclusion from the Settlement Class.

10. A hearing, for purposes of determining whether the Settlement should be finally approved, shall be held by this Court on August 16, 2017, at 1:30 p.m. At the hearing, the Court will hear final arguments concerning whether the proposed Settlement of the Litigation on the terms and conditions provided for in the Settlement Agreement is fair, reasonable, and adequate and should be approved by the Court. The Court will also hear at that time any objections submitted by Class Members. The Court will also consider Class Counsel's request for an award of attorneys' fees and costs and for Service Awards to be made to the Class Representatives and certain other Class Members as identified in the Agreement.

11. Any member of the Settlement Class may enter an appearance in the Litigation, at his or her own expense, individually or through counsel of his or her own choice. Any member of the Settlement Class who does not enter an appearance or opt-out of the Settlement Class will be represented by Class Counsel.

12. Any member of the Settlement Class may appear at the Final Approval Hearing and show cause why: (1) the proposed Settlement of the Litigation should or should not be approved as fair, reasonable, and adequate; (2) a judgment should or should not be entered thereon; (3) attorneys' fees should or should not be awarded to Class Counsel; (4) why the Service Award recipients should or should not receive a Service Award. However, no Class Member or any other person shall be heard or entitled to contest the approval of the terms and

conditions of the proposed Settlement, or if approved, the Judgment to be entered approving the Settlement, unless that person has, no later than forty-five (45) days after mailing of Class Notice to the Settlement Class, served by hand or by first class mail on the Settlement Administrator, written objections, and copies of any papers and briefs in support thereof, explaining the basis of the objection. All timely filed and served objections also shall be filed with the Clerk of the Court and considered and ruled upon by the Court at the Final Approval Hearing. Any member of the Settlement Class who does not timely file and serve his or her objection in the manner provided above shall be deemed to have waived such objection and shall forever be foreclosed from making any objection to the fairness or adequacy of the proposed Settlement as incorporated in the Settlement Agreement and any award of attorneys' fees and costs awarded to Class Counsel, unless otherwise ordered by the Court.

13. All papers in support of the Settlement shall be filed no later than seven (7) days prior to the Final Approval Hearing, including Class Counsel's petition for an award of attorneys' fees and expenses.

14. At the Final Approval Hearing, the Court shall determine whether the proposed Settlement, and any application for attorneys' fees or reimbursement of expenses, shall be approved.

Entered this 12th day of April, 2017.

/s/ Staci M. Yandle
Staci M. Yandle
UNITED STATES DISTRICT JUDGE