

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

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

Plaintiffs,

v.

PENN NATIONAL GAMING, INC., et al.,

Defendants.

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

**ORDER GRANTING  
PLAINTIFFS' MOTION FOR FLSA CONDITIONAL  
AND RULE 23 CLASS CERTIFICATION OF WAGE AND HOUR CLAIMS**

Before the Court is Plaintiffs' Motion for FLSA Conditional and Rule 23 Class Certification of Wage and Hour Claims (Doc. #92) and Suggestions in Support (Doc. #93). Pursuant to the parties' Stipulation (Doc. #93-2), Plaintiffs and Defendants 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 Casino St. Louis") have agreed that conditional certification under the Fair Labor Standards Act ("FLSA") and class certification under Rule 23(a) and (b)(3) are appropriate with respect to Plaintiffs' proposed collectives and classes.

Based on applicable law, including the authorities cited in Plaintiffs' Suggestions in Support (Doc. #93), and considering the full record before the Court, including the parties' Stipulation and the additional materials submitted with Plaintiffs' Motion (Doc. #92) and Suggestions in Support (Doc. #93), the Court finds that Plaintiffs have adequately supported their motion for conditional collective and class treatment of their Wage and Hour Claims. Mindful of

the fact that the Court makes no merits determinations at this time, the Court finds that Plaintiffs have satisfied their burden for conditional certification of the FLSA Gaming License Collective, the Argosy Casino Riverside Tip Pooling Collective, and the Hollywood Casino St. Louis Tip Pooling Collective, and further finds that Plaintiffs have satisfied their burden for Rule 23 class certification of the MMWL Gaming License Class, Argosy Casino Riverside Tip Pooling Class, and the Hollywood Casino St. Louis Tip Pooling Class.

Accordingly, Plaintiffs' Motion for FLSA Conditional and Rule 23 Class Certification of Wage and Hour Claims (Doc. #92) is GRANTED. It is hereby ORDERED that the Court conditionally certifies the following collectives pursuant to the FLSA:

**a. The FLSA Gaming License Collective**

All persons employed and paid a direct cash wage of the applicable federal minimum wage or less per hour during the relevant time period at Argosy Casino Riverside or Hollywood Casino St. Louis, and for whom a deduction was taken from their wages for any amount associated with initially obtaining or thereafter renewing a state-issued gaming license.

The relevant time period for Plaintiffs' FLSA Gaming License Collective is September 15, 2018 (three years preceding the effective date of the parties' stipulation) through the date of this Order.

**b. Argosy Casino Riverside Tip Pooling Collective**

All persons employed as Table Games Dealers at Argosy Casino Riverside during the relevant time period and who participated in the Table Games Dealer tip pool.

The relevant time period for Plaintiffs' Argosy Casino Riverside Tip Pooling Collective is September 15, 2018 (three years preceding the effective date of the Parties' stipulation) to April 23, 2021.

**c. Hollywood Casino St. Louis Tip Pooling Collective**

All persons employed as Table Games Dealers at Hollywood Casino St. Louis during the relevant time period and who participated in the Table Games Dealer tip pool.

The relevant time period for Plaintiffs' Hollywood Casino St. Louis Tip Pooling Collective is September 15, 2018 (three years preceding the effective date of the Parties' stipulation) to October 31, 2019.

Additionally, the Court certifies the following classes pursuant to Federal Rules of Civil Procedure 23(a) and 23(b)(3):

**a. MMWL Gaming License Class**

All persons employed and paid a direct cash wage of the applicable Missouri minimum wage or less per hour during the relevant time period at Argosy Casino Riverside or Hollywood Casino St. Louis, and for whom a deduction was taken from their wages for any amount associated with initially obtaining or thereafter renewing a state-issued gaming license.

The relevant time period for Plaintiffs' MMWL Gaming License Class is March 31, 2017 (three years preceding the filing of the Class Action Petition) through the date of this Order.

**b. Argosy Casino Riverside Tip Pooling Class**

All persons employed as Table Games Dealers at Argosy Casino Riverside during the relevant time period and who participated in the Table Games Dealer tip pool.

The relevant time period for Plaintiffs' Argosy Casino Riverside Tip Pooling Class is March 31, 2017 (three years preceding the filing of the Class Action Petition) to April 23, 2021.

**c. Hollywood Casino St. Louis Tip Pooling Class**

All persons employed as Table Games Dealers at Hollywood Casino St. Louis during the relevant time period and who participated in the Table Games Dealer tip pool.

The relevant time period for Plaintiffs' Hollywood Casino St. Louis Tip Pooling Class is March 31, 2017 (three years preceding the filing of the Class Action Petition) to October 31, 2019.

### **Notice to the Collectives**

The Court directs the parties to meet and confer on the form of Notice and Consent to Join Form and to submit proposed forms to the Court within 21 days of this Order. Further, to the extent the parties cannot agree on the form of Notice and Consent to Join Form, the parties are directed to submit a Joint Status Report highlighting any disagreements within 21 days of this Order.

With respect to distributing the notice, the parties have agreed to a 60-day opt-in period and to send the Notice by U.S. Mail and email. The parties have agreed that Plaintiffs' Counsel (or any administrator they may engage) shall send the Notice by U.S. Mail and electronic mail with a follow up reminder email to be sent 30 days after the initial notice. If Defendants cannot locate an email address for a particular collective member, then Plaintiffs' counsel shall send that person a reminder post card by U.S. Mail. The Court finds this to be a reasonable means of providing notice of the lawsuit and opportunity to opt-in pursuant to the FLSA.

Within 30 days of this Order, Defendants shall provide Plaintiffs' counsel with the following information for each putative collective member in a Microsoft Excel spreadsheet: full name, employee ID, position(s), dates of employment, last known address, and email address.

Pursuant to the parties' Stipulation, any Consent to Join form filed in response to the Notice shall be deemed filed for statute of limitations purposes on September 15, 2021.

### **Notice to the Classes**

Pursuant to Rule 23(c)(2)(B), the Court is required to direct appropriate notice to class members. The parties agree that notice should be held in abeyance until the Court rules on Plaintiffs' Motion for Class Certification of ERISA Claim (Doc. #88). The Court agrees this is

appropriate and will direct the parties to meet and confer on an appropriate form and plan of class notice following a ruling on Plaintiffs' Motion for Class Certification of ERISA Claim (Doc. #88).

FOR THE FOREGOING REASONS, it is hereby ORDERED that Plaintiffs' Motion for FLSA Conditional and Rule 23 Class Certification of Wage and Hour Claims (Doc. #92) is GRANTED. Consistent with this Order, the Court adopts the parties' Stipulation (Doc. #93-2) and directs the parties to abide by its terms.

**IT IS SO ORDERED.**

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

Dated: September 24, 2021