

**UNITED STATES DISTRICT COURT
DISTRICT OF MARYLAND**

KOLETA ANDERSON,
*Individually and on Behalf of All Others
Similarly Situated,*

Plaintiff,

v.

BURGER KING CORPORATION,

Defendant.

Civil Action No. TDC-17-1204

PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENT

Pending is Plaintiff Koleta Anderson's Unopposed Motion for Preliminary Approval of Class Action Settlement. ECF No. 31. For the reasons stated below, the Court GRANTS the Motion, preliminarily approves the Class Action Settlement Agreement, certifies the Class for settlement purposes, and enters the schedule set forth below for a final approval hearing.

On October 11, 2017, the Parties filed a Settlement Agreement, which sets forth the terms and conditions for the proposed settlement and the release of certain claims against Defendant Burger King Corporation. Having considered the Settlement Agreement, the pleadings, and the arguments of counsel, and for the reasons stated at the November 8, 2017 motion hearing, the Court finds that upon preliminary examination the Settlement Agreement appears fair, reasonable, and adequate. A hearing should therefore be held to confirm that the Settlement Agreement is fair, reasonable, and adequate, and to determine whether a Judgment Approving Settlement and Order of Dismissal should be entered into this Litigation.

IT IS HEREBY ORDERED:

1. Pursuant to Rule 23(b)(2) of the Federal Rules of Civil Procedure and for settlement purposes only, the Class is preliminarily certified, consisting of the following persons:

All persons in the United States who, during the Class Period, purchased two or more Croissan'wich breakfast sandwiches from a BKC restaurant, redeemed a BOGO coupon in connection with the purchase, yet paid more than the amount that restaurant was charging at the time for the higher-priced Croissan'wich the person ordered.

2. For settlement purposes only, Anderson is appointed Class Representative and the following counsel are appointed as Class Counsel:

Stuart A. Davidson
Christopher C. Gold
Roxana Pierce
Robbins Geller Rudman & Dowd LLP

Steven D. Silverman
William N. Sinclair
Silverman Thompson Slutkin & White LLC

3. The prerequisites for a class action under Rules 23(a) have been preliminarily satisfied in that (a) the number of Class Members is so numerous that joinder of all Members thereof is impracticable; (b) there are questions of law and fact common to the Class; (c) the claims of the Class Representative are typical of the claims of the Class that she seeks to represent; and (d) the Class Representative will fairly and adequately represent the interests of the Class.

4. Under Rule 23(b)(2), the Court finds that the proposed injunctive relief is proper and would be generally applicable to all Class Members.

5. The Court finds that, under the circumstances of the proposed Settlement—in particular, the fact that putative Settlement Class Members will not release any damages claims—no notice need issue to Settlement Class Members beyond the press release that Burger King Corporation will issue as part of the proposed Settlement.

6. A Fairness Hearing pursuant to Rule 23(e) is scheduled for **Tuesday, April 3, 2018 at 9:30 a.m.** for the following purposes:

(a) to finally determine whether the applicable prerequisites for class action settlement under Rules 23(a), (b)(2), and (e) are met;

(b) to determine whether the Settlement is fair, reasonable, and adequate, and should be approved by the Court;

(c) to determine whether the final approval order as provided under the Settlement Agreement should be entered;

(d) to consider the application for an award of attorneys' fees and expenses of Class Counsel;

(e) to consider the application for a service award to Anderson; and

(f) to rule upon such other matters as the Court may deem appropriate.

Briefs and papers in support of the final approval of the proposed Settlement, an award of attorneys' fees and expenses, and a service award shall be filed no later than 45 days before the Fairness Hearing. Responses to any objections shall be filed no later than 10 days before the Fairness Hearing. The Fairness Hearing may be postponed, adjourned, transferred or continued by order of the Court without further notice to the Class.

7. After the Fairness Hearing, the Court may enter a Judgment Approving the Settlement Agreement and an Order of Dismissal, which will adjudicate the rights of all Class Members. Should the Court enter such an Order, Class Members shall be bound by all determinations and orders pertaining to the Settlement Agreement, whether favorable or unfavorable. Class Members shall be so bound even if they have previously initiated or

subsequently initiate individual litigation or other proceedings against Burger King Corporation relating to the released claims.

8. Class Members will be given an opportunity to object to any aspect of the Settlement. A Class Member wishing to object to the Settlement shall file such objection with the Court by no later than 21 days prior to the Fairness Hearing. Any Class Member who objects to the approval of the proposed Settlement must submit a complete written statement of all grounds for the objection, together with factual and legal support for the stated objection. Any member of the Class may appear at the Fairness Hearing in person or through counsel to show cause why the proposed Settlement should not be approved as fair, reasonable, and adequate. Attendance at the hearing is not necessary. Persons wishing to be heard orally are required to indicate in their written objection their intention to appear at the hearing, and must offer a complete statement of grounds for the objection, together with all factual and legal authority for the stated objection, and identify any witnesses that they may call to testify and exhibits that they may introduce.

9. The Court will consider comments and objections to the Settlement Agreement, the award of attorneys' fees and expenses, and the service award to Anderson only if, on or before 21 days prior to the Fairness Hearing, such comments or objections and any supporting papers are filed in writing with the Clerk of this Court, and copies of all such papers are served upon Class Counsel. No Class Member shall be entitled to be heard and no objection shall be considered unless these requirements are satisfied.

10. Any Class Member fails to make their objection to the Settlement Agreement in the manner provided shall be deemed to have waived any objection by appeal, collateral attack, or otherwise.

11. Pending final determination whether the Settlement Agreement should be approved, Anderson and all Class Members, and anyone who acts or purports to act on their behalf, shall not institute, commence, or prosecute any action which assert a claim against Burger King Corporation or its insurers if the Settlement Agreement would release that claim.

12. All discovery and other pretrial proceedings in this action are stayed and suspended until further order of the Court except such actions as may be necessary to implement the Settlement Agreement and this Order.

Date: December 19, 2017


THEODORE D. CHUANG
United States District Court Judge