

NOTICE OF SETTLEMENT OF CLASS ACTION

IMPORTANT

**YOU ARE ENTITLED TO RECEIVE MONEY UNDER
PROPOSED SETTLEMENT**

THE L.A. DESSERTS, INC. dba IVY AT THE SHORE AND THE IVY HAS AGREED TO THIS SETTLEMENT AND WILL NOT DISCRIMINATE OR RETALIATE AGAINST ANYONE WHO ACCEPTS BENEFITS UNDER THE SETTLEMENT.

YOUR RIGHTS MAY BE AFFECTED BY THE PROPOSED SETTLEMENT

PLEASE READ IMMEDIATELY

Keating v. L.A. Desserts, Inc. dba Ivy at The Shore and The Ivy
Los Angeles County Superior Court Case No. BC337513

TO: ALL PERSONS EMPLOYED BY THE IVY AS FRONT AND BACK OF THE HOUSE EMPLOYEES, INCLUDING SERVERS, BUSSERS, RUNNERS, COFFEE, BAR, KITCHEN STAFF, DISHWASHERS, BAKERS, AND HOSTS AT ANY TIME BETWEEN AUGUST 1, 2001 AND DECEMBER 9, 2009 (“CLASS PERIOD”).

The purpose of this Notice is to provide a brief description about the claims alleged in the lawsuit, inform you about the proposed Settlement, and inform you of your rights and options with respect to the Settlement.

The agreed upon arbitrator, Honorable John Zebrowski has granted preliminary approval to a proposed settlement (the “Settlement”) of the above-captioned putative class action (“Action”) against L.A. DESSERTS INC. dba IVY AT THE SHORE AND THE IVY (“THE IVY”). Because your rights may be affected by this Settlement, it is extremely important that you read this Class Notice of Settlement (hereinafter “Notice”) carefully.

The Arbitrator has certified the following class for settlement purposes: All hourly employees who worked at The IVY and the IVY at the Shore for Defendant, between August 1, 2001 and December 9, 2009 (the “Class Period”), who were front and back of the house employees, including servers, bussers, runners, coffee, bar, kitchen staff, dishwashers, bakers, and hosts.

A. DESCRIPTION OF THE LAWSUIT.

The Complaint was filed on August 1, 2001 in the Los Angeles County Superior Court and subsequently sent to arbitration. Through the Action, a former employee of The IVY (“Plaintiff”) seeks damages, restitution, and other relief on the basis of her allegations that The IVY failed to pay her and other similarly situated employees all wages, including, among other things overtime, failed to provide meal and rest periods, and failed to pay additional wages as provided in Labor Code § 226.7. Plaintiff also alleges that The IVY willfully failed to pay employees and other former employees all wages earned upon termination of employment in a timely manner as provided in Labor Code §§ 201 and 202, and failed to provide accurate itemized wage statements as required by Labor Code section 226. Plaintiff further alleges that these Labor Code violations constitute unfair business practices in violation of Business & Professions Code § 17200 *et seq.* Plaintiff believes this Action is suitable for class treatment. The IVY has denied each of the allegations asserted in the Action and asserted that this Action is not suitable for a class action.

Plaintiff and Class Counsel have diligently investigated and litigated the Class Members’ claims against The IVY. Based on the information gathered during the investigation and litigation process and based on their experience, Plaintiff and Class Counsel believe that the Settlement is fair, reasonable, and adequate and is in the best interest of the Class Members.

The Arbitrator has not ruled on the merits of Plaintiff’s claims or The IVY’s defenses.

The attorneys for the employees (“Class Counsel”) in this lawsuit are:

Mike Arias
Mark A. Ozzello
Arias Ozello & Gignac, LLP
6701 Center Drive West, Suite 1400
Los Angeles, California 90045
Tel: (310) 670-1600
Fax: (310) 670-1231

The attorneys for The IVY are:

Maria C. Rodriguez
Benjamin M. Gibson
WINSTON & STRAWN LLP
333 S. Grand Avenue
Los Angeles, California 90071
Tel: (213) 615-1700
Fax: (213) 615-1750

B. SUMMARY OF PROPOSED SETTLEMENT TERMS.

Subject to the Court’s final approval, the terms of the proposed Settlement are as follows:

1. Gross Settlement Amount. The IVY will pay a total of up to \$450,000.00 (Four Hundred and Fifty Thousand Dollars) to pay the claims of all Class members who do not opt-out of the settlement; any employee FICA (Federal Insurance Contributions Act) and other payroll taxes attributed to wage payments under this Settlement; an Incentive Award to Class Representative; and Class Counsel attorneys’ fees and expenses.

2. Settlement Formula and Distribution.

The value of a Class Member’s claim will be determined as follows: (a) «PrelimWeeklyRate» multiplied by the number of Complete Workweeks the Class Member was employed by The IVY as a Class Member during the Class Period.

