

EXHIBIT 1

**IN THE UNITED STATES DISTRICT COURT
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

CLASS AND COLLECTIVE ACTION SETTLEMENT AGREEMENT

This Class and Collective Action Settlement Agreement (the “Agreement”) is made and entered into by and between Plaintiffs Gina R. Lipari-Williams, Marissa T. Hammond, and Lucinda M. Layton (“Named Plaintiffs”) and all members of the Settlement Class (defined below), on the one hand, and Settling Entities PENN Entertainment , Inc. f/k/a 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”), on the other hand (collectively, the “Parties”), to resolve all claims and disputes which are the subject of the lawsuit filed by Named Plaintiffs with the U.S. District Court for the Western District of Missouri, *Lipari-Williams, et al. v. Penn National Gaming, Inc., et al.*, Case No. 5:20-cv-06067-SRB (the “Litigation”).

RECITALS

WHEREAS, Named Plaintiffs filed a Complaint in this Litigation, on behalf of themselves and all others similarly situated, alleging that PNG, Argosy Riverside, and Hollywood St. Louis violated the Fair Labor Standards Act, 29 U.S.C. § 201, *et seq.*, (“FLSA”), and the Missouri Minimum Wage Law, R.S.Mo. § 290.500, *et seq.*, (“MMWL”), by (1) illegally deducting costs to obtain, maintain, and renew state-issued Missouri Gaming Licenses (defined below) from employees’ wages, which resulted in violations of both the FLSA and Missouri state law; and (2) creating a mandatory tip pool policy which required table games dealers to pool their tips and then used those tips to pay the Paid Time Off (“PTO”) of certain non-tipped, manager and supervisor employees. *See* ECF Doc. 62;

WHEREAS, Named Plaintiffs further alleged that PNG breached its fiduciary duties under the Employee Retirement Income Security Act of 1974, 29 U.S.C. § 1001, *et seq.*, (“ERISA”) by maintaining a wellness program that discriminated against employees based on an impermissible

health factor by failing to provide a reasonable alternative standard or notice of the same with respect to a tobacco surcharge associated with its group health plan. *See* ECF Doc. 62;

WHEREAS, Named Plaintiffs have sought the recovery of, among other things, minimum wages, overtime wages, straight-time wages, compensatory damages, retained tips, liquidated damages, treble damages, equitable remedies, attorneys' fees, and costs;

WHEREAS, Settling Entities deny and continue to deny all of the allegations made by Named Plaintiffs, and deny and continue to deny that they are liable or owe damages to anyone with respect to the alleged facts or causes of action alleged, or that any claims asserted by Named Plaintiffs may proceed on a class or collective action basis. Nonetheless, without admitting or conceding any arguments, issues, liability, or damages whatsoever, including that PNG is a joint employer of Named Plaintiffs or anyone on whose behalf they have attempted to bring claims, or that any claims alleged may proceed on a class or collective action basis, Settling Entities have agreed to settle the claims on the terms and conditions set forth in this Agreement to avoid the burden and expense of continuing to defend against litigation;

WHEREAS, Class Counsel (as defined below) has interviewed Named Plaintiffs and other members of the Settlement Class, and has reviewed and analyzed documents, data, and deposition testimony produced by Settling Entities;

WHEREAS, Class Counsel has analyzed and evaluated the merits of the claims made against Settling Entities, and the impact of this Agreement on Named Plaintiffs and the Settlement Class;

WHEREAS, based upon their analysis and evaluation of a number of factors, and recognizing the risks of litigation with respect to certain claims, including the possibility that any litigation might result in a recovery that is less favorable to the Settlement Class, and may not

occur for several years, or at all, Class Counsel is satisfied that the terms and conditions of this Agreement are fair, reasonable, and adequate and that this Agreement is in the best interests of the Settlement Class;

WHEREAS, the Parties recognize that the outcome in the Litigation is uncertain and that achieving a final result through the litigation process would require substantial additional risk, discovery, time, and expense;

WHEREAS, the Parties desire to settle fully and finally the differences between them and have agreed to settle this case as to Named Plaintiffs as well as all individuals comprising the Settlement Class, as defined below; and

WHEREAS, the Parties agree to undertake their best efforts, including all steps and efforts that may become necessary by order of the Court, to effectuate the terms and purposes of this Agreement.

NOW, THEREFORE, in consideration of the mutual promises herein contained and other good and valuable consideration, the sufficiency of which is hereby acknowledged, the Parties agree, subject to approval of the Court, as follows:

AGREEMENT

I. DEFINITIONS

A. **“Agreement.”** “Agreement” means this agreement, i.e., the Class and Collective Action Settlement Agreement, together with all of its attachments and exhibits, which the Parties understand and agree sets forth all material terms and conditions of the settlement between them, and which is subject to Court approval. It is understood and agreed that the obligations of the Settling Entities for payment under this Agreement are conditioned on, *inter alia*, the occurrence of the Effective Date.

B. **“Class Counsel” or “Plaintiffs’ Counsel.”** “Class Counsel” or “Plaintiffs’ Counsel” mean George A. Hanson and Alexander T. Ricke of Stueve Siegel Hanson LLP; and Ryan L. McClelland and Michael J. Rahmberg of McClelland Law Firm, P.C.

C. **“Class Employees.”** “Class Employees” means the combined group of individuals in the MMWL Gaming License Class, Argosy Casino Riverside Tip Pooling Class, Hollywood Casino St. Louis Tip Pooling Class, and the Nationwide ERISA Class.

D. **“Class Member” or “Settlement Class.”** “Class Member” or “Settlement Class” means Named Plaintiffs and all Class Employees who do not opt out of the Settlement by submitting Opt Outs pursuant to Paragraph III.B, and thus means all individuals who will become bound by the Released Claims portion of the Judgment if the Effective Date occurs.

E. **“Class Representatives.”** “Class Representatives” means Named Plaintiffs Gina R. Lipari-Williams, Marissa T. Hammond, and Lucinda M. Layton.

F. **“Complaint.”** “Complaint” means the Class Action Petition dated March 31, 2020, filed by Named Plaintiffs in the Litigation, and all subsequent amendments thereto. *See* ECF Docs. 1, 24, 39, 62.

G. **“Counsel for Settling Entities” or “Defense Counsel.”** “Counsel for Settling Entities” or “Defense Counsel” means Sari M. Alamuddin, Jeremy P. Blumenfeld, and Patrick R. Duffey of Morgan, Lewis & Bockius LLP.

H. **“Court.”** “Court” refers to the Court having jurisdiction over the Litigation, at any stage; presently the U.S. District Court for the Western District of Missouri.

I. **“Defendants.”** “Defendants” means the Defendants in the Litigation, PNG, Argosy Riverside, and Hollywood St. Louis.

J. **“Effective Date.”** “Effective Date” means the date on which the Judgment becomes a Final Judgment.

K. **“Employer Payroll Taxes.”** “Employer Payroll Taxes” means all taxes and withholdings an employer is required to make arising out of or based upon the payment of employment/wage compensation in this Litigation, including FICA, FUTA, and SUTA obligations.

L. **“Nationwide ERISA Class.”** “Nationwide ERISA Class” means all participants in Defendants’ group health plan for plan years 2016, 2017, 2018, 2019, and 2020 who had a tobacco surcharge deducted from their wages in any of those years. For the avoidance of doubt, the “Nationwide ERISA Class” includes all members of the “Nationwide ERISA Sub-Class” as defined in the Court’s class certification order. *See* ECF Doc. 110.

M. **“Final Approval.”** “Final Approval” means the date the Court enters an Order finally approving the Settlement and dismissing the Litigation against Defendants with prejudice, while still retaining continuing jurisdiction over the administration of the settlement.

N. **“Final Approval Order.”** “Final Approval Order” means an order that finally and unconditionally grants final approval of the Agreement, grants final certification of the Settlement Class for settlement purposes only, authorizes payments to Named Plaintiffs and the Settlement Class as provided in this Agreement, and fully and finally extinguishes (i) the Released Claims of the Settlement Class; and (ii) the Released FLSA Claims of the Settlement Class upon Class Members’ negotiation of their Settlement Checks, as set forth herein. The Parties shall submit a draft order, entitled “Order Granting Final Approval of Class Settlement,” substantially in the form attached hereto as Exhibit E, for the Court’s review and approval.

O. **“Final Judgment.”** “Final Judgment” means fifteen (15) days after the latest of: (i) the date of final affirmance on an appeal of the Judgment, or the expiration of time for a petition for a writ of certiorari to review the Judgment and, if certiorari is granted, the date of final affirmance of the Judgment following review pursuant to that grant; (ii) the date of final dismissal with prejudice of the last pending appeal from the Judgment or the final dismissal of any proceeding on certiorari to review the Judgment; or (iii) if no appeal is filed, the expiration date of the time for the filing or noticing of any form of valid appeal from the Judgment.

P. **“Final Settlement Approval Hearing.”** “Final Settlement Approval Hearing” means a hearing set by the Court to take place at least thirty (30) days after the Opt Out Response Deadline, for the purpose of (i) determining the fairness, adequacy, and reasonableness of the Agreement terms and associated settlement pursuant to class action procedures and requirements; (ii) approving Class Counsel’s attorneys’ fees and costs; (iii) approving the payment of the Service Payments; and (iv) entering Judgment.

Q. **“Gaming License” or “Occupational License.”** “Gaming License” or “Occupational License” means a license issued by the Missouri Gaming Commission (the “Commission”) to a person or entity to perform an occupation which the Commission has identified as requiring a license to participate in gaming operations within the state of Missouri. *See R.S.Mo. § 313.004, et seq.*

R. **“MMWL Gaming License Class.”** “MMWL Gaming License Class” means 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.

S. **“General Release.”** “General Release” means the General and Comprehensive Release of Claims, substantially in the form attached to this Agreement as Exhibit B, to be executed by Named Plaintiffs and Opt-In Plaintiff Tim Hammond to release the claims described in Paragraph I.HH.

T. **“General Released Claims.”** “General Released Claims” means any and all applicable federal, state, and local law claims, obligations, demands, actions, rights, causes of action, and liabilities against the Released Parties, of whatever kind and nature, character, and description, whether in law or equity, whether sounding in tort, contract, statute, or other applicable law, whether known or unknown, and whether anticipated or unanticipated, as detailed in the General Release, substantially in the form attached to this Agreement as Exhibit B.

U. **“Judgment.”** “Judgment” means the judgment to be rendered by the Court pursuant to this Agreement.

V. **“Maximum Settlement Fund.”** “Maximum Settlement Fund” means \$5,500,000.00, which is the maximum amount that Settling Entities have agreed to pay to fully resolve and settle this Litigation, including any claim for attorneys’ fees and costs approved by the Court; any and all amounts to be paid to Class Members; the Settlement Administration Costs; any Court-approved Service Payments; and the Reserve Fund. Settling Entities will not be required to pay under this Agreement any more than the gross total of \$5,500,000.00, except for the Employer Payroll Taxes, which Settling Entities shall pay independent of and in addition to the Maximum Settlement Fund.

W. **“Named Plaintiffs.”** “Named Plaintiffs” means Gina R. Lipari-Williams, Marissa T. Hammond, and Lucinda M. Layton.

X. **“Net Settlement Amount.”** “Net Settlement Amount” means the Settlement Amount less Class Counsel’s attorneys’ fees and costs, the Service Payments, the Settlement Administration Costs, and the Reserve Fund.

Y. **“Opt-In Plaintiffs.”** “Opt-In Plaintiffs” refers to all individuals who filed a Consent to Join form in the Litigation and who will become bound by the Released FLSA Claims portion of the Judgment if the Effective Date occurs.

Z. **“Opt Out” or “Opt Outs.”** “Opt Out” or “Opt Outs” means written and signed requests by Class Employees to be excluded from the Settlement Class, which are to be submitted in the manner and within the time set forth in the Proposed Settlement Notice.

AA. **“Opt Out Response Deadline.”** “Opt Out Response Deadline” means the later of the date forty-five (45) days from the date the Settlement Administrator first mails the Proposed Settlement Notice to Class Employees, or thirty (30) days from the date the Settlement Administrator mails the Proposed Settlement Notice to a Class Employee’s additional address, provided that under no circumstances will the Opt Out Response Deadline be more than seventy-five (75) days from date the Settlement Administrator first mails the Proposed Settlement Notice to Class Employees.

BB. **“Participating Class Member.”** “Participating Class Member” means any Class Member who negotiates his settlement payment check and thus becomes bound by both the Released Claims and the Released FLSA Claims portions of the Judgment if the Effective Date occurs.

