

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
ST. JOSEPH DIVISION**

GINA R. LIPARI-WILLIAMS,
MARISSA T. HAMMOND, and
LUCINDA M. LAYTON, on behalf of
themselves and all others similarly situated,

Plaintiffs,

v.

PENN NATIONAL GAMING, INC., et al.,

Defendants.

Case No. 5:20-cv-06067-SRB

**ORDER GRANTING PRELIMINARY APPROVAL
OF CLASS ACTION SETTLEMENT**

Before the Court is an Unopposed Motion to Direct Class Notice and Grant Preliminary Approval of Class Action Settlement (Doc. #138) filed by Plaintiffs Gina R. Lipari-Williams, Marissa T. Hammond, and Lucinda M. Layton (“Named Plaintiffs”), on behalf of themselves and all others similarly situated, and Defendants Penn National Gaming, Inc. (“PNG”), The Missouri Gaming Company, LLC d/b/a Argosy Riverside Casino (“Argosy Riverside”), and St. Louis Gaming Ventures, LLC d/b/a Hollywood Casino St. Louis (“Hollywood St. Louis”) (collectively, “Defendants” or “Settling Entities”). The Court has considered the Settlement Agreement and its exhibits, including the Proposed Settlement Notice, and the submissions of counsel, and hereby GRANTS the motion as set forth below:

1. Unless otherwise defined herein, all terms used in this Order (the “Preliminary Approval Order”) will have the same meaning as defined in the Settlement Agreement.

2. The Court finds on a preliminary basis that the settlement memorialized in the Settlement Agreement, and filed with the Court, falls within the range of reasonableness and, therefore, meets the requirements for preliminary approval.

3. The Court grants preliminary approval of the parties' Settlement Agreement.

4. The Court certifies, for settlement purposes only, the following Settlement Classes pursuant to the Settlement Agreement and Fed. R. Civ. P. 23:

- a. **MMWL Gaming License Class:** All persons employed and paid a direct cash wage of the applicable Missouri minimum wage or less per hour from March 31, 2017 to September 24, 2021 at Argosy Riverside or Hollywood St. Louis, and for whom a deduction was taken from their wages for any amount associated with initially obtaining or thereafter renewing a Gaming License;
- b. **Argosy Casino Riverside Tip Pooling Class:** All persons employed as Table Games Dealers at Argosy Riverside from March 31, 2017 through April 23, 2021, and who participated in the Table Games Dealer tip pool;
- c. **Hollywood Casino Tip Pooling Class:** All persons employed as Table Games Dealers at Hollywood Casino St. Louis from March 31, 2017 through October 31, 2019, and who participated in the Table Games Dealer tip pool; and
- d. **Nationwide ERISA Class:** All participants in Penn National Gaming, Inc.'s group health plan for plan years 2016, 2017, 2018, 2019, and 2020 who had a tobacco surcharge deducted from their wages in those years.

5. The Court appoints, for settlement purposes only, Plaintiffs Gina R. Lipari-Williams, Marissa T. Hammond, and Lucinda M. Layton as the Class Representatives of the Settlement Classes.

6. The Court appoints, for settlement purposes only, the law firms of Stueve Siegel Hanson LLP and McClelland Law Firm, P.C. as Class Counsel for the purposes of Settlement, and the releases and other obligations therein.

7. This Court approves Analytics Consulting LLC as Settlement Administrator to perform duties in accordance with the terms of the Settlement Agreement.

8. The Proposed Settlement Notice to be provided as set forth in the Settlement Agreement is hereby found to be the best practicable means of providing notice under the circumstances and, when completed, shall constitute due and sufficient notice of the proposed class settlement and the Final Approval Hearing to all persons and entities affected by and/or entitled to participate in the settlement, in full compliance with the notice requirements of Fed. R. Civ. P. 23, due process, the Constitution of the United States, the laws of the State of Missouri, and all other applicable laws. The Notice is accurate, objective, and informative, and provides members of the Settlement Class with all of the information necessary to make an informed decision regarding their participation in the settlement and its fairness.

9. The Notice Regarding Proposed Settlement of Class Action, attached to the Settlement Agreement as Exhibit A, including the Change of Name or Address Information Form (Form A), is approved. The Settlement Administrator is authorized to mail those documents to the Class Employees as provided in the Settlement Agreement.

10. Class Employees who wish to opt out of the Settlement must submit a written request to opt-out of the settlement no later than (a) forty-five (45) days from the date the

Settlement Administrator first mails the Proposed Settlement Notice to Class Employees, or (b) thirty (30) days from the date the Settlement Administrator mails the Proposed Settlement Notice to a Class Employee's additional address, whichever date is later, provided that under no circumstances will any Class Employee be permitted to submit his or her written request to opt-out of the settlement more than seventy-five (75) days from date the Settlement Administrator first mails the Proposed Settlement Notice to Class Employees. Consistent with the Settlement Agreement, Opt In Plaintiffs who previously filed a Consent to Join the Litigation will not be provided an opportunity to opt out of the Settlement Agreement.

11. Any written objection to the settlement must be submitted to the Court no later than forty-five (45) days after the Proposed Settlement Notice is mailed to the Class Employees.

12. Pending the Court's decision on final approval of the settlement and entry of the Court's Final Approval Order, the Litigation and any other action or proceeding brought by or on behalf of Named Plaintiffs or any Class Member that asserts any claim released under the Settlement Agreement shall be stayed in each such action or proceeding.

13. Neither this Order, the Settlement Agreement, nor any other documents or information relating to the settlement of this Litigation shall constitute, be construed to be, or be admissible in this Litigation or any other proceeding as evidence: (a) that any group of similarly situated or other employees exists to maintain a collective action under the Fair Labor Standards Act, or a class action under Rule 23 of the Federal Rules of Civil Procedure, or comparable state laws or rules; (b) of an adjudication of the merits of this Litigation; (c) of an adjudication of any of the matters subject to the Releases in the Settlement Agreement; (d) that any party has prevailed in this case, (e) that the Settling Entities or the Released Parties have engaged in any wrongdoing;

or (f) that PNG is an employer or joint employer of Named Plaintiffs, any Class Employee, or anyone else.

14. The Named Plaintiffs and Defendants are ordered to carry out the settlement according to the terms of the Settlement Agreement.

15. The Court will conduct a Final Approval Hearing on May 25, 2023, at 10:30 a.m. to determine the overall fairness of the settlement and to approve the amount of attorneys' fees and costs to Class Counsel and the Service Payments to the Named Plaintiffs and Opt-In Plaintiff Tim Hammond. The Final Approval Hearing may be continued without further notice to Class Members. The Named Plaintiffs shall file their motion for approval of the settlement, and Class Counsel shall file their unopposed motion for attorneys' fees, costs and expenses, and the Service Payments on or before May 8, 2023.

IT IS SO ORDERED.

/s/ Stephen R. Bough
STEPHEN R. BOUGH
UNITED STATES DISTRICT JUDGE

Dated: January 30, 2023