

**SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY**

PRESENT: HON. ERIC SCHUMACHER PART **23M**

Justice

-----X

INDEX NO. 152791/2018

VINCENT SETTECASI, PAMELA GRAHAM, and
COREE SPENCER, individually and on behalf of other
similarly situated,

MOTION DATE 02/28/2024

MOTION SEQ. NO. 003

Plaintiffs,

- v -

**DECISION + ORDER ON
MOTION**

GOTHAM HALL, LLC et al.,

Defendants.

-----X

NYSCEF doc nos. 114-124 were read on this motion to approve a settlement.

Upon the foregoing documents, there being no opposition submitted; it is

ORDERED that the motion is granted in part pursuant to the annexed order.

The foregoing together with the annexed order constitutes the decision and order of the court.

2/28/2024
DATE



ERIC SCHUMACHER, J.S.C.

CHECK ONE:

CASE DISPOSED
 GRANTED DENIED

NON-FINAL DISPOSITION

GRANTED IN PART OTHER

APPLICATION:

SETTLE ORDER

SUBMIT ORDER

CHECK IF APPROPRIATE:

INCLUDES TRANSFER/REASSIGN

FIDUCIARY APPOINTMENT

REFERENCE

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

VINCENT SETTECASI, PAMELA GRAHAM, and
COREE SPENCER individually and on behalf of others
similarly situated,

Plaintiffs,

- against -

GOTHAM HALL, LLC; GOTHAM HALL
OPERATING ENTITY, LLC; CORE ZIEGFELD, LLC
d/b/a ZIEGFELD BALLROOM, SIMON
AUERBACHER, BRUCE A. KURTZ, and any other
related entities,

Defendants.

Index No. 152791/2018

**ORDER GRANTING
APPROVAL OF
SETTLEMENT**

WHEREAS, plaintiffs Vincent Settecasì, Pamela Graham, and Coree Spencer, on behalf of themselves and persons who are alleged to be similarly situated (“Plaintiffs”), have applied to this Court for an order approving the settlement of the above-captioned action (the “Action”), and have submitted in support thereof the Settlement Agreement and Release (“Settlement Agreement”)¹, the Memorandum of Law in Support of Plaintiffs’ Unopposed Motion for Approval of the Proposed Settlement, and the Affirmation of Brett R. Cohen (“Cohen Affirmation”) along with the exhibits attached thereto; and

WHEREAS, the Court has reviewed Plaintiffs’ motion seeking approval of the settlement of the Action as memorialized in the Settlement Agreement, which motion was unopposed by defendants Gotham Hall, LLC; Gotham Hall Operating Entity, LLC, Core Ziegfeld, LLC Simon Auerbacher and Bruce A. Kurtz (“Defendants”), and further having reviewed and considered the

¹ All capitalized terms in this Order shall have the meaning set forth in the Settlement Agreement.

Settlement Agreement, the Cohen Affirmation, and the exhibits attached thereto;

NOW, THEREFORE, IT IS HEREBY ORDERED THAT:

1. The Court finds that the terms and conditions of the settlement memorialized in the Settlement Agreement are fair, adequate, and reasonable as to all potential members of the Class (defined below) when balanced against the probable outcome of further litigation relating to liability and damages issues and, therefore, meet the requirements for approval such that notice to the Class about the settlement is appropriate.

2. The Court finds that the Agreement is the result of extensive, arms'-length negotiations, and is the product of extensive investigation and research by counsel for Plaintiffs and for Defendants, each of whom is well-versed in the prosecution and defense of wage and hour class actions, such that counsel for the parties are able to reasonably evaluate the strengths and weaknesses of their clients' respective positions.

3. The Court grants approval of the parties' settlement as memorialized in the Settlement Agreement and directs the parties to carry out the settlement according to the terms of the Settlement Agreement, whose terms are incorporated herein by reference.

4. The Court finds that all requirements of NY CPLR §§ 901 and 902, and 29 USC § 216(b), are met for settlement purposes only and certifies for settlement purposes only the following class of persons (the "Class") (with the members of the Class being the "Class Members" or "Settlement Class Members"):

All individuals who performed work as servers, bartenders, or in related service positions for: Peter Callahan Catering, Olivier Cheng Catering, Hospitality Staffing, Neuman's Kitchen, Great Performances, Canard, Top Shelf, Creative Edge Parties, Creative Concepts, Newnan and Leventhal Caterers, Restaurant Associates, Thomas Preti Events, Six Star Events, The Odyssey Group, Kensington Event Staffing, RME Group, Lawrence Scott Events, or any other company or employer during catered events held at the Venues between March 1, 2012 and the Final Effective Date.

5. The Court appoints Plaintiffs' counsel Leeds Brown Law, P.C. as class counsel for purposes of effectuating the settlement ("Class Counsel") and CPT Group, Inc. ("CPT") to administer the settlement.

6. The Court approves the proposed Notice of Settlement of Class Action Lawsuit, Claim Form and Release and related materials annexed to the Cohen Affirmation, finding that they fully comply with due process and NY CPLR §§ 901 and 902, and directs their distribution to the Class in accordance with the terms of the Settlement Agreement, which the Court finds meets the requirements of due process, is the best notice practicable under the circumstances, and shall constitute due and sufficient notice to all persons entitled thereto.