CC. **“Participation Deadline.”** “Participation Deadline” means the date one hundred and twenty (120) days from the date the Settlement Administrator mails the Settlement Checks to the Class Members.

DD. **“Parties.”** “Parties” shall refer to the Named Plaintiffs and the Settling Entities.

EE. **“Preliminary Approval.”** “Preliminary Approval” means the date on which the Court preliminarily approves the terms of the Parties’ Agreement and certifies a class action for settlement purposes only, as provided in Paragraph IV.A.

FF. **“Preliminary Approval Order.”** “Preliminary Approval Order” means an order to be executed and filed by the Court preliminarily approving the terms contained in this Agreement and certifying a class action for settlement purposes only as provided in Paragraph IV.A. The Parties shall submit a draft order, entitled “Order Granting Preliminary Approval of Class Action Settlement,” substantially in the form attached hereto as Exhibit C, for the Court’s review and approval.

GG. **“Proposed Settlement Notice.”** “Proposed Settlement Notice” means the Notice Regarding Proposed Settlement of Class Action to be sent to Class Employees after the Court grants Preliminary Approval of the Agreement, substantially in the form attached to this Agreement as Exhibit A.

HH. **“Released Claims.”** “Released Claims” means: (1) any and all state and local wage and hour claims that were or could have been asserted based on the facts alleged in the Complaint, including, but not limited to, any and all claims predicated on gaming license deductions, alleged tip-pooling violations (including any claims seeking tip credit-related or tip-pool-related damages that were or could have been asserted based on the allegations in the Complaint), whether known or unknown; and (2) any and all federal, state, and local claims, including any claims under ERISA, related to the tobacco surcharge that were or could have been asserted based on the facts alleged in the Complaint, whether known or unknown. The Released Claims include liquidated or punitive

damages based on said claims and are intended to include all claims described or identified herein through the date of Preliminary Approval.

II. **“Released FLSA Claims.”** “Released FLSA Claims” means any and all federal wage and hour claims that were or could have been asserted based on the facts alleged in the Complaint, including, but not limited to, those brought under the FLSA and any and all claims predicated on gaming license deductions, alleged tip-pooling violations (including any claims seeking tip credit-related or tip-pool-related damages that were or could have been asserted based on the allegations in the Complaint), whether known or unknown. The Released FLSA Claims include liquidated or punitive damages based on said claims and are intended to include all claims described or identified herein through the date of Preliminary Approval. The Releases defined in Paragraphs I.S and I.T do not apply to any rights or claims that may arise after the date of Preliminary Approval; nor shall any provision in this Agreement be interpreted to waive or extinguish any benefit, rights, claims, or causes of action which may not be infringed, limited, waived, released or extinguished by private agreement and/or as a result of any law, statute, or ordinance.

JJ. **“Released Parties.”** “Released Parties” means the Settling Entities and their present and former affiliates, divisions, members, joint venture partners, subsidiaries, parents, predecessors, any merged entity or merged entities and/or its or their present and former officers, partners, directors, employees, agents, attorneys, shareholders and/or successors, insurers or reinsurers, employee benefit plans, including but not limited to the Penn National Gaming, Inc. Flexible Benefits Plan (and the trustees, administrators, fiduciaries, agents, representatives, insurers and reinsurers of such plans), assigns, trustees, heirs, administrators, executors,

representatives and/or principals thereof, and all persons or entities acting by, through, under or in concert with any of them, and any individual or entity that could be jointly liable with any of them.

KK. **“Reserve Fund.”** “Reserve Fund” means a fund in the amount of \$5,000.00, allocated from the Maximum Settlement Fund, that the Settlement Administrator may use, with approval from Settling Entities, to make payments to Class Employees who dispute their Settlement Check allocation amounts, to individuals who were not identified as Class Employees but have a good faith claim for participation in this settlement, or for any other reasonable purpose necessary to effectuate the settlement.

LL. **“Service Payments.”** “Service Payments” means the amounts approved by the Court to be paid to Named Plaintiffs and Opt-In Plaintiff Tim Hammond as described in Paragraph III.C, in addition to their Settlement Checks as Class Members, in recognition of their efforts in coming forward as Named Plaintiffs, assisting in the prosecution of the Litigation, or otherwise benefiting the Settlement Class.

MM. **“Settlement Administrator.”** “Settlement Administrator” refers to Analytics Consulting LLC, the settlement administrator selected by the Parties.

NN. **“Settlement Administration Costs.”** “Settlement Administration Costs” means the fees and costs incurred by the Settlement Administrator in administering the settlement as described in this Agreement.

OO. **“Settlement Checks.”** “Settlement Checks” means the checks issued to Class Members for their proportionate share of the Net Settlement Fund calculated in accordance with this Agreement.

PP. **“Settling Entities.”** “Settling Entities” means PNG, Argosy Riverside, and Hollywood St. Louis.

QQ. **“Argosy Casino Riverside Tip Pooling Class.”** “Argosy Casino Riverside Tip Pooling Class” means 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.

RR. **“Hollywood Casino Tip Pooling Class.”** “Hollywood Casino Tip Pooling Class” means all persons employed as Table Games Dealers at Hollywood St. Louis from March 31, 2017 through October 31, 2019, and who participated in the Table Games Dealer tip pool.

II. CERTIFICATION OF THE CLASS FOR PURPOSES OF SETTLEMENT ONLY

A. The Court previously certified the MMWL Gaming License Class, the Argosy Casino Riverside Tip Pooling Class, the Hollywood Casino Tip Pooling Class, and the Nationwide ERISA Class. The stipulations in this Paragraph are made solely for purposes of this Agreement. The Parties agree that the stipulations and the terms of this Agreement are in no way an admission that class or collective action certification, including conditional collective action certification, was proper in this Litigation, and neither the existence nor the terms of this Agreement or the stipulations will be admissible in this or any other action or proceeding as evidence that (i) a determination or admission that any group of similarly situated employees exists to maintain a class action under Rule 23 of the Federal Rules of Civil Procedure (or comparable state laws or rules) or collective action under the FLSA; (ii) an adjudication of the merits of the Litigation; (iii) Settling Entities are liable to Named Plaintiffs, Class Employees, or the Settlement Class; or (iv) an adjudication of any other matters released in this Agreement.

III. PAYMENTS, SETTLEMENT FUND AND ALLOCATION

A. Allocation of the Net Settlement Amount: The Net Settlement Amount shall be allocated as follows: 2% to the MMWL Gaming License Class; 25% to the Argosy Casino Riverside Tip Pooling Class; 27% to the Hollywood Casino Tip Pooling Class; and 46% to the Nationwide ERISA Class. These allocations approximate the proportional damages attributable

to each claim and each Class. Each Class Member's estimated share of the Net Settlement Amount will be calculated by the Settlement Administrator as follows:

1. Each MMWL Gaming License Class member's estimated share of the MMWL Gaming License Class payment shall be calculated *pro rata* by comparing the amount of money that the Gaming License Class member had deducted from his or her pay associated with initially obtaining or thereafter renewing a Gaming License between March 31, 2017 and September 24, 2021, against the total amount of money that all Gaming License Class members had deducted from their pay for initially obtaining or thereafter renewing a Gaming License between March 31, 2017 and September 24, 2021.

2. Each Argosy Casino Riverside Tip Pooling Class member's estimated share of the Argosy Casino Riverside Tip Pooling Class payment shall be calculated *pro rata* by comparing the number of hours that the Argosy Casino Riverside Tip Pooling Class member worked at Argosy Riverside from March 31, 2017 through April 23, 2021 against the total amount of hours that all Argosy Casino Riverside Tip Pooling Class Members worked during that time period.

3. Each Hollywood Casino Tip Pooling Class member's estimated share of the Hollywood Casino Tip Pooling Class payment shall be calculated *pro rata* by comparing the number of hours that the Hollywood Casino Tip Pooling Class member worked at Hollywood Casino from March 31, 2017 through October 31, 2019 against the total amount of hours that all Hollywood Casino Tip Pooling Class Members worked during that time period.

4. Each Nationwide ERISA Class member's estimated share of the Nationwide ERISA Class payment shall be calculated *pro rata* by comparing the amount of any tobacco surcharges that the Nationwide ERISA Class member had deducted from his or her pay

during plan years 2016 through 2020, against the total amount of tobacco surcharges that all Nationwide ERISA Class members had deducted from their pay during plan years 2016 through 2020. For the avoidance of doubt, Nationwide ERISA Class members are not entitled to any additional payment by virtue of their membership in both the Nationwide ERISA Class and the Nationwide ERISA Sub-class.

B. Participation in Settlement by Class Employees

1. Class Employees may elect to “opt out” of the Settlement Class and thus exclude themselves from the Litigation, the Settlement, and the Settlement Class. Class Employees who wish to exercise this option must comply with the instructions in the Proposed Settlement Notice attached hereto as Exhibit A which is incorporated herein by this reference as though set forth in full. If the required written notification of exercising the right to opt out is not received by the Settlement Administrator from a Class Employee and postmarked on or before the Opt Out Response Deadline, then that Class Employee will be deemed to (a) have forever waived his or her right to opt out of the Settlement Class; (b) be a member of the Settlement Class; and (c) have forever released the Released Claims against the Released Parties. Opt-In Plaintiffs are not eligible to “opt out” of the Settlement Class.

2. Eligible Class Employees who timely and properly exercise their right to opt out shall have no further role in the Litigation, and for all purposes shall be regarded as if they never were either a party to this Litigation or a Class Member, and thus they shall not be entitled to any benefit as a result of the Litigation, this Agreement and the settlement that it evidences, nor will they have released any claims they may have against the Released Parties.

3. Class Employees who do not opt out of the Settlement Class pursuant to Paragraph III.B, i.e., Class Members, may object to the Agreement by submitting written

objections to the Court and mailing copies of their written objection so that they are received by the Settlement Administrator and are postmarked no later than the Opt Out Response Deadline. Any objections must be timely submitted as required in this Paragraph or else they will be waived. The Proposed Settlement Notice shall advise Class Members of this option. The Settlement Administrator shall immediately provide copies of any such objections to Class Counsel and Counsel for Settling Entities.

4. Class Members who negotiate their Settlement Checks on or before the Participation Deadline will become Participating Class Members and shall be deemed to have waived the Released FLSA Claims against the Released Parties. Class Members who do not timely negotiate their Settlement Checks will not be deemed to have waived the Released FLSA Claims against the Released Parties. Consistent with the law, however, the statute of limitations for an FLSA claim continues to run until a person affirmatively opts-in to, or files, an FLSA action.

5. Only Class Members who negotiate their Settlement Checks on or before the Participation Deadline shall be entitled to payment pursuant to the settlement and this Agreement.

C. Service Payments to Named Plaintiffs and Opt-In Plaintiff Tim Hammond. The Service Payment to Named Plaintiffs Gina R. Lipari-Williams, Marissa T. Hammond, and Lucinda M. Layton shall not exceed the total amount of \$10,000 each. The Service Payment to Opt-In Plaintiff Tim Hammond shall not exceed the total amount of \$7,500. The Service Payments are being sought in recognition of Named Plaintiffs' and Opt-In Plaintiff Tim Hammond's efforts to pursue the claims raised in this Litigation on behalf of the Settlement Class, including assisting Class Counsel with the prosecution of this Litigation and being deposed, and in return for their full and complete release of all claims, in the form of a fully executed General Release attached as

Exhibit B. If the Named Plaintiffs or Opt-In Plaintiff Tim Hammond do not execute the General Release, they will not receive the Service Payments.

Settling Entities will not oppose Named Plaintiffs' request for the Service Payments. In the event that the Court does not approve the amount of the Service Payments to the Named Plaintiffs or Opt-In Plaintiff Tim Hammond, the settlement will proceed. This Agreement is not contingent upon the Court's approval of the request for the Service Payments in any amount. This Agreement, as well as the General Release, will be modified to reflect any amount that is approved by the Court. Any amounts allocated as the Service Payments for Named Plaintiffs or Opt-In Plaintiff Tim Hammond under this Agreement, but not approved by the Court, shall be added to the Net Settlement Amount.

D. Payment of Attorneys' Fees and Costs. Class Counsel will apply to the Court for approval of attorneys' fees not to exceed thirty-five percent (35%) of the Maximum Settlement Fund, or \$1,925,000, and costs and expenses not to exceed \$100,000. Settling Entities will not oppose such application. In the event that the Court does not approve the amount of the requested attorneys' fees or costs, the settlement will proceed. This Agreement is not contingent upon the Court's approval of the requested attorneys' fees or costs in any amount and will be modified to reflect the amount(s) approved by the Court. Any amounts allocated as attorney's fees or costs under this Agreement, but not approved by the Court, shall be added to the Net Settlement Amount.

