

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**

**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 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 seq.*, (“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:

More information is available at [www.MissouriGamingLicenseLawsuit.com](http://www.MissouriGamingLicenseLawsuit.com).

**YOUR LEGAL RIGHTS AND OPTIONS IN RESPONSE TO THIS NOTICE:**

|   |  |
|---|--|
| <b>IF YOU DO NOTHING</b>                  | By <b>NOT</b> 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). |
| <b>IF YOU SUBMIT A REQUEST TO OPT OUT</b> | 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, 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 Setting 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 January 30, 2023, 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 May 25, 2023 (“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

### 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 Settling 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 a 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.

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.

More information is available at [www.MissouriGamingLicenseLawsuit.com](http://www.MissouriGamingLicenseLawsuit.com).

## 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 January 30, 2023. However, the Released Claims and the Released FLSA Claims do **not** include any rights or claims (i) that may arise after January 30, 2023; 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. 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 **April 30, 2023**. 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 **April 30, 2023**. 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?

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 **May 25, 2023 at 10:30 a.m.** 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 at [www.MissouriGamingLicenseLawsuit.com](http://www.MissouriGamingLicenseLawsuit.com) or by sending a request, in writing, to:

More information is available at [www.MissouriGamingLicenseLawsuit.com](http://www.MissouriGamingLicenseLawsuit.com).

Missouri Gaming License Lawsuit  
P.O. Box 2006  
Chanhassen, MN 55317-2006  
info@MissouriGamingLicenseLawsuit.com  
1-877-374-2994

#### **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: pngmissouricase@stuevesiegel.com  
Telephone: (888) 816-1761

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 A).

DATED: March 16, 2023

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