

STATE OF NEW YORK
SUPREME COURT: COUNTY OF SENECA

CHRISTOPHER WELCH
AND OTHERS SIMILARLY SITUATED,

Plaintiffs,

vs.

JASCOR, INC. d/b/a McDONALD'S
RESTAURANT,

Defendant.

**ORDER PRELIMINARILY
APPROVING CLASS
SETTLEMENT**

Index No. 49796

The Court, having reviewed the Motion for Preliminary Class Settlement Approval, finds and orders as follows:

1. On May 22, 2018, pursuant to §§ 901(a) and 902 of the New York Civil Procedure Law and Rules, this Court certified the following class ("the Class"):

All persons (1) who consumed food or drink products between October 31, 2015 and November 8, 2015 at a restaurant owned by Defendant Jascor, Inc., d/b/a McDonald's located at 2500 Mound Road, Waterloo, NY 13165; (2) who subsequently obtained a blood test and immune globulin or Hepatitis A virus within 30 days of consuming products at the restaurant; and (3) did not afterwards become infected with the Hepatitis A virus.

2. For the purpose of settlement the parties have agreed that the class (the "Class") shall be defined as follows:

"All persons who (1) consumed food or drink products between October 31, 2015 and November 8, 2015 (the "Class Period") purchased from the restaurant owned by Defendant Jascor, Inc., d/b/a McDonald's located at 2500 Mound Road, Waterloo, NY 13165 (the "Restaurant"); (2) subsequently obtained an HAV blood test, an immune globulin (IG) or Hepatitis A virus (HAV) vaccine within 14 days of consuming food or drink products purchased from the Restaurant during the Class Period; and (3) did not afterwards become infected with the Hepatitis A virus. Persons employed at the Restaurant during the Class Period are excluded from the Class."

To be a qualified claimant, all Class Members are required to submit a declaration signed under penalty of perjury that the claimant is an individual defined as a Class Member. The receipt of IG, HAV vaccine, or blood tests shall be shown through documentation and/or verification by the New York State Department of Health and/or the Seneca County Health Department. Claimants shall show receipt of IG, HAV vaccine, or blood tests by providing documentation from a medical provider if the treatment was not provided by the New York State Department of Health and/or Seneca County Health Department. Claimants shall also attest they have not previously had HAV or previously received a HAV vaccination.

3. Plaintiffs and Defendant have entered into a Settlement Agreement, subject to Court approval, including the documents and exhibits incorporated therein (together, the "Settlement Agreement", **Exhibit 1**), to settle the above-captioned litigation (the "litigation"). The Settlement Agreement sets forth the terms and conditions for a proposed settlement and dismissal with prejudice of the litigation. The Court hereby preliminarily approves the settlement as sufficiently fair, reasonable, and adequate to allow notice of the proposed settlement to be given to the members of the Class.

4. The Court authorizes the following Plaintiffs' attorneys to continue to act as counsel for the Class ("Class Counsel"):

Paul V. Nunes
UNDERBERG & KESSLER LLP
300 Bausch & Lomb Place
Rochester, NY 14604
Phone: (585) 258-2853
Fax: (585) 258-2821

William D. Marler
MARLER CLARK, LLP, PS
(Admitted Pro Hac Vice)
1012 First Avenue, Fifth Floor
Seattle, WA 98104
Phone: (206) 346-1888
Fax: (206) 346-1898

5. The Court appoints as Class Administrator:

The Notice Company, Inc.
94 Station Street
Hingham, MA 02043
Phone: (781) 740-1900
Fax: (781) 740-0888

6. The Court approves the form of the proposed Class Action Claim Form ("Claim Form") as detailed in the Settlement Agreement, without material alteration.

7. The Court approves the Notice of Settlement to class members form ("Notice of Settlement") as detailed in the Settlement Agreement, without material alteration.

8. The Court orders publication of the Published Notice of Settlement ("Published Notice of Settlement") as detailed in the Settlement Agreement, without material alteration.

9. The Court finds that notice of the settlement in the manner set forth in the Settlement Agreement meets the requirements of due process and New York law. The Court further finds that the notice is reasonable and constitutes due, adequate, and sufficient notice to all persons entitled to receive notice; is the best practicable notice; and is reasonably calculated, under the circumstances, to apprise members of the Class of the pendency of the Lawsuit and of their right to object or to exclude themselves from the proposed settlement.

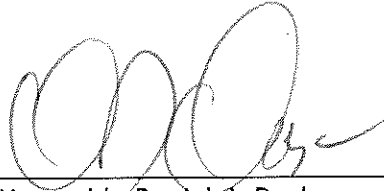
10. The Court approves the following schedule for the Notice and Claims process:
(a) seven (7) days from the date of this Order shall be the deadline for Plaintiffs' counsel and Defendant's counsel to provide to The Notice Company the names and addresses of Class

Members known to them; (b) seven (7) days from the date of this Order shall be the deadline for the Seneca County Health Department and New York State Department of Health to provide to The Notice Company the names and addresses of Class Members known to them, pursuant to the Qualified HIPAA order issued by this Court on September 18, 2018; (c) Within 14 days of entry of this Order, the Class Administrator will establish a website for this Settlement which will include electronic copies of the Claim Form, the Notice of Settlement for publication, the Preliminary Approval Order, and other information pertaining to the Settlement as requested by Class Counsel; (d) within 30 days of entry of Preliminary Approval Order, the Class Administrator shall have caused the Notice of Settlement for publication to have been published once a week for two consecutive weeks in the Finger Lakes Times as a paid legal advertisement and as an online advertisement to appear on the Seneca Daily News website; and (f) seventy (70) days from the date of this Order shall be the deadline for: the Claims Forms to be received by the Claims Administrator; the written requests for exclusion from the Class to be received by the Claims Administrator; and the written notices of intent to appear and/or object to the terms of the settlement to both be received by the Settlement Administrator and be filed with the Court.

11. The Court determines that a Final Approval Hearing shall be held on February 19, 2019 at 2:00 PM in the Seneca County Supreme Court, New York, before the undersigned for the purpose of determining: (a) whether the proposed settlement is fair, reasonable, and adequate and should be finally approved by the Court; and (b) whether to issue a final judgment order.

12. The Court orders that all pretrial proceedings in the litigation are stayed and suspended until further order of this Court.

Dated this 8th day of January 2019
~~2018~~



The Honorable Daniel J. Doyle
Supreme Court Justice

APPROVED AS TO FORM:

UNDERBERG & KESSLER LLP




PAUL V. NUNES, ESQ.

MARLER CLARK, LLP PS

5/ William D. Marler by PVN

WILLIAM D. MARLER, ESQ.
Attorneys for Plaintiff CHRISTOPHER
WELCH, individually and on behalf of all
those similarly situated

GOLDBERG SEGALLA LLP



CHERYL A. POSSENTI, ESQ.
Attorney for Defendant JASCOR, INC.
d/b/a McDONALD'S RESTAURANT

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