E. Release of Claims.

1. Upon the Effective Date and after Settling Entities have paid the Maximum Settlement Fund to the Qualified Settlement Fund ("QSF") pursuant to Paragraph IV.B.3, Named Plaintiffs and each of the Class Members, on behalf of themselves and each of their heirs, representatives, successors, assigns, and attorneys, shall be deemed to have, and by operation of

the Judgment shall have, fully, finally, and forever released, dismissed with prejudice, relinquished, and discharged all Released Claims as defined in Paragraph I.HH herein and in the relevant releases.

2. Further, upon the date(s) that Class Members negotiate their Settlement Checks, on behalf of themselves and each of their heirs, representatives, successors, assigns, and attorneys, shall be deemed to have, and by operation of the Judgment shall have, fully, finally, and forever released, dismissed with prejudice, relinquished, and discharged all Released FLSA Claims as defined in Paragraph I.II herein and in the relevant releases.

3. Further, upon the Effective Date and after the Settling Entities have paid the Maximum Settlement Fund to the QSF pursuant to Paragraph IV.B.3, Named Plaintiffs and Opt-In Plaintiff Tim Hammond shall be deemed to have, and by operation of the Judgment shall have, fully, finally, and forever released, dismissed with prejudice, relinquished, and discharged all General Released Claims as defined in Paragraph I.T and detailed in the General Release, attached as Exhibit B.

IV. THE SETTLEMENT PROCESS

A. Court Approval of Settlement and Dismissal of Case. As soon as practicable and without undue delay, Plaintiffs will seek the Court's Preliminary Approval of the terms of this Agreement (which Defendants will not oppose) and, upon Final Approval, Plaintiffs will seek the Court's dismissal of the Litigation with prejudice, on the condition that the Court retain jurisdiction to administer and enforce the terms of this Agreement, to the extent allowed by law.

1. A condition precedent to this Agreement is the Court's approval of the Preliminary Approval Order attached as Exhibit C, without any changes by the Court to the Preliminary Approval Order that the Settling Entities reasonably and in good faith deem material.

2. The Parties shall provide to the Court for review and approval this Agreement, with exhibits, including (a) the proposed Preliminary Approval Order in substantially the form attached as Exhibit C, (b) the General Release, attached as Exhibit B, (c) the Proposed Settlement Notice, attached as Exhibit A; and such other information as the Court may request.

3. The Parties shall cooperate and take all necessary steps to effectuate judicial approval of the Agreement. Should the Court not approve the Agreement, or should the Court not approve and enter the Preliminary Approval Order in the form attached as Exhibit C (or in a form without any changes by the Court that the Settling Entities deem material), the terms of this Agreement will be null and void, the Parties will retain all rights and defenses in the Litigation, and all negotiations and information and materials pertaining in any way to this Agreement or the settlement of the Litigation will be inadmissible. In such an event, the Parties agree in good faith to negotiate about appropriate revisions and re-submit for the Court's approval. In the event this settlement is never approved by the Court, the Parties will retain all rights and defenses in the Litigation, and all negotiations and information and materials pertaining in any way to this Agreement or the settlement of the Litigation will be inadmissible.

4. Within ten (10) days following the filing of this Agreement with the Court, Settling Entities shall serve upon the Office of the Comptroller of the Currency of the United States and the appropriate State official of each State in which any Class Member resides, as determined by Settling Entities' records, a notice of the proposed settlement in compliance with the requirements of the Class Action Fairness Act, 28 U.S.C. § 1715 ("CAFA"). A sample of the CAFA Notice is attached to this Agreement as Exhibit D.

5. Final Approval. At least thirty (30) days after the Opt Out Response Deadline the Court shall set the Final Settlement Approval Hearing. Prior to the Final Settlement

Approval Hearing, Plaintiffs will move the Court for entry of the Final Approval Order and the associated Judgment (which Defendants will not oppose). The Parties shall make all reasonable efforts to secure entry of the Final Approval Order and the associated Judgment. If the Court rejects their request, fails to enter the Final Approval Order, or fails to enter the Judgment, this Agreement shall be void *ab initio*, and Settling Entities shall have no obligations to make any payments under the Agreement, except for costs already incurred by the Settlement Administrator, which shall be borne equally by, on one hand, Class Counsel and Named Plaintiffs, and the Settling Entities, on the other. At the time the motion is filed requesting Final Approval, Named Plaintiffs and Class Counsel also shall make an application for attorneys' fees and costs and the Service Payments. Notwithstanding any order entered on Named Plaintiffs' and Class Counsel's application for awards to them, under no circumstance shall Settling Entities be required to pay any such awards absent occurrence of the Effective Date.

B. Settlement Administration. If the Court grants Preliminary Approval of this Agreement, the parties will use Analytics Consulting LLC (or any other mutually-agreed settlement administrator) to administer the settlement. Reasonable fees and expenses of the Settlement Administrator shall be paid from Maximum Settlement Fund. In no circumstances will any administration of the settlement, including issuance of the Proposed Settlement Notice, occur unless and until the Court grants Preliminary Approval as set forth in Paragraph IV.A. The Parties agree to the following procedure for administration of the settlement:

1. Collection and Validation of Contact and Payroll Information.

a. Within fourteen (14) days of Preliminary Approval, Settling Entities shall provide the names and addresses ("Contact Information") and payroll or other data needed for purposes of allocating the Net Settlement Amount ("Payroll Information") of Class Employees

to the Settlement Administrator and Class Counsel. Any and all information, including Social Security Numbers, provided by Settling Entities or Class Counsel shall be held in confidence and shall be used solely for purposes of effectuating this Agreement. This information shall not be disclosed to Named Plaintiffs or Class Employees.

b. Upon receipt of the Contact Information, the Settlement Administrator shall make reasonable efforts to obtain valid, current addresses for Class Employees, including validating Contact Information through the national change of address database or other third party change of address databases prior to sending the Proposed Settlement Notice and thereafter as needed.

c. Upon receipt of the Payroll Information, the Settlement Administrator shall calculate the amount of the Settlement Checks for each Class Employee in accordance with Paragraph III.A.

2. Issuance of Proposed Settlement Notice to Class Employees.

a. Within fourteen (14) days of receiving the Contact Information and the Payroll Information, the Settlement Administrator shall issue the Proposed Settlement Notice, as approved by the Court, in substantially the form attached hereto and made a part of this Settlement Agreement as Exhibit A to all Class Employees. The Proposed Settlement Notice shall inform Class Employees of their right to opt-out of the settlement, object to the settlement, or elect to participate in the settlement, and the approximate amount they are entitled to receive if they participate (except that Opt In Plaintiffs will not be permitted to opt out of the settlement). If the Proposed Settlement Notice sent to a Class Employee is returned as undeliverable, the Settlement Administrator shall promptly undertake reasonable steps including performing a single skip trace to determine the Class Employee's current address and, if an additional address is located, to send

the Proposed Settlement Notice to the additional address. Although, only one (1) additional Proposed Settlement Notice may be sent to a Class Employee following a skip trace, the Settlement Administrator shall send a Proposed Settlement Notice to any Class Employee who provides the Settlement Administrator with updated address information.

b. Eligible Class Employees shall have a deadline of forty-five (45) days from the date the Proposed Settlement Notice is first mailed to opt out of the settlement by fully complying with the requirements for doing so as set forth in the Proposed Settlement Notice attached hereto as Exhibit A. If the Settlement Notice sent to an Class Employee is returned as undeliverable, but the Settlement Administrator locates an additional address for the Class Employee and thereafter sends the Proposed Settlement Notice to that additional address, then that Class Employee shall have a deadline of the earlier of thirty (30) days from the date the Proposed Settlement Notice was mailed to the additional address to opt out of the settlement or seventy-five (75) days from date the Settlement Administrator first mailed the Proposed Settlement Notice to Class Employees. Opt Outs must be returned via U.S. First Class Mail and be postmarked by the Opt Out Response Deadline, which shall be specified in the Proposed Settlement Notice, to be timely. However, Opt In Plaintiffs have already consented to join the Litigation and therefore will not be permitted an opportunity to opt out.

3. Establishment and Funding of the QSF.

a. If the Court grants Preliminary Approval of this Agreement, the Settlement Administrator shall establish a QSF pursuant to 26 C.F.R. § 1.468B-1 for the purposes of administering the Settlement on or before the Effective Date. The Parties shall provide the Settlement Administrator with all necessary cooperation for the creation of the QSF, including but not limited to the execution of all necessary documents.

b. Settling Entities shall fund the QSF with the Maximum Settlement Fund within fourteen (14) days of the Effective Date.

c. To effectuate the terms of the Settlement and to correct for mathematical or factual errors in the allocations to Class Members, the Settlement Administrator shall allocate from the Maximum Settlement Fund \$5,000.00 to create a Reserve Fund, which the Settlement Administrator may use, with approval from Settling Entities and Class Counsel, to make payments to Class Members who dispute their allocation amounts, to individuals who were not identified as Class Employees but have a good faith claim for participation in the settlement, or for any other reasonable purpose necessary to effectuate the settlement.

4. Issuance of the Payments under This Agreement.

a. Within fourteen (14) days of the date Settling Entities fund the QSF with the Maximum Settlement Fund, the Settlement Administrator shall issue (i) Settlement Checks allocated from the Net Settlement Fund in accordance with Paragraph III.A to Class Members; (ii) a wire transfer in the amount of any Court-approved attorneys' fees and costs to Class Counsel; and (iii) a check in the amount of any Court-approved Service Payments to Named Plaintiffs and Opt-In Plaintiff Tim Hammond.

b. The Settlement Checks shall be valid and negotiable for a period of one hundred and twenty (120) days from issuance ("Participation Deadline"). Any Settlement Checks that are not cashed or deposited within one hundred and twenty (120) days from issuance shall become void. Sixty (60) days prior to the Participation Deadline, the Settlement Administrator shall issue reminder postcards to each of the Class Members who have not negotiated his or her Settlement Check by that date.

c. At the end of the one hundred and twenty (120) day period from the date the Settlement Checks were mailed, Named Plaintiffs and the Class Members shall remain bound by this Agreement, their respective Releases, and the Final Order Approving Settlement, notwithstanding any failure to cash or deposit any Settlement Check issued pursuant to this Paragraph.

C. Unclaimed Monies.

1. Any portion of the Net Settlement Amount that is not claimed by Class Members because those individuals did not timely negotiate their Settlement Checks, or any portion of the Reserve Fund that is not allocated by the Settlement Administrator to Class Members (collectively, the “Unclaimed Monies”), shall be distributed *cy pres* to the following charitable organizations: (a) Angels’ Arms; and (2) the Kaufman Fund. Each organization shall receive 50% of any Unclaimed Monies.

2. The Settlement Administrator shall effectuate the distribution of the money described above in Paragraph IV.C.1, no later than thirty (30) days after the Participation Deadline.

D. Tax Treatment of Settlement Checks.

1. For tax purposes, 50% of each Settlement Check for damages associated with the wage and hour claims (i.e., payments to members of the MMWL Gaming License Class, Argosy Casino Riverside Tip Pooling Class, and Hollywood Casino Tip Pooling Class) shall be treated as back wages, and the other 50% of each Settlement Check shall be treated as interest, any applicable penalties, liquidated damages and other non-wage relief. In addition, for tax purposes, 100% of each Settlement Check for damages associated with the ERISA claim (i.e., payments to members of the Nationwide ERISA Class) shall be treated as back wages.

2. Payments treated as back wages shall be made net of all applicable employment taxes, including, without limitation, federal, state and local income tax withholding and the employee share of the FICA tax, and shall be reported to the Internal Revenue Service (“IRS”) and other appropriate taxing authorities (together with the IRS, the “Taxing Authorities”) and the payee under the payee’s name and Social Security number on an IRS Form W-2. The employee portion of all applicable income and payroll taxes will be the sole responsibility of the individual Class Member, and shall come out of the Net Settlement Amount. However, payments treated as back wages shall not be made net of any Employer Payroll Taxes, which shall be paid by the Settling Entities independent of and in addition to the Maximum Settlement Fund.

3. Payments treated as interest and/or liquidated damages shall be made without withholding and shall be reported to the Taxing Authorities and the payee, to the extent required by law, under the payee’s name and Social Security number on an IRS Form 1099.