7. The Settlement Agreement is not a concession or admission, and shall not be used against Defendants as an admission or indication with respect to any claim of any fault or omission by Defendants. Regardless of whether the settlement is finally approved, neither the Settlement Agreement, nor any document, statement, proceeding, or conduct related to the settlement, nor any reports or accounts thereof, shall in any event be:

- a. Construed as, offered or admitted in evidence as, received as, or be deemed to be evidence for any purpose adverse to Defendants, including, but not limited to, evidence of a presumption, concession, indication, or admission by Defendants of any liability, fault, wrongdoing, omission, concession, or damage; or
- b. Disclosed, referred to, or offered or received in evidence against Defendants in any further proceeding in the Action, or in any other civil, criminal, or administrative action or proceeding, except for purposes of settling the Action or enforcing the settlement pursuant to the Settlement Agreement.

8. The Court shall retain discretion to schedule a hearing in the event any member of the Class files an objection and specifically requests to be heard in conformity with the Agreement

and Notice. Plaintiffs' Counsel shall notify the Court and Counsel for Defendants within three (3) business days of receiving any objection letter. Should the Court opt to schedule a hearing for this purpose, upon the scheduling of a hearing date, Plaintiffs' Counsel shall instruct the Settlement Administrator, CPT, to publish a notice to all Authorized Claimants advising them of the date, time, and location of the hearing. Further, in accordance with Section 1.14 of the Settlement Agreement, the Settlement Agreement shall not become effective until such time as the hearing is held to address the objection, or the Court has otherwise issued an order authorizing the parties to complete the settlement process.

9. On the Final Effective Date, this Action shall be dismissed in its entirety, with such dismissal being with prejudice as to Plaintiffs, the Authorized Claimants, and all applicable Settlement Class Members as set forth in the Settlement Agreement.

10. As of the Final Effective Date, Class Members are permanently enjoined from pursuing and/or seeking to reopen claims that have been released pursuant to the Settlement Agreement.

11. By this Order, on the Final Effective Date, Plaintiffs, the Authorized Claimants and all Class Members who do not validly and timely opt out of the Settlement, shall be deemed to have, and by operation of the judgment to be entered shall have, fully, finally, and forever released, relinquished, and discharged all Released Class Claims and any other claims as set forth in the Settlement Agreement.

12. In the event the settlement does not become effective in accordance with the terms of the Settlement Agreement, or is terminated, canceled, or fails to become effective for any reason, this Order shall be rendered null, void, and shall be vacated and shall have no effect whatsoever in this Action or in any other litigation or proceeding and the parties shall revert to their respective positions as of before entering into the Settlement Agreement.

13. The Court directs that the following dates shall govern the schedule in this action:

<p>Step 1: Settlement Agreement § 2.4(B) <i>Within 15 days of entry of this Order</i></p>	<p>Mailing of Class Notice and Claim Form via USPS and publication of Class Notice.</p>
<p>Step 2: Settlement Agreement § 2.4(D) <i>60 days after completion of Step 1</i></p>	<p><u>Notice Response Deadline</u></p> <ul style="list-style-type: none"> • Last day for Class Members to “opt out” of the Settlement or to submit objections to the Settlement • Last day for Class Members to qualify as an Authorized Claimant by filing Claim Form and Release
<p>Step 3: Settlement Agreement § 1.14 <i>75 days after completion of Step 1</i></p>	<p><u>Final Effective Date</u>, unless otherwise directed</p>
<p>Step 4: Settlement Agreement § 3.1 <i>Various Dates</i></p>	<p>By such date, Defendants shall have funded the Qualified Settlement Account in an amount equal to the Final Settlement Amount</p>
<p>Step 5: Settlement Agreement § 3.2 <i>Following Step 4</i></p>	<p>Settlement Administrator to mail each Authorized Claimant his or her individual settlement check and send Class Counsel court-approved attorneys’ fees and costs</p>

14. As to the application for a shared service award in the amount of \$25,000.00 for the named plaintiffs, that application is denied. CPLR 909 does not permit service awards, but rather permits the award of “attorneys’ fees to the representatives of the class ... based on the reasonable value of legal services rendered” (see also *Saska v Metropolitan Museum of Art*, 57 Misc3d 218, 228-232 [Sup Ct., NY County 2017, Kornreich, J.]). “The language of CPLR 909 . . . does not authorize an award of counsel fees to any party, individual or counsel, other than class counsel. Had the Legislature intended any party to recover attorney fees it could have expressly said so, as it has in other contexts” (*Flemming v Barnwell Nursing Home and Health Facilities, Inc.*, 15 NY3d 375, 379 [2010], affg 56 AD3d 162 [3d Dept 2008] [holding that “New York law does not authorize incentive awards for named plaintiffs in class actions” and “leaving that policy determination within the purview of the Legislature”]). Here, there has been no showing as to the reasonable value of legal services rendered, if any, by the lay named plaintiffs, nor is there any representation that they rendered legal services. As such, the Court declines to grant the award.

It is so ORDERED this 28th day of February, 2024.


 Hon. Eric Schumacher, J.S.C.
HON. ERIC SCHUMACHER
J.S.C.