

IN THE CIRCUIT COURT OF ST. LOUIS COUNTY
STATE OF MISSOURI

FILED

MAR 27 2024

JOAN M. GILMER
CIRCUIT CLERK, ST. LOUIS COUNTY

MATTHEW GIANCRISTOFARO and)
WILLIAM POFFENBERGER, individually,)
and on behalf of all others similarly situated,)
)
Plaintiffs,)
)
v.)
)
IMA PIZZA, LLC d/b/a &Pizza)
)
Defendant.)

Case Number 23SL-CC04108
Division 1

FINAL ORDER AND JUDGMENT GRANTING
FINAL APPROVAL OF A CLASS ACTION SETTLEMENT

This matter came for hearing before the Court, upon motion pursuant to Missouri Supreme Court Rule 52.08 for final approval of the proposed class action settlement in accordance with a settlement agreement signed by the parties and subsequently submitted to the Court. A final approval hearing was scheduled on March 27, 2024, at 12:00 p.m. before this Court. The class members were provided notice of the hearing. No class members objected to the settlement. No class members appeared at the final approval hearing.

Plaintiffs Matthew Giancristofaro and William Poffenberger and the class are represented by counsel David T. Butsch and Christopher E. Roberts of Butsch Roberts & Associates LLC and Jacob U. Ginsburg of Kimmel & Silverman, P.C. (“Class Counsel”). Defendant Ima Pizza, LLC d/b/a &Pizza (“Defendant”) is represented by Nicole M. Rivers of Mintz Levin Cohn Ferris Glovsky and Popeo, P.C.

The Court previously granted preliminary approval of the settlement on November 28, 2023. The Court having considered the arguments of counsel, and all submissions in the case, grants final approval of the settlement, and enters judgment in favor of Plaintiffs as follows:

1. The Court previously found that the requisites necessary for the maintenance of a class action have been fully satisfied. The Court, upon reviewing the record before it and considering Counsel's arguments, still believes that the requirements of Rule 52.08 of numerosity, typicality, commonality, adequacy, predominance, and superiority remain satisfied.

2. Pursuant to Rule 52.08 of the Missouri Rules of Civil Procedure, the Court previously certified that claims may be maintained by the following class:

All persons identified by the records of Ima Pizza to whom Ima Pizza has sent text messages after the recipient requested to no longer receive text messages from Ima Pizza.

In accordance with the Settlement Agreement filed with the Court on November 20, 2023, the only class members included by this definition, and therefore bound by the terms of the Settlement Agreement, are those "included on the data produced by Defendant." *See* Settlement Agreement, Section 3. Exhibit A of the Affidavit of Bryn Bridley filed with this Court on March 25, 2024, identifies those persons who are part of this class. Only those persons identified in Exhibit A of the Bridley Affidavit are bound by the terms of the Settlement Agreement/are included in the class. Any other persons not included are not bound by the terms of the Settlement Agreement, and, as such, their claims are not released.

3. The Court previously approved the form of notice to the class, as submitted by the parties, and directed that this notice be sent by the Atticus Administration, LLC ("the Settlement Administrator") to the last known address and e-mail address of each class member as shown in Defendant's records. The Court finds the class notice complies with the requirements of Rule 52.08(c).

4. The Court previously held that the mailing of such class notice, and the measures specified above are the only notice required. The Court previously found and continues to hold that such notice satisfies the requirements of due process and Rule 52.08.

5. The Court has been advised by counsel and the Settlement Administrator that no objections to the proposed settlement have been received and that one person has opted out of the settlement. That person, Macailagh Herman, is excluded from the settlement, and is therefore not bound by the terms of the Settlement Agreement.

6. Based on the above and foregoing, the Court hereby finally approves the parties' Settlement Agreement and adopts the Settlement Agreement as the judgment of this Court. The Court finds that the Settlement Agreement is fair, reasonable and adequate.

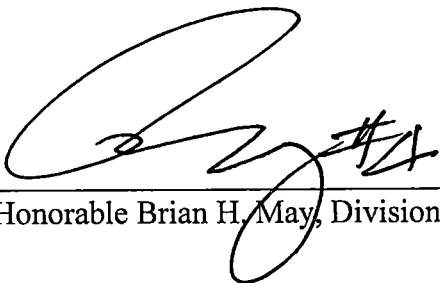
7. The Settlement Administrator is ordered to distribute payments to the class members who submitted valid claims, the class representative, and class counsel and the settlement administrator (Atticus Administration, LLC) as set forth in the Settlement Agreement. All funds for checks that are not cashed or deposited within 120 days of mailing by the Settlement Administrator shall be distributed by the Settlement Administrator in accordance with the escheatment requirements of the state in which the Settlement Class Member is located.

8. The Court approves Plaintiffs' request for a representative service award of \$10,000.00 to Plaintiff Giancristofaro and \$5,000.00 as a representative service award to Plaintiff Poffenberger. The Court also approves and counsel's request for attorneys' fees and litigation expenses of \$240,000.000 to be paid by the settlement administrator. In addition, in accordance with the settlement agreement, Defendant shall pay Atticus Administration for the cost of administering the settlement. Said amounts shall be paid in accordance with the terms of the Settlement Agreement, a copy of which was filed on November 20, 2023.

9. Class Counsel shall submit to the Court a certificate of compliance, certifying that the parties have complied with the Court's order. Class Counsel shall file a satisfaction of judgment upon all conditions of the settlement being complied with.

10. The Court retains jurisdiction over the claims asserted against the parties to enforce the provisions of the settlement agreement, if necessary.

So Ordered:



Honorable Brian H. May, Division 1

Date:

3/27/24