4. The Settlement Administrator shall be responsible for determining the appropriate number of exemptions to be used in calculating payroll tax and withholding, deciding the appropriate tax rate, and issuing IRS Forms W-2 and Forms 1099 as appropriate.

E. Tax Treatment of Attorneys’ Fees. Within seven (7) calendar days following Final Approval, Class Counsel shall provide the Claims Administrator with a duly completed IRS Form W-9. The payments provided by Paragraph III.D shall be considered attorneys’ fees and reported on behalf of Class Counsel to the Taxing Authorities on a Form 1099 issued to Class Counsel by the Settlement Administrator, provided the Settlement Administrator has timely received a duly completed Form W-9 from Class Counsel.

F. Tax Treatment of Service Payment. The Service Payment paid to Named Plaintiffs and Opt-In Plaintiff Tim Hammond under this Agreement shall be reported as non-wage income

to the Taxing Authorities on a Form 1099 issued to Named Plaintiffs and Opt-In Plaintiff Tim Hammond by the Settlement Administrator.

G. Responsibility for Taxes.

1. The Settling Entities are only responsible for the Employer Payroll Taxes arising from the payments under this Agreement. In the event that it is determined by the Taxing Authorities that Class Counsel, Named Plaintiffs, Opt-In Plaintiff Tim Hammond, and/or any Class Member owes any additional taxes with respect to any attorneys' fees or costs, any Service Payments, or any Settlement Check distributed under this Agreement, it is expressly agreed that the determination of any tax liability is between Class Counsel, Named Plaintiff, Opt-In Plaintiff Tim Hammond, and/or the Class Members and the Tax Authorities, and that Settling Entities will not be responsible for the payment of such taxes, including any interest and penalties.

2. Class Counsel, Counsel for the Settling Entities, and Settling Entities make no representations, and it is understood and Named Plaintiffs agree on behalf of Class Members, that Class Counsel, Counsel for the Settling Entities, and Settling Entities have made no representations, as to the taxability of any portions of the Settlement Check to Named Plaintiffs, Opt-In Plaintiff Tim Hammond, or any Class Member, the payment of any costs or award of attorneys' fees to Class Counsel, or any Service Payment to Named Plaintiffs or Opt-in Plaintiff Tim Hammond. The Proposed Settlement Notice will advise Class Employees to seek their own tax advice prior to acting in response to the Notices. Neither Class Counsel nor Counsel for the Settling Entities intend anything contained herein to constitute legal advice regarding the taxability of any amount paid hereunder, nor will it be relied upon as such.

3. Named Plaintiffs and/or any Class Member agree to indemnify and hold harmless Settling Entities and Released Parties for any taxes, penalties, interest, or other amounts

due or owing by Settling Entities for any taxes due or owed by Named Plaintiffs, Opt-In Plaintiff Tim Hammond, and/or any Class Member on any portion(s) of the Settlement Check to any Named Plaintiffs, Opt-In Plaintiff Tim Hammond, or any Class Member, or any Service Payments to Named Plaintiffs or Opt-In Plaintiff Tim Hammond. Other than as set forth above, and as required by law, Settling Entities and the Settlement Administrator will not make from the payment to Named Plaintiffs, Opt-In Plaintiff Tim Hammond, and/or any Class Member any deductions, withholdings, or additional payments, including without limitation, medical or other insurance payments or premiums, employee 401(k) contributions or matching employer contributions, wage garnishments, or charity withholdings, and entry of the Final Judgment shall be deemed authority not to make such deductions, withholdings, or additional payments. Any amount paid to Named Plaintiffs, Opt-In Plaintiff Tim Hammond, and/or any Class Member shall not create any credit or otherwise affect the calculation of any deferred compensation, benefit, pension, or other compensation or benefit plan provided by Settling Entities.

H. Other Responsibilities of the Settlement Administrator.

1. The Settlement Administrator shall provide periodic updates to Class Counsel and Counsel for Settling Entities regarding Opt Outs, Class Member objections, and Settlement Check negotiation rates.

2. The Settlement Administrator will create the following for purposes of communicating with class members: toll free telephone number, email address, P.O. Box, and website. The Settlement Administrator shall keep a log of all communications with any Class Employees, and shall be responsible for responding to inquiries about the settlement. In the event any Class Employee requests to speak to Class Counsel or has a question that seeks legal advice about the settlement, the Settlement Administrator shall provide that person with Class Counsel's

contact information, including telephone number, email address, and mailing address. The Settlement Administrator shall forward all other unresolved questions or issues in writing to Class Counsel and Counsel for Settling Entities, who will work jointly to attempt to provide a resolution.

3. In communications to Class Employees, the Settlement Administrator and the Parties will cooperate to facilitate the purposes of the settlement. Any communication between Class Counsel and a Class Employee shall not discuss any other Class Employee's decision to participate (or not to participate) in this Settlement or allocation of money thereunder.

4. Within seven (7) days of the Opt Out Response Deadline for all Class Employees, the Settlement Administrator shall provide Settling Entities and Class Counsel with a list of the names and addresses of all Class Employees (a) who have opted out of the settlement; (b) who do not opt out of the settlement; and (c) the final allocations of amounts to be distributed to each of the settlement participants. Once the final allocations have been calculated, payments to each settlement participant will be in accordance with those allocations.

V. NON-ADMISSION OF LIABILITY

This Agreement shall not in any way be construed as an admission by any Settling Entity that it has acted wrongfully with respect to Named Plaintiffs, Opt-In Plaintiff Tim Hammond, Class Employees, or to any other person, collectively or individually, and Settling Entities specifically disclaim any liability to or wrongful acts against Named Plaintiffs, Opt-In Plaintiff Tim Hammond, Class Employees, or any other person, on the part of the Settling Entities or the Released Parties. Furthermore, the Parties agree that this Agreement does not constitute an adjudication of the merits of the Litigation or any other matters released in this Agreement. Accordingly, the Parties agree that none of them has prevailed on the merits; nor shall this Agreement serve or be construed as evidence that (1) any party has so prevailed; (2) Settling

Entities or the Released Parties have engaged in any wrongdoing; (3) PNG is or was a joint employer of Named Plaintiffs, Opt-In Plaintiff Tim Hammond, or any Class Employee, which PNG expressly denies; or (4) any claims may or should proceed on a class or collective action basis against any of the Settling Entities or the Released Parties. Nothing in this provision shall prevent the Parties from bringing an action to enforce the terms of this Agreement.

VI. RELEASE OF FEES AND COSTS

Named Plaintiffs, Opt-In Plaintiff Tim Hammond, and Class Counsel understand and agree that any fee payments made under Paragraph III.D of this Agreement will be the full, final, and complete payment by Settling Entities of all attorneys' fees and costs arising from or relating to the representation of Named Plaintiffs, Opt-In Plaintiff Tim Hammond, the Class Members or any other attorneys' fees and costs associated with the investigation, discovery, and/or prosecution of the Litigation against Settling Entities. As an inducement to Settling Entities to enter into this Agreement, and as a material condition thereof, Named Plaintiffs, Opt-In Plaintiff Tim Hammond, and Class Counsel hereby irrevocably and unconditionally release, acquit, and forever discharge any claim they may have against the Released Parties for attorneys' fees or costs arising from or relating to the individuals and matters identified in this Paragraph. As a further inducement to Settling Entities to enter into this Agreement, and as a material condition thereof, Named Plaintiffs, Opt-In Plaintiff Tim Hammond, and Class Counsel further understand and agree that the fee and cost payments made pursuant to Paragraph III.D of this Agreement will be the full, final, and complete payment of all attorneys' fees and costs that are released, acquitted, or discharged under this Paragraph. As further inducement to Settling Entities to enter into this Agreement, and as a material condition thereof, Named Plaintiffs, Opt-In Plaintiff Tim Hammond, and Class Counsel warrant and represent that they will not, nor will any of their employees, agents, or representatives

of their firms, file any claims for attorneys' fees or costs against the Released Parties, including, but not limited to, bills of costs or requests for attorneys' fees, arising out of the Litigation, and Named Plaintiffs and Class Counsel hereby irrevocably and unconditionally release, acquit, and forever discharge the Released Parties of any liability for such fees and/or costs. Furthermore, Named Plaintiffs, Opt-In Plaintiff Tim Hammond, and Class Counsel represent and warrant that they are not aware of any attorney, other than Class Counsel, who has any attorney's fee lien on or claim to any proceeds arising out of, by virtue of, or in connection with the Litigation, and that the terms of this Agreement shall fully satisfy any and all claims by any attorney arising out of or by virtue of or in connection with the Litigation.

VII. USE AND RETURN OF DOCUMENTS

Named Plaintiffs, Opt-In Plaintiff Tim Hammond, and Class Counsel agree to return and/or destroy all documents and materials designed as "Confidential" pursuant to the Parties' Agreed Protective Order (ECF Doc. 29) and those produced in conjunction with the Parties' mediation or other settlement negotiations in the matter. All originals, copies, and summaries of documents, presentations, and data provided to Class Counsel by Settling Entities in connection with the mediation or other settlement negotiations in this matter, including e-mail attachments containing such materials, may be used only with respect to this settlement, or any dispute between Class Members and Class Counsel regarding the settlement, and no other purpose, and may not be used in any way that violates any existing contractual agreement, statute, or rule.

VIII. LIMITED CONFIDENTIALITY

Named Plaintiffs, Opt-In Plaintiff Tim Hammond, and Class Counsel agree not to, directly or indirectly (1) issue or cause to be issued any statements to the media or press; (2) hold a press conference; or (3) publish any information or engage in any publicity regarding the Parties' negotiations, the settlement, this Agreement, whether orally, on a website, on any social media

application or platform, in email correspondence, by name, or by reference. Named Plaintiffs, Opt-In Plaintiff Tim Hammond, and Class Counsel agree not to respond to any press inquiries concerning the settlement except to refer reporters to the papers filed with the U.S. District Court for the Western District of Missouri.

IX. COURT RETAINS JURISDICTION TO ENFORCE AGREEMENT

The Court shall retain jurisdiction with respect to the implementation and enforcement of the terms of the Agreement, to the extent permitted by law, and all Parties hereto submit to the jurisdiction of the Court for purposes of implementing and enforcing the settlement embodied in the Agreement. This retention of jurisdiction encompasses any disagreement among the Parties concerning the final forms of the Notices or other documents necessary to implement this Agreement, and all other disputes regarding the Agreement and its implementation. Any action to enforce this Agreement shall be commenced and maintained only in this Court.

X. GOVERNING LAW

This Agreement is made and entered into in the State of Missouri and shall in all respects be interpreted, enforced, and governed by and under the laws of the State of Missouri. Any legal action relating to this Agreement shall be brought in this Court before Judge Bough or any judge presiding in his stead.

XI. COOPERATION CLAUSE

The Parties agree to cooperate to effectuate the settlement of the Litigation, including securing the Court's approval of the Agreement, assisting with the administration of the settlement in accordance with the terms of this Agreement, and obtaining a final dismissal. The Parties further agree to cooperate to the extent reasonably necessary to effect and implement all terms and conditions of the Agreement and to exercise their best efforts to accomplish the terms and conditions of the Agreement, including but not limited to obtaining the dismissal, transfer to the

Court, or stay of any pending or subsequently-filed class or collective action lawsuit that alleges any of the claims covered by the Releases herein.

XII. ASSIGNMENTS

Named Plaintiffs, Opt-In Plaintiff Tim Hammond, and Class Counsel represent that they have not assigned or transferred, or purported to assign or transfer, to any person or entity any claim or any portion thereof or interest therein, including, but not limited to, any interest in the Litigation, or any related action.

XIII. NO REPRESENTATIONS FROM SETTLING ENTITIES

Named Plaintiffs, Opt-In Plaintiff Tim Hammond, and Class Counsel represent and acknowledge that, in executing this Agreement or the General Release, they do not rely and have not relied upon any representation or statement made by Settling Entities or by any of its agents, representatives, or attorneys with regard to the subject matter, basis, or effect of this Agreement.

XIV. RIGHT TO WITHDRAW

Settling Entities shall have the right to withdraw from, and void *ab initio*, this Agreement at any time prior to the Effective Date upon the occurrence of any one of the following events: (i) 5% or more of the Class Employees opt out of the settlement; (ii) Settling Entities are required to pay more than Maximum Settlement Fund, plus the Employer Payroll Taxes; or (iii) the Court otherwise issues an Order inconsistent with any of the terms of this Agreement.

XV. BINDING AGREEMENT

This Agreement shall be binding upon the Parties and upon their respective heirs, administrators, representatives, executors, successors, and assigns, and shall inure to the benefit of Settling Entities and to their respective heirs, administrators, representatives, executors, successors, and assigns.

