

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NORTH CAROLINA  
CHARLOTTE DIVISION

IAFREEDRE MCCLAIN, MONTRELL )  
DAVIS, and others similarly situated, )  
 )  
Plaintiffs, )  
 )  
v. )  
 )  
MORNING STAR, LLC a/k/a MORNING )  
STAR NC, LLC, d/b/a HARDEE'S, )  
 )  
Defendant. )

CIVIL ACTION FILE  
NO. 3:18-cv-00419-FDW-DCK

**ORDER AND JUDGMENT**

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E.P. and S.F., individually and on behalf of )  
others similarly situated, )  
 )  
Plaintiffs, )  
 )  
v. )  
 )  
CKE RESTAURANTS HOLDINGS, INC., a )  
Delaware Corporation; HARDEE'S FOOD )  
SYSTEMS LLC, a North Carolina )  
Corporation; HARDEE'S RESTAURANTS )  
LLC, a Delaware Corporation; and )  
MORNING STAR, LLC a/k/a MORNING )  
STAR NC, LLC, a Florida Corporation, )  
 )  
Defendants. )

CIVIL ACTION FILE  
NO. 3:18-cv-00483-FDW-DCK

**ORDER AND JUDGMENT**

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THIS MATTER is before the Court on the Parties' Joint Motion for Final Approval of Class Certification and Final Settlement (Doc. No. 27), following a hearing on April 1, 2019, hereby GRANTS the motion and finds and orders as follows:

1. Plaintiffs, Iafreedre McClain, Montrell Davis, E.P. and S.F., on behalf of themselves and all those similarly situated (“Plaintiffs”), and Defendants, CKE Restaurants Holdings, Inc., Hardee’s Food Systems, LLC, Hardee’s Restaurants, LLC, and Morning Star, LLC (“Defendants”), have entered into a Settlement Agreement, filed on December 5, 2018, including the documents and exhibits incorporated therein (together, the “Settlement Agreement,” **filed as Doc. No. 27-1 and hereby incorporated by reference herein**), to settle the above-captioned litigation (the "Litigation") and hereby filed a Joint Motion for Final Approval of the Class Certification and Class Settlement (the "Motion for Final Approval"). The Settlement Agreement sets forth the terms and conditions for the proposed settlement and dismissal with prejudice of the Litigation.

2. Pursuant to Federal Rule of Civil Procedure 23, the Court certifies, for settlement purposes only, the following class (the “Class”):

All individuals who were (a) potentially exposed to the Hepatitis A Virus (“HAV”) at the Hardee’s Restaurant, 2604 Little Rock Road, Charlotte, North Carolina (“Charlotte Hardee’s”), between June 13, 2018, and June 23, 2018 (“Potential Exposure Period”), and (b) who, as a result of such potential exposure to HAV, obtained preventive medical treatment, including the administration of IG, HAV vaccine shots, or blood tests within 14 days after their exposure, and in no event any later than July 7, 2018.

Excluded from the Class are (1) all persons, if any, who developed HAV infections as a result of consuming food or beverage at the Charlotte Hardee’s during the Potential Exposure Period, (2) anyone receiving their first IG shot, HAV vaccine, or blood test after July 7, 2018, and (3) employees at the Charlotte Hardee’s during the Potential Exposure Period.

3. The court determines that final certification is warranted. The class meets all the requirements of Rule 23(a) and Rule 23(b)(3) as it is sufficiently numerous and class treatment resolves a number of issues of law and fact common to the all the class members. The court also finds that the representatives of the class present claims typical of the class and they are, along with class counsel, adequate representatives to protect the interests of the class. Finally, the court finds that the common legal and factual issues predominate this case, and that resolution of the matter on a class-wide basis is superior to other methods of adjudicating the claims.

4. The Court grants the request of Lloyd Dale Upton of Fallston, North Carolina, to be excluded from the Class, having determined that such request was submitted in a timely manner as provided in the Settlement Agreement.

5. The Court further finds that the Settlement Agreement is binding on, and has res judicata and preclusive effect in, all pending and future lawsuits or other proceedings maintained by or on behalf of the named Plaintiffs and all other Class Members, as well as their heirs, executors and administrators, successors and assigns. The named Plaintiffs and all Class Members are hereby permanently enjoined from filing, commencing, prosecuting, intervening in or participating in (as Class Members or otherwise), any lawsuit in any jurisdiction based on or relating to the claims and causes of action within the scope of Release in the Settlement Agreement.


6. The Court hereby approves the Settlement Agreement as sufficiently fair, reasonable, and adequate, and finds that sufficient notice of the proposed settlement was provided to the members of the Class. The Court also finds that the award to class members, the stipend to class representatives, and the Defendants' compensation of Plaintiffs' attorneys' fees reflect a fair and reasonable outcome for all parties involved.

7. The Settlement Administrator is authorized to continue its review of claim submissions, including claims submitted through the date of this Order, and to revise its calculations as needed so that each claimant approved by the Settlement Administrator is paid as general damages a pro-rata share of the aggregate class amount of \$246,000.00.

8. The Court hereby enters final judgment in accordance with the Settlement Agreement and dismisses the instant litigation (Civil Action File Nos. 3:18-cv-00419-FDW-DCK and 3:18-cv-00483-FDW-DCK) with prejudice.

IT IS SO ORDERED.

Signed: April 2, 2019

  
Frank D. Whitney  
Chief United States District Judge 