XVI. ARM'S LENGTH TRANSACTION; MATERIALITY OF TERMS

The Parties have negotiated all the terms and conditions of this Agreement at arm's length. All terms and conditions of this Agreement in the exact form set forth in this Agreement are material to this Agreement and have been relied upon by the Parties in entering into this Agreement.

XVII. SEVERABILITY

Should any clause, sentence, provision, Paragraph, or part of this Agreement be adjudged by any court of competent jurisdiction, or be held by any other competent governmental authority having jurisdiction, to be illegal, invalid, or unenforceable, such judgment or holding shall not affect, impair, or invalidate the remainder of this Agreement, but shall be confined in its operation to the clause, sentence, provision, Paragraph, or part of the Agreement directly involved, and the remainder of the Agreement shall remain in full force and effect.

XVIII. WAIVERS, ETC. TO BE IN WRITING

No waiver, modification, or amendment of the terms of this Agreement, whether purportedly made before or after the Court's Preliminary or Final Approval of this Agreement, shall be valid or binding unless in writing, signed by or on behalf of all Parties, and then only to the extent set forth in such written waiver, modification, or amendment subject to any required Court approval. Any failure by any party to insist upon the strict performance by the other party of any of the provisions of this Agreement shall not be deemed a waiver of future performance of the same provisions or of any of the other provisions of this Agreement, and such party, notwithstanding such failure, shall have the right thereafter to insist upon the specific performance of any and all of the provisions of this Agreement.

XIX. CAPTIONS

The captions or headings of the sections and paragraphs of this Agreement have been inserted for convenience of reference only and shall have no effect upon the construction or interpretation of any part of this Agreement.

XX. CONSTRUCTION

The determination of the terms and conditions of this Agreement has been by mutual agreement of the Parties. Each party participated jointly in the drafting of this Agreement, and therefore the terms and conditions of this Agreement are not intended to be, and shall not be, construed against any party by virtue of draftsmanship.

XXI. SOLE AND ENTIRE AGREEMENT

This Agreement, including Exhibits A through E and attached hereto, set forth the entire agreement between the Parties hereto. This Agreement fully supersedes any and all prior oral or written agreements or understandings between the Parties hereto pertaining to the subject matter hereof. This Agreement may only be modified in writing.

XXII. EXTENSIONS OF TIME

If any deadlines related to this Agreement cannot be met, Class Counsel and Counsel for Settling Entities shall meet and confer to reach agreement on any necessary revisions of the deadlines and timetables set forth in this Agreement. In the event that the Parties fail to reach such agreement, any of the Parties may apply to the Court via a noticed motion for modification of the dates and deadlines in this Agreement.

XXIII. FACSIMILE/ELECTRONIC SIGNATURES

Any signature made and transmitted by facsimile or email for the purpose of executing this Agreement shall be deemed an original signature for purposes of this Agreement and shall be binding upon the party whose counsel transmits the signature page by facsimile or email.

XXIV. THIRD PARTY BENEFICIARIES

The Agreement shall be binding upon, and inure to the benefit of, the successors and assigns of the Parties hereto; but this Agreement is not designed to and does not create any third party beneficiaries other than third parties that are identified as Released Parties as defined in Paragraph I.JJ.

XXV. COUNTERPARTS

This Agreement may be executed in two or more counterparts, each of which counterpart shall be deemed to be an original, and all such counterparts shall constitute one and the same instrument.

[THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK]

NAMED PLAINTIFFS:

01/20/2023
DATED: _____

By: Gina R. Lipari-Williams
Gina R. Lipari-Williams

DATED: _____

By: _____
Marissa T. Hammond

DATED: _____

By: _____
Lucinda M. Layton

SETTLING ENTITIES:

DATED: _____

By: _____
On Behalf of PENN Entertainment, Inc.

DATED: _____

By: _____
On Behalf of The Missouri Gaming Company,
LLC d/b/a Argosy Riverside Casino

DATED: _____

By: _____
On Behalf of St. Louis Gaming Ventures, LLC
d/b/a Hollywood Casino St. Louis

**CLASS COUNSEL AS TO FORM
AND CONTENT:**

DATED: _____

STUEVE SIEGEL HANSON LLP
By: _____

DATED: _____

McCLELLAND LAW FIRM, P.C.
By: _____

NAMED PLAINTIFFS:

DATED: _____

By: _____

Gina R. Lipari-Williams

01/21/2023

DATED: _____

By: MT Hammond

Marissa T. Hammond

DATED: _____

By: _____

Lucinda M. Layton

SETTLING ENTITIES:

DATED: _____

By: _____

On Behalf of PENN Entertainment, Inc.

DATED: _____

By: _____

On Behalf of The Missouri Gaming Company,
LLC d/b/a Argosy Riverside Casino

DATED: _____

By: _____

On Behalf of St. Louis Gaming Ventures, LLC
d/b/a Hollywood Casino St. Louis

**CLASS COUNSEL AS TO FORM
AND CONTENT:**

DATED: _____

STUEVE SIEGEL HANSON LLP

By: _____

DATED: _____

McCLELLAND LAW FIRM, P.C.

By: _____

NAMED PLAINTIFFS:

DATED: _____

By: _____
Gina R. Lipari-Williams

DATED: _____

By: _____
Marissa T. Hammond

01/21/2023
DATED: _____

By: 
Lucinda M. Layton

SETTLING ENTITIES:

DATED: _____

By: _____
On Behalf of PENN Entertainment, Inc.

DATED: _____

By: _____
On Behalf of The Missouri Gaming Company,
LLC d/b/a Argosy Riverside Casino

DATED: _____

By: _____
On Behalf of St. Louis Gaming Ventures, LLC
d/b/a Hollywood Casino St. Louis

**CLASS COUNSEL AS TO FORM
AND CONTENT:**

DATED: _____

STUEVE SIEGEL HANSON LLP
By: _____

DATED: _____

McCLELLAND LAW FIRM, P.C.
By: _____

NAMED PLAINTIFFS:

DATED: _____

By: _____
Gina R. Lipari-Williams

DATED: _____

By: _____
Marissa T. Hammond

DATED: _____

By: _____
Lucinda M. Layton

SETTLING ENTITIES:

DATED: 1/26/2023

By: Harper ko
On Behalf of PENN Entertainment, Inc.
Harper ko, EVP, Chief Legal Officer & Secretary

DATED: 1/26/2023

By: Lance George
On Behalf of The Missouri Gaming Company,
LLC d/b/a Argosy Riverside Casino
Lance George, Vice President & General Manager

DATED: 1/26/2023

By: Michael Jerlecki
On Behalf of St. Louis Gaming Ventures, LLC
d/b/a Hollywood Casino St. Louis
Michael Jerlecki, Vice President & General Manager

CLASS COUNSEL AS TO FORM AND CONTENT:

DATED: _____

STUEVE SIEGEL HANSON LLP
By: _____

DATED: _____

McCLELLAND LAW FIRM, P.C.
By: _____

NAMED PLAINTIFFS:

DATED: _____

By: _____
Gina R. Lipari-Williams

DATED: _____

By: _____
Marissa T. Hammond

DATED: _____

By: _____
Lucinda M. Layton

SETTLING ENTITIES:

DATED: _____

By: _____
On Behalf of PENN Entertainment, Inc.

DATED: _____

By: _____
On Behalf of The Missouri Gaming Company,
LLC d/b/a Argosy Riverside Casino

DATED: _____

By: _____
On Behalf of St. Louis Gaming Ventures, LLC
d/b/a Hollywood Casino St. Louis

**CLASS COUNSEL AS TO FORM
AND CONTENT:**

DATED: 1/23/2023 _____

STUEVE SIEGEL HANSON LLP
By:  _____

DATED: 1/22/23 _____

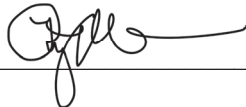
McCLELLAND LAW FIRM, P.C.
By:  _____

EXHIBIT A

**IN THE UNITED STATES DISTRICT COURT
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

**OFFICIAL COURT NOTICE REGARDING
PROPOSED SETTLEMENT OF CLASS ACTION**

To:

[Name]
[Address]
[City, State Zip]

If you were an employee of The Missouri Gaming Company, LLC d/b/a Argosy Casino Riverside (“Argosy Riverside”) or St. Louis Gaming Ventures, LLC d/b/a Hollywood Casino St. Louis (“Hollywood St. Louis”) between March 31, 2017 and September 24, 2021, and/or participated in a Penn National Gaming, Inc. group health plan from 2016 through 2020, you may be entitled to a payment from a class action lawsuit settlement.

Read this Notice carefully, as the proposed settlement will affect your rights. To receive proceeds from the settlement, you do not have to do anything in response to this Notice, as explained in further detail below.

A federal court authorized this Notice. This is not a solicitation from a lawyer.

- This Notice is directed to:
 - (1) 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

More information is available at [\[link to settlement website\]](#)

from their wages for any amount associated with initially obtaining or thereafter renewing a Gaming License;

- (2) 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;
 - (3) All persons employed as Table Games Dealers at Hollywood St. Louis from March 31, 2017 through October 31, 2019, and who participated in the Table Games Dealer tip pool; and/or
 - (4) 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.
- The Named Plaintiffs identified in the caption (the "Named Plaintiffs") sued Defendants PENN Entertainment, Inc. f/k/a 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"), by filing a Complaint (the "Complaint") on March 31, 2020, alleging that they violated the Fair Labor Standards Act, 29 U.S.C. § 201, *et seq.*, ("FLSA"), the Missouri Minimum Wage Law, R.S.Mo. § 290.500, *et seq.*, ("MMWL"), by (1) illegally deducting costs to obtain, maintain, and renew state-issued Missouri Gaming Licenses (defined below) from employees' wages, which resulted in violations of both the FLSA and Missouri state law; and (2) creating a mandatory tip pool policy which required table games dealers to pool their tips and then used those tips to pay the Paid Time Off ("PTO") of certain non-tipped, manager and supervisor employees;
 - The Named Plaintiffs also alleged that PNG breached its fiduciary duties under the Employee Retirement Income Security Act of 1974, 29 U.S.C. § 1001, *et sea.*, ("ERISA"), through a wellness program that discriminated against employees based on an impermissible health factor when it failed to provide a reasonable alternative standard with respect to its tobacco surcharge policy.
 - The Named Plaintiffs filed the Complaint as a class and collective action under the FLSA, MMWL, and ERISA.
 - Though PNG, Argosy Riverside, and Hollywood St. Louis (collectively, the "Settling Entities") deny the allegations in the Complaint, the Parties have agreed to settle this dispute for the purpose of avoiding further disputes and litigation with its attendant risk, expense, and inconvenience. The Court has not made any ruling on the merits of the claims, and no Party has prevailed in the lawsuit. However, the Court has reviewed and preliminarily approved this settlement and this Notice.
 - The settlement monies are being used to pay certain current and former employees of Defendants, to pay attorneys' fees, litigation costs, service payments, and the costs of administering the settlement. The Settling Entities will not take an adverse action against

any employee covered by the settlement whether or not he or she accepts a settlement payment.

- Under the allocation formula created by the settlement, you are being offered a settlement payment of \$ [redacted], which you will receive in the mail if the Court grants final approval of the settlement and you do not submit a written request to opt out of the settlement (described in Section 8 below). This amount is based on (i) the amount of money that you had deducted from your pay associated with initially obtaining or thereafter renewing a Gaming License between March 31, 2017 and September 24, 2021; (2) the number of hours that you worked at Argosy Riverside (from March 31, 2017 through April 23, 2021) and/or Hollywood St. Louis (from March 31, 2017 through October 31, 2019) during which you participated in a tip pool; and (3) the amount of any tobacco surcharges that you had deducted from your pay during plan years 2016 through 2020.
- Your decisions have legal consequences for you. You have a choice to make:

YOUR LEGAL RIGHTS AND OPTIONS IN RESPONSE TO THIS NOTICE:	
IF YOU DO NOTHING	By NOT submitting a written request to opt out of the settlement, you will be bound by the release of the Released Claims (defined in Section 7 of this Notice) and you will receive in the mail a settlement check in the amount of \$ [redacted] representing your share of the settlement fund. If you choose to cash or deposit that check, you will further be bound by the release of the Released FLSA Claims (defined in Section 7 of this Notice).
IF YOU SUBMIT A REQUEST TO OPT OUT	If you timely submit a written request to opt out of settlement, you will receive nothing under the settlement, but you will not be bound by the release of any of the claims described in this Notice. Note: If you are an Opt-In Plaintiff (meaning you previously filed a Consent to Join the Litigation), you are not eligible to opt-out of the settlement.

- These rights and options are explained more fully below.

BASIC INFORMATION

1. Why did I receive this Notice?

The Setting Entities' records state that you: (1) were 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 a deduction was taken from your wages for an amount associated with initially obtaining or thereafter renewing a Gaming License; (2) were employed as a Table Games Dealer at Argosy Riverside from March 31, 2017 through April 23, 2021, or at Hollywood St. Louis from March 31, 2017 through October 31, 2019, and participated in the Table Games Dealer tip pool; and/or (3) participated in Penn National Gaming,

More information is available at [\[link to settlement website\]](#)

Inc.'s group health plan for plan years 2016, 2017, 2018, 2019, and/or 2020 and had a tobacco surcharge deducted from your wages. Because you fall into one or more of these categories of employees, you are a member of the proposed "Settlement Class."

You are receiving this Notice because, as a proposed Settlement Class Member, you have a right to know about the settlement of a class action lawsuit that affects your rights. This Notice explains the lawsuit, the settlement, and your rights and options.

The Court supervising this case is the U.S. District Court for the Western District of Missouri. The lawsuit is known as *Lipari-Williams, et al. v. Penn National Gaming, Inc., et al.*, Case No. 5:20-cv-06067-SRB.

2. What is this lawsuit about?

The Complaint alleges that the Settling Entities violated the FLSA, MMWL, and/or ERISA, by (1) illegally deducting costs to obtain, maintain, and renew state-issued Missouri Gaming Licenses (defined below) from employees' wages, which resulted in violations of both the FLSA and Missouri state law; (2) creating a mandatory tip pool policy which required table games dealers to pool their tips and then used those tips to pay the Paid Time Off ("PTO") of certain non-tipped, manager and supervisor employees; and (3) breaching their fiduciary duties under ERISA through a wellness program that discriminated against employees based on an impermissible health factor when it failed to provide a reasonable alternative standard with respect to its tobacco surcharge policy.

The Settling Entities deny all the claims asserted in the Complaint and maintain that all of their respective employees were paid, and have always been paid, correctly and in accordance with the law, and that the wellness program at issue complied with all applicable law.

3. Why is there a proposed settlement?

The Court did not decide in favor of the Named Plaintiffs or the Settling Entities, and no Party prevailed. The Parties agreed to a settlement to avoid further disputes and the risk, expense, and inconvenience of litigation.

On [DATE], the Court granted preliminary approval of the proposed settlement. The Court will decide whether to give final approval to the proposed settlement in a hearing scheduled for [DATE] ("Final Approval Hearing"). See Section 12 below for details.

The Named Plaintiffs and their attorneys believe that this settlement is a good outcome for all individuals covered by the proposed settlement. But if you believe the settlement is not in your interests, you may be eligible to opt out of the settlement. See Section 8 below for details.

THE SETTLEMENT BENEFITS – WHAT YOU GET

More information is available at [\[link to settlement website\]](#)

4. What does the settlement provide?

The Settlement Amount, \$5,500,000 in total, fully resolves and satisfies the attorneys' fees and costs approved by the Court, all amounts to be paid to individuals covered by the Settlement, Court-approved service payments, interest, and the Settlement Administrator's fees and costs. The Settlement funds are being divided among the individuals covered by the Settlement according to an allocation formula.

5. How much is my payment and how was it calculated?

Based on the allocation formula that has been approved by the Court, you will be receiving a settlement check for \$ [redacted]. The allocation formula takes into account (i) the total amount of money that you had deducted from your pay associated with initially obtaining or thereafter renewing a gaming license between March 31, 2017 and September 24, 2021; (ii) if you were employed as a Table Games Dealer and participated in the Table Games Dealer tip pool, the number of hours that you worked at Argosy Riverside (from March 31, 2017 through April 23, 2021) or Hollywood St. Louis (from March 31, 2017 through October 31, 2019); and/or (iii) the total amount of any tobacco surcharges that you had deducted from your pay during Plan years 2016 through 2020. The Settlement Agreement contains the exact allocation formula. You may obtain a copy of the Settlement Agreement by following the instructions in Section 13 below.

Half of each Settlement Check for damages associated with the wage and hour claims (gaming license and tip-pooling claims) will be treated as back wages for which you will receive an IRS Form W-2, and the other 50% will be treated as interest, any applicable penalties, liquidated damages, and other non-wage relief, and reported on an IRS Form 1099. In addition, 100% of each Settlement Check for damages associated with the ERISA claim (tobacco surcharge) shall be treated as back wages for which you will receive an IRS Form W-2.

Neither Class Counsel nor the Setting Entities make any representations concerning the tax consequences of your settlement payment. You are advised to obtain personal tax advice prior to acting in response to this Notice.

HOW YOU GET A PAYMENT

6. How do I get my payment?

To receive proceeds from the Settlement, **you do not have to do anything in response to this Notice.**

If the Court grants final approval of the Settlement and you do **not** submit an written request to opt out of the settlement (described in Section 8 below), you will be bound by the release of certain federal, state, and local law claims described in Section 7 below, and you will receive in the mail a Settlement check in the amount of [\$ [redacted]] representing your share of the Settlement fund.

More information is available at [\[link to settlement website\]](#)

If you choose to cash or deposit that check, you will further be bound by the release of federal FLSA claims described in Section 7 below.

7. What am I giving up if I receive proceeds from the settlement?

If you do not request exclusion from the Settlement in accordance with Section 8 below, you will be deemed to have waived, released, and forever discharged any and all state and local wage and hour claims that were or could have been asserted based on the facts alleged in the Complaint, including, but not limited to, any and all claims predicated on gaming license deductions, alleged tip-pooling violations (including any claims seeking tip credit-related or tip-pool-related damages that were or could have been asserted based on the allegations in the Complaint), whether known or unknown; and (2) any and all federal, state, and local claims, including any claims under ERISA, related to the tobacco surcharge that were or could have been asserted based on the facts alleged in the Complaint, whether known or unknown (“Released Claims”) against the Settling Entities and their present and former affiliates, divisions, members, joint venture partners, subsidiaries, parents, predecessors, any merged entity or merged entities and/or its or their present and former officers, partners, directors, employees, agents, attorneys, shareholders and/or successors, insurers or reinsurers, employee benefit plans (and the trustees, administrators, fiduciaries, agents, representatives, insurers and reinsurers of such plans), assigns, trustees, heirs, administrators, executors, representatives and/or principals thereof, and all persons or entities acting by, through, under or in concert with any of them, and any individual or entity that could be jointly liable with any of them (the “Released Parties”).

In addition, if you also cash or deposit your forthcoming settlement check, you will be deemed to have further waived, released, and forever discharged any and all federal wage and hour claims that were or could have been asserted based on the facts alleged in the Complaint, including, but not limited to, any and all claims predicated on gaming license deductions, alleged tip-pooling violations (including any claims seeking tip credit-related or tip-pool-related damages that were or could have been asserted based on the allegations in the Complaint), whether known or unknown, (“Released FLSA Claims”) against the Released Parties.

The Released Claims and the Released FLSA Claims include liquidated or punitive damages based on said claims, and are intended to include all claims described or identified herein through [DATE OF PRELIMINARY APPROVAL]. However, the Released Claims and the Released FLSA Claims do **not** include any rights or claims (i) that may arise after [DATE OF PRELIMINARY APPROVAL]; or (ii) which may not be infringed, limited, waived, released or extinguished as a matter of law.

HOW YOU REQUEST EXCLUSION FROM OR OBJECT TO THE SETTLEMENT

8. What if I do not want to participate in the settlement?

If you do not want to participate in the Settlement and wish to retain your right to pursue your own independent action, you must send a letter stating your desire to be excluded from the settlement, include the name of the Litigation, your name, your address, and your signature.

More information is available at [\[link to settlement website\]](#)

Requests for exclusion should be sent in an envelope addressed to the Settlement Administrator as set forth in Section 13 below.

In order to be valid, your written request to opt out of the settlement must be received by the Settlement Administrator and be postmarked no later than [DATE]. If you timely submit a written request to opt out of the settlement, you will not be eligible to receive any of the benefits under the Settlement. You will, however, retain whatever legal rights you may have against the Settling Entities with regard to all of the released claims described above in Section 7. If you are an Opt-In Plaintiff (meaning you previously filed a Consent to Join the Litigation), you are not eligible to opt-out of the settlement.

9. What if I want to object to the settlement?

If you do not request exclusion from the Settlement but believe the proposed Settlement is unfair or inadequate in any respect, you may object to the Settlement by filing a written objection with the Court and mailing a copy of your written objection to the Settlement Administrator.

All objections must be signed and include your address, telephone number, and the name of the Litigation. Your objection should clearly explain why you object to the proposed Settlement and must state whether you or someone on your behalf intends to appear at the Final Approval Hearing. All objections must be filed with the Court, received by the Settlement Administrator, and postmarked by no later than [DATE]. If you submit a timely objection, you may appear, at your own expense, at the Final Approval Hearing, discussed below.

Any Settlement Class Member who does not object in the manner described above shall be deemed to have waived any objections and shall forever be foreclosed from objecting to the fairness or adequacy of the proposed Settlement, the payment of attorneys' fees, litigation costs, the Court-approved service payments, the claims process, and any and all other aspects of the Settlement. Likewise, regardless of whether you attempt to file an objection, you will be deemed to have released all of the Released Claims as set forth above in Section 7 unless you request exclusion from the Settlement in accordance with Section 8 above.

THE LAWYERS REPRESENTING YOU

10. Do I have a lawyer in this case?

The Court has determined that the lawyers at the law firms of Stueve Siegel Hanson LLP and McClelland Law Firm, P.C., are qualified to represent you and all individuals covered by this settlement. These lawyers are called "Class Counsel." You will not be charged for these attorneys. You do not need to retain your own attorney to participate as a member of this class action. However, you may consult with any attorney you choose at your own expense before deciding whether to opt out of this settlement.

11. How will the lawyers be paid?

More information is available at [\[link to settlement website\]](#)

Class Counsel will ask the Court to award attorneys' fees in an amount not to exceed 35% of the Settlement Amount plus reimbursement of \$100,000 in expenses, which will be paid from the Settlement Amount. In addition, Class Counsel will ask the Court to authorize payment from the Settlement Amount of a service payment of not more than \$10,000 to Named Plaintiffs Gina Lipari-Williams, Marissa T. Hammond, and Lucinda Layton, and a service payment of not more than \$7,500 to Opt-In Plaintiff Tim Hammond, to recognize the risks they took and services to the beneficiaries of this settlement.

FINAL APPROVAL OF THE SETTLEMENT

12. When will the settlement be final and when will I receive my settlement payment?

If the Court grants Final Approval of the settlement, and you did not request exclusion from the settlement, you will receive your settlement payment in the mail a few weeks after Final Approval.

The Court will hold a Final Approval Hearing on the fairness and adequacy of the proposed Settlement, the plan of distribution, Class Counsel's request for attorneys' fees and costs, and the service payment to the Named Plaintiff on [DATE] in Courtroom 7B of the U.S. District Court, Western District of Missouri, located at Charles Evans Whittaker U.S. Courthouse, 400 E. 9th Street, Kansas City, MO 64106. The Final Approval Hearing may be continued without further notice to Class Members. You are not required to appear at the hearing to participate in or to opt-out of the Settlement.

FOR MORE INFORMATION

13. Are there more details about the settlement?

This Notice summarizes the proposed settlement. More details are in a Settlement Agreement. You are encouraged to read it. To the extent there is any inconsistency between this Notice and the Settlement Agreement, including between the description of the releases as provided in Section 7 above and the description of the releases as provided in the Settlement Agreement, the provisions in the Settlement Agreement control. You may obtain a copy of the Settlement Agreement on at [link to settlement website] or by sending a request, in writing, to:

Administrator Contact Information
Administrator Contact Information
Administrator Contact Information
Administrator Contact Information
Administrator Contact Information
Administrator Contact Information
Administrator Contact Information

More information is available at [link to settlement website]

14. How do I get more information?

If you have other questions about the settlement, you can contact the Settlement Administrator, or Class Counsel at the addresses and/or telephone numbers below.

Email: [SSH email]

Telephone: [SSH 1-800 Number]

These are the lawyers acting as Class Counsel, one of whom will respond to your questions at the above email and telephone numbers:

George A. Hanson
Alexander T. Ricke
STUEVE SIEGEL HANSON LLP
460 Nichols Road, Suite 200
Kansas City, Missouri 64112

Ryan L. McClelland
McCLELLAND LAW FIRM, P.C.
The Flagship Building
200 Westwoods Drive
Liberty, Missouri 64068

15. What if my name or address changes before I receive my settlement payment?

If, for future reference and mailings from the Court or Settlement Administrator, you wish to change the name or address listed on the envelope in which the Class Notice was first mailed to you, then you must fully complete, execute, and mail the Change of Name and/or Address Information Form (enclosed with this Notice as Form B).

DATED: _____, 2023

PLEASE DO NOT CALL OR WRITE THE COURT ABOUT THIS NOTICE.

More information is available at [\[link to settlement website\]](#)

FORM A

More information is available at [\[link to settlement website\]](#)

**IN THE UNITED STATES DISTRICT COURT
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

CHANGE OF NAME AND/OR ADDRESS INFORMATION FORM

Instructions: Please complete this Change of Name and/or Address Information Form **only** if you wish to change your name and/or mailing address information.

Former Name and Mailing Address:

Name (first, middle, and last): _____

Home Street Address: _____

City, State, Zip Code: _____

Home Telephone Number: (_____) _____

New Name and Mailing Address:

Name (first, middle, and last): _____

Home Street Address: _____

City, State, Zip Code: _____

Home Telephone Number: (_____) _____

I understand that all future correspondence in this Litigation, including, but not limited to, important notices or payments to which I am entitled (if any), will be sent to the new address listed above and not to the address previously used. I hereby request and consent to use the address listed above for these purposes.

Dated: _____

(Signature)

(Print Name)

PLEASE RETURN THIS FORM VIA UNITED STATES MAIL TO:

Administrator Contact Information
Administrator Contact Information
Administrator Contact Information
Administrator Contact Information
Administrator Contact Information
Administrator Contact Information
Administrator Contact Information

More information is available at [\[link to settlement website\]](#)

EXHIBIT B

**IN THE UNITED STATES DISTRICT COURT
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

GENERAL AND COMPREHENSIVE RELEASE OF CLAIMS

This General and Comprehensive Release of Claims (“General Release”) is made and entered into by and between [REDACTED] (“Named Plaintiff”), on the one hand, and PENN Entertainment, Inc. f/k/a 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, “Settling Entities”), on the other.

WHEREAS, Named Plaintiff filed the lawsuit entitled *Lipari-Williams, et al. v. Penn National Gaming, Inc.*, United States District Court for the Western District of Missouri, Case No. 5:20-cv-06067-SRB (the “Litigation”);

WHEREAS, the Settling Entities deny and continue to deny all of the allegations made by Named Plaintiff, and deny and continue to deny that they are liable or owe damages to anyone with respect to the alleged facts or causes of action alleged, or that any claims asserted by Named Plaintiff may proceed on a class or collective action basis. Nonetheless, without admitting or conceding any arguments, issues, liability, or damages whatsoever, including that PNG is a joint employer of Named Plaintiff or anyone on whose behalf Named Plaintiff has attempted to bring claims, or that any claims alleged may proceed on a class or collective action basis, the Settling Entities have agreed to settle the claims on the terms and conditions set forth in the “Class and Collective Action Settlement Agreement” (the “Settlement Agreement”) to avoid the burden and expense of continuing to defend against litigation;

WHEREAS, through their respective counsel, Named Plaintiff and the Settling Entities have signed a Settlement Agreement for the purpose of settling the Litigation on behalf of Named Plaintiff and other certain employees of Argosy Riverside and Hollywood St. Louis, and participants in PNG’s group health plan.

WHEREAS, Paragraph III.C of the Settlement Agreement provides that Named Plaintiff will apply to the Court to receive compensation in the amount of \$ [REDACTED] (“Service Payment”) for the service he or she rendered to the Class Employees (as defined in the Settlement Agreement);

WHEREAS, on [REDACTED], 2023, the Court approved the Service Payment to Named Plaintiff; and

WHEREAS, Paragraph III.C of the Settlement Agreement provides that Named Plaintiff, receiving a Service Payment, will release claims against the Released Parties (defined in the Settlement Agreement) as set forth in this General and Comprehensive Release of Claims;

NOW, THEREFORE, after having had an opportunity to consult with his counsel, and in consideration of receiving a Service Payment as set forth in the Settlement Agreement, Named Plaintiff agrees to the following:

1. **Consideration.** Per Paragraphs III.C and IV.F of the Settlement Agreement, Named Plaintiff will receive a Service Payment of \$ [REDACTED], which shall be deemed non-wage compensation in its entirety and paid by the Settlement Administrator within fourteen (14) days of the date the Settling Entities fund the Qualified Settlement Fund with the Maximum Settlement Fund.

2. **Release of Claims.** In exchange for the Service Payment described in the Consideration clause, Named Plaintiff hereby waives all claims, actions, causes of action, lawsuits, debts, dues, sums of money, accounts, reckonings, bonds, bills, specialties, covenants, contracts, bonuses, controversies, agreements, promises, charges, complaints and demands capable of being waived that may otherwise be available under federal, state or local law against the Settling Entities and their present and former affiliates, divisions, members, joint venture partners, subsidiaries, parents, predecessors, any merged entity or merged entities and/or its or their present and former officers, partners, directors, employees, agents, attorneys, shareholders and/or successors, insurers or reinsurers, employee benefit plans, including but not limited to the Penn National Gaming, Inc. Flexible Benefits Plan (and the trustees, administrators, fiduciaries, agents, representatives, insurers and reinsurers of such plans), assigns, trustees, heirs, administrators, executors, representatives and/or principals thereof, and all persons or entities acting by, through, under or in concert with any of them, and any individual or entity that could be jointly liable with any of them arising out of Named Plaintiff’s employment with any Settling Entity or the termination of that employment (“Released Parties”), including but not limited to all claims arising under the Americans with Disabilities Act, the Civil Rights Act of 1991, the Employee Retirement Income Security Act, the Equal Pay Act, the Genetic Information Non-discrimination Act, the Family and Medical Leave Act, the Fair Labor Standards Act, Section 1981 of U.S.C. Title VII of the Civil Rights Act of 1964, the Civil Rights Acts of 1866, 1871 and 1991, the National Labor Relations Act, the Occupational Safety and Health Act of 1970, the Consolidated Omnibus Budget Reconciliation Act of 1985, the Sarbanes-Oxley Act of 2002, the Worker Adjustment and Retraining Notification Act, Missouri Minimum Wage Law, as well as wrongful termination claims, breach of contract claims, discrimination claims, harassment claims, retaliation claims, whistleblower claims (to the fullest extent they may be released under applicable law), defamation or other tort claims, and claims for attorneys’ fees and costs.

3. Named Plaintiff does not waive any right to file an administrative charge with the Equal Employment Opportunity Commission (“EEOC”), subject to the condition that he or she agrees not to seek, or in any way obtain or accept, any monetary award, recovery or settlement therefrom. Nor does Named Plaintiff release any claim for breach of the terms of the Settlement Agreement.

4. This General Release is intended to include in its effect all claims identified above through the Effective Date (and as set forth in Paragraph I.T of the Settlement Agreement), including claims that Named Plaintiff does not know or suspect to exist in his or her favor against Released Parties as of the Effective Date of the Settlement Agreement. Named Plaintiff agrees and acknowledges that he or she has had the opportunity to seek the advice of counsel, and that this is a knowing and voluntary waiver. Named Plaintiff shall be deemed to have expressly waived and relinquished, to the fullest extent permitted by law, the provisions, rights, and benefits he or she may otherwise have had relating to the claims identified in this General Release (and as set forth in Paragraph I.T of the Settlement Agreement).

5. **Medicare Disclaimer.** Named Plaintiff represents that he or she is not a Medicare Beneficiary as of the time Named Plaintiff enters into this General Release.

6. **Sexual Harassment or Sexual Abuse Disclaimer.** Named Plaintiff acknowledges that he or she has not made any claims or allegations related to sexual harassment or sexual abuse, and that none of the payment set forth in this General Release is related to sexual harassment or sexual abuse.

7. **Other Claims Disclaimer.** Named Plaintiff represents that he or she does not have knowledge of any facts that would give rise to a claim under the Dodd-Frank Wall Street Reform and Consumer Protection Act, and any other securities laws, or that would violate any of the policies or procedures of any Settling Entity. Named Plaintiff further represents that other than the Litigation, he or she has not filed any claims, complaints, administrative actions, or actions of any other kind against any Settling Entity with any court of law, or local, state, or federal government or agency.

8. **Limit on Disclosures.** Named Plaintiff shall not, directly or indirectly, issue or cause to be issued any statements to the media or engage in any other publicity regarding the Settlement Agreement or the General Release, nor shall Named Plaintiff issue any notice of the Settlement except for the Settlement Notices issued through the Settlement Administrator as set forth in the Settlement Agreement. Named Plaintiff shall not, directly or indirectly, issue a press release, hold a press conference, publish information about the settlement or the settlement negotiations on any social media application, e-mail correspondence, website, or otherwise publicize the Settlement Agreement or negotiations. Named Plaintiff agrees not to respond to any press inquiries concerning the settlement except to refer reporters to the papers filed with the U.S. District Court for the Western District of Missouri.

9. **Reports to Government Entities.** Nothing in this General Release shall prohibit or restrict Named Plaintiff, from: (i) providing information to or cooperating with Congress, the Securities and Exchange Commission (“SEC”), the Commodity Futures Trading Commission

("CFTC"), the Consumer Financial Protection Bureau ("CFPB"), the EEOC, the Occupational Safety and Health Administration ("OSHA"), the National Labor Relations Board ("NLRB"), Department of Justice ("DOJ") or any other federal, state, or local government, regulatory, or law enforcement agency ("Government Agencies"), the Financial Industry Regulatory Authority ("FINRA") or the "New York Stock Exchange, Inc. ("NYSE"), or any other self-regulatory organization ("SRO"); (ii) reporting to any of the Released Parties' management or directors regarding conduct the employee believes to be in violation of the law or prohibits or restricts the employee from providing information to or cooperating with any Government Agencies or any SROs; (iii) communicating with any Government Agencies or SRO or otherwise participating in any investigation or proceeding that may be conducted by any Government Agency or SRO, including providing documents or other information; or (iv) receiving an award for information provided to any Government Agencies other than for charges filed with the EEOC or corresponding state or local agency as set forth above.

10. Named Plaintiff may also disclose confidential information, including trade secrets, to (a) any government, regulatory or self-regulatory agency, including under Section 21F of the Securities and Exchange Act of 1934, Section 23 of the Commodity Exchange Act of 1936, or Section 7 of the Defend Trade Secrets Act of 2016 ("Defend Trade Secrets Act") and the rules thereunder, or (b) an attorney in connection with the reporting or investigation of a suspected violation of law or to an attorney or in a court filing under seal in connection with a retaliation or other lawsuit or proceeding, as permitted under the Defend Trade Secrets Act. Named Plaintiff does not need the prior authorization of the Settling Entities to make these disclosures or provide evidence or other information to any government, regulatory, or self-regulatory agency, and Named Plaintiff is not required to notify the Settling Entities that he has done so.

11. **Non-Admission of Liability.** Nothing relating to this General Release, or any communications, papers, or orders related to the Settlement Agreement, shall be cited to as, construed to be, admissible as, or deemed an admission by the Settling Entities or Released Parties of any liability, culpability, negligence, or wrongdoing toward the Named Plaintiff, Class Employees, or any other person, and the Settling Entities and Released Parties specifically disclaim (i) any liability, culpability, negligence, or wrongdoing toward the Named Plaintiff, Class Employees, or any other person; (ii) that class or collective action certification is appropriate in this or any other matter; or (iii) that PNG is an employer or joint employer of Named Plaintiff, Class Employees, or anyone they seek to represent in the Litigation. Each of the Parties has entered into the Settlement Agreement with the intention to avoid further disputes and litigation with the attendant inconvenience, expenses, and contingencies. This General Release, and any communications, papers, or orders related to the Settlement Agreement, may not be cited to, used, or admitted as evidence (i) of liability; (ii) that class or collective action certification is appropriate; or (iii) that PNG is an employer or joint employer of anyone. There has been no determination by any court as to (i) the merits of the claims asserted by Named Plaintiff against the Settling Entities; (ii) whether a class or collective should be certified, other than for settlement purposes only; or (iii) whether PNG is an employer or joint employer of anyone, including Named Plaintiff or Class Employees.

12. **No Other Amounts Due.** Named Plaintiff acknowledges that the Settling Entities have paid Named Plaintiff all wages, salaries, bonuses, benefits, and other amounts earned and accrued, less applicable deductions, and that the Settling Entities have no obligation to pay any

additional amounts other than the Service Payment described in the Consideration Clause of this General Release and the Settlement Check to which Named Plaintiff is entitled pursuant to the allocation formula in Paragraph III.A of the Settlement Agreement.

13. **Release for Age Claims.** In addition to all other claims released for the payment described in the Consideration clause, Named Plaintiff hereby waives all claims available against the Settling Entities arising out of Named Plaintiff's employment under the Age Discrimination in Employment Act and the Older Workers Benefit Protection Act. Named Plaintiff acknowledges and agrees that \$500.00 was included within the Service Payment in exchange for his or her release of the Age Claims described in this Paragraph.

14. **Acknowledgement of Voluntariness and Time to Review.** Named Plaintiff acknowledges that:

- He or she has read this General Release and understands it;
- He or she is signing this General Release voluntarily in order to release his claims against the Released Parties in exchange for payment that is greater than he or she would otherwise have received;
- He or she was offered at least 21 days to consider his or her choice to sign this Agreement;
- The Settling Entities have advised Named Plaintiff to consult with an attorney; and
- Named Plaintiff knows that the Release for Age Claims described in Paragraph 13 may be revoked within 7 days of signing this Agreement and that the Release for Age Claims does not become effective until the 7-day period has passed. To revoke the Release for Age Claims, contact Sari Alamuddin (sari.alamuddin@morganlewis.com). If Named Plaintiff exercises his or her right to revoke the Release For Age Claims, the Service Payment shall be reduced by \$500.00. Revocation of the Release for Age Claims shall have no effect on the Release of Claims described in Paragraph 2 of this Agreement. Named Plaintiff has no right to revoke his or her agreement to any other term or condition set forth in this Agreement.

15. **Governing Law.** This General Release shall in all respects be interpreted, enforced, and governed by and under the laws of the State of Missouri, without regard to choice of law principles, except to the extent that the law of the United States governs any matter set forth herein, in which case such federal law shall govern.

16. **Severability.** Should any clause, sentence, provision, paragraph, or part of this General Release or the Settlement Agreement be adjudged by any court of competent jurisdiction, or be held by any other competent governmental authority having jurisdiction, to be illegal, invalid, or unenforceable, such judgment or holding shall not affect, impair, or invalidate the remainder of this General Release or the Settlement Agreement, but shall be confined in its operation to the

clause, sentence, provision, paragraph, or part of this General Release or the Settlement Agreement directly involved, and the remainder of the General Release and/or the Settlement Agreement shall remain in full force and effect.

The Settling Entities hereby advise Named Plaintiff to consult with an attorney prior to signing this General Release. Named Plaintiff acknowledges that he has had a reasonable amount of time to consider the terms of this General Release and Named Plaintiff signs it with the intent to be legally bound.

WE AGREE TO THESE TERMS.

EXHIBIT C

**IN THE UNITED STATES DISTRICT COURT
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

**[PROPOSED] ORDER GRANTING PRELIMINARY APPROVAL
OF CLASS ACTION SETTLEMENT**

On [REDACTED], 2023, the Court heard a motion for preliminary approval of a settlement of a class and collective action 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 finds and orders as follows:

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 [REDACTED], 2023, at [REDACTED] a.m./p.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 [REDACTED], 2023.

IT IS SO ORDERED.

Dated: _____, 2023

STEPHEN R. BOUGH
UNITED STATES DISTRICT JUDGE

EXHIBIT D

[DEFENSE COUNSEL LETTERHEAD]

[DATE]

[STATE] Attorney General [NAME]

Office of the [STATE] Attorney General

[ADDRESS]

Re: *Lipari-Williams, et al. v. Penn National Gaming, Inc., et al.*, No. 5:20-cv-06067-SRB

Notice pursuant to 28 U.S.C. § 1715

Dear [NAME]:

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”) provide this notice pursuant to the Class Action Fairness Act of 2005 (“CAFA”), 28 U.S.C. § 1715. Pursuant to CAFA, you are not required to comment on the settlement. However, if you wish to comment, you must do so within 90 days of being served with this notice. *See* 28 U.S.C. § 1715(d).

The parties filed a Motion for Preliminary Approval of Settlement with the Court on [DATE]. The Court has not yet held a preliminary hearing or scheduled a hearing for final approval of the settlement. In accordance with CAFA, Defendants enclose the following Appendix A:

1. a copy of the Complaint in the above-referenced matter;
2. the proposed form of notification to class members of the proposed class and collective action settlement;
3. the Settlement Agreement in this action;
4. a list of class members identified from the parties’ available records as of [REDACTED], as residing in your state.

Under the terms of the proposed Settlement Agreement, allocation of the Net Settlement Amount is based upon a formula developed by Class Counsel with the approval of counsel for Defendants (*see* Settlement Agreement at Paragraph III.A). The allocation formula will take into account (i) the total amount of money that Class Members had deducted from their pay associated with initially obtaining or thereafter renewing a gaming license between March 31, 2017 and September 24, 2021; (ii) if the Class Member was employed as a Table Games Dealer and participated in the Table Games Dealer tip pool, the number of hours that he or she worked at Argosy Riverside (from March 31, 2017 through April 23, 2021) or Hollywood St. Louis (from March 31, 2017 through October 31, 2019); and/or (iii) the total amount of any tobacco surcharges that Class Members had deducted from their pay during Plan years 2016 through 2020. It is estimated that total amount of the settlement checks for the potential Class Members listed in the enclosed class list as residing in your state as of [REDACTED], is \$ [REDACTED], and with an estimated average settlement check of \$ [REDACTED].

If you have questions about this notice, the lawsuit, or the enclosed materials, or if you did not receive any of the above-listed materials, please contact counsel for Defendants and Class Counsel listed below.

Sincerely,

[DEFENSE COUNSEL]

Enclosure

Class Counsel:

George A. Hanson
Alexander T. Ricke
STUEVE SIEGEL HANSON LLP
460 Nichols Road, Suite 200
Kansas City, Missouri 64112
Telephone: 816.714.7100
Facsimile: 816.714.7101

Ryan L. McClelland
Michael J. Rahmberg
McCLELLAND LAW FIRM, P.C.
The Flagship Building
200 Westwoods Drive
Liberty, Missouri 64068
Telephone: 816.781.0002
Facsimile: 816.781.1984

Counsel for Defendants:

Sari M. Alamuddin
Patrick R. Duffey
MORGAN, LEWIS & BOCKIUS LLP
110 North Wacker Drive
Chicago, IL 60606-1511
Telephone: 312.324.1000
Facsimile: 312.324.1001

Settlement Administrator:

Administrator Contact Information

EXHIBIT E

**IN THE UNITED STATES DISTRICT COURT
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

**[PROPOSED] ORDER GRANTING
FINAL APPROVAL OF CLASS ACTION SETTLEMENT**

On [REDACTED], 2023, the Court heard a motion for final approval of a settlement of a class and collective action 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 Motion for Final Approval of Class Action Settlement and other related materials submitted by the parties, as well as the parties’ presentation at the hearing on final approval, and otherwise being fully informed in the premises, hereby finds and orders as follows:

1. Unless otherwise defined herein, all terms used in this Order (the “Final Approval Order”) will have the same meaning as defined in the Settlement Agreement.
2. The Court has jurisdiction over the subject matter of this Litigation pursuant to 28

U.S.C. §§ 1331, 1332, and 1367, including jurisdiction over all members of the Settlement Classes certified by order dated [REDACTED], 2023 (ECF Doc. [REDACTED]), and defined as:

- 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 from March 31, 2017 through October 31, 2019, and who participated in the Table Games Dealer tip pool and
- a. **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

3. The Court finds that the Settlement Classes satisfy the requirements of Fed. R. Civ. P. 23(a) and are maintainable under Rule 23(b)(3) for purposes of settlement of this Litigation only. In so finding, the Court does not determine whether the certification of the class would remain proper under the more stringent standard that requires a showing of, *inter alia*, manageability.

4. The Court confirms the appointments of (a) Named Plaintiffs Gina R. Lipari-

Williams, Marissa T. Hammond, and Lucinda M. Layton as Class Representatives of the Settlement Classes, and (b) the law firms of Stueve Siegel Hanson LLP and McClelland Law Firm, P.C. as Class Counsel.

5. The Notice Regarding Proposed Settlement of Class Action (“Proposed Settlement Notice”) sent to the Class members via First Class Mail adequately informed the Class Members of the terms of the Settlement Agreement, their estimated recovery if the Settlement was approved, the process available to obtain monetary relief, their right to request exclusion from the Class and pursue their own remedies, and their opportunity to file written objections and appear and be heard at the Final Approval Hearing. The Proposed Settlement Notice also adequately informed the Class Members of the contact information for the Settlement Administrator and Class Counsel. Thus, the Court finds that the Proposed Settlement Notice provided to the Class Members satisfied the requirements of Fed. R. Civ. P. Rule 23(e)(1)(B).

6. The Court finds that the settlement memorialized in the Settlement Agreement, and filed with the Court, is fair, reasonable, and adequate, and in the best interests of the Class Members. The Court finds that: (a) the strength of the Class Representatives’ and Class Members’ claims weighed against the defenses of Defendants and the complexity, length, and expense of further litigation, support approval of the Settlement; (b) the Maximum Settlement Amount of \$5,500,000 as set forth in the Settlement Agreement is a fair, reasonable, and adequate settlement of the Named Plaintiffs’ individual claims and the claims of the Settlement Classes; (c) the Settlement was reached pursuant to arm’s-length negotiations between the parties; (d) the support for the Settlement expressed by Class Counsel and counsel for Settling Entities, who have significant experience representing parties in complex class actions, including those involving wage and hour claims, weighs in favor of approval of the Settlement; (e) the absence of any

objections to the Settlement by Class Members supports approval of the Settlement; and (f) the Litigation has progressed to a stage where the Court and the parties could evaluate the merits of the case, potential damages, and the probable course of future litigation.

7. The Court further approves the release of FLSA claims for class members who negotiate their settlement checks as a fair and reasonable resolution of a *bona fide* dispute.

8. The Settlement Administration Costs of \$ [REDACTED] are approved and shall be paid to the Settlement Administrator from the Qualified Settlement Fund according to the procedures set forth in the Settlement Agreement.

9. The Service Payments, as set forth in the Settlement Agreement, are approved and shall be awarded and paid to Named Plaintiffs and Opt-In Plaintiff Tim Hammond from the Qualified Settlement Fund according to the procedures set forth in the Settlement Agreement.

10. Class Counsel is awarded \$ [REDACTED] for attorneys' fees and \$ [REDACTED] for costs and will receive such payment from the Qualified Settlement Fund according to the procedures set forth in the Settlement Agreement.

11. Class Members shall receive their settlement shares according to the allocation formula and procedures set forth in the Settlement Agreement. Any unclaimed funds to Class Employees shall be distributed *cy pres* to the following Missouri Charitable Organizations: (1) Angels' Arms; and (2) the Kaufman Fund. The *cy pres* distributions shall be according to the allocation formula and procedures set forth in the Settlement Agreement.

12. The Court orders that any Class Employee who did not timely submit a written request to opt-out of the settlement is bound by the terms of the Settlement Agreement, and fully releases and discharges Settling Entities and the Released Parties from the Released Claims, but that such Class Members have not released and discharged Settling Entities and the Released

Parties from the Released FLSA Claims unless and until such Class Members negotiate their Settlement Checks. A list of all such Class Members who did not timely submit a written request to opt-out of the settlement is attached to this Order as Exhibit A.

13. The Court orders that any Class Member who negotiates his or her Settlement Check is bound by the terms of the Settlement Agreement and fully releases and discharges Settling Entities and the Released Parties from the Released FLSA Claims upon such negotiation of his or her Settlement Check.

14. As identified by the Settlement Administrator, the Court finds that [REDACTED] individuals have timely requested exclusion from the Settlement Class. These individuals are (a) excluded from the Rule 23 Class previously certified; (b) are not bound by the terms of the Settlement Agreement; (c) do not release Settling Entities and all other Released Parties from the Released Claims; and (d) are not entitled to participate in the monetary portion of the Settlement.

15. 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.

16. This Court grants final approval of the Settlement.

17. This matter is dismissed with prejudice, without any cost to any of the parties except as provided in the Settlement Agreement. The Clerk is directed to enter judgment consistent with this Order.

IT IS SO ORDERED.

Dated: _____, 2023

STEPHEN R. BOUGH
UNITED STATES DISTRICT JUDGE