The IVY’s records indicate that you have «WEEKS» Complete Workweeks. As such, the estimated minimum value of your settlement share is «PrelimAward».

If you are a Class Member and do not Opt-Out of the settlement, the Settlement Administrator will mail to you a check in the amount set forth above (or a higher amount if certain class member chose to not participate in this settlement or can not be located).

For purposes of tax reporting under the Settlement, the Class Members’ claims will be treated as 20% wages, 40% interest, and 40% penalties. Nothing in this Notice or the Settlement is intended to be tax advice. You should consult your tax advisor for any tax issues pertaining to this Settlement.

3. Plaintiff and Class Counsel will seek an Enhancement Award of \$10,000.00 (Ten Thousand Dollars) to the Class Representative Nancy Keating to compensate her for the time and risks she undertook in bringing this Action. Any reduction in the Enhancement Award will be returned to the Settlement Fund for distribution.

4. Subject to the Court's approval, Defendant has agreed to pay Class Counsel reasonable attorneys' fees in the amount of \$150,000.00 (One Hundred and Fifty Thousand Dollars), which is 33% of the Gross Settlement Amount, and reasonable expenses in the amount of approximately \$17,000 incurred in the prosecution this Action. Any reduction in Class Counsel's attorneys' fees and expenses will be returned to the Settlement Fund for distribution.

5. Each Class Member who does not request to be excluded from the Settlement will be deemed to release and discharge The IVY, and its respective present and former officers, directors, members, managers, shareholders, agents, employees, attorneys, insurers, co-insurers, predecessors, successors, assigns, and any individual or entity which could be jointly liable with The IVY in this Action from any and all liabilities, demands, claims, causes of action, complaints and obligations that are alleged in the operative Complaint arising during the Class Period, based upon the facts alleged in the operative Complaint, or any cause of action for penalties deriving from the allegations contained in the operative Complaint, including alleged violations for failure to pay wages, including overtime, alleged violations of California Labor Code Sections 226.7 and 512 for alleged failure to provide meal and/or rest periods, alleged violations of California Labor Code Sections 201 and 202 for alleged failure to pay wages upon termination of employment in a timely manner, alleged violations of Labor Code section 226 for failure to provide accurate itemized pay stubs, and alleged violations of Business and Professions Code Section 17200 *et seq.* predicated on the aforementioned Labor Code violations, and excluding any rights which as a matter of law cannot be waived.

C. RECEIVING YOUR SHARE OF THE SETTLEMENT.

To receive your share you need not do anything – a check will be mailed to you. By receiving your share under the Settlement, you will be bound by all of the terms of the Settlement, including a release of claims, as set forth above, that will prevent you from suing The IVY, its employees or any other related persons, affiliates or entities for the matters being settled in this case.

D. TO REQUEST EXCLUSION FROM THE SETTLEMENT.

If you want to be excluded (“opt out”) from the Settlement, you must mail a request to opt-out to the Settlement Administrator at: Desmond, Marcello & Amster, P.O. Box 451999, Los Angeles, California 90045. Your request can be as simple as “I do not want to be a part of the settlement.” To be considered timely, your Opt-Out Request must be mailed by First-Class U.S. Mail, and postmarked no later than **February 7, 2010**.

If you file a timely and valid Opt-Out Request, you will no longer be a member of the Class, and you will not be eligible to receive any of the monies from the Settlement or object to the terms of the Settlement. However, you will not be bound by the terms of the Settlement, and may pursue any claims you may have, at your own expense, against The IVY.

DO NOT SEND AN OPT OUT REQUEST IF YOU WANT TO RECEIVE MONEY UNDER THE SETTLEMENT.

E. TO OBJECT TO THE SETTLEMENT.

If you believe the Settlement is unfair or inadequate in any respect, you may object to the Settlement by filing a written objection with the Arbitrator, John Zebrowski, 915 Wilshire Boulevard, Suite 1900, Los Angeles, California 90017 and mailing a copy of your objection to Class Counsel, attorneys for The IVY, and the Settlement Administrator at the above addresses. All objections must be signed and set forth your address, telephone number, and the name of the case (Keating v. L.A. Desserts, Inc. dba Ivy at The Shore and The Ivy), Case No. BC388478. All objections must be filed and postmarked no later than **February 7, 2010**. If you submit an objection, you may appear at the Final Approval Hearing (discussed below). Your objection should clearly explain why you object to the Settlement and must state whether you (or someone on your behalf) intend to appear at the Final Approval Hearing.

F. FINAL APPROVAL HEARING ON PROPOSED SETTLEMENT.

The Final Approval Hearing on the fairness and adequacy of the proposed Settlement, the plan of distribution, and Class Counsel's request for attorneys' fees and expenses will be held on **February 17, 2010**, 10:00 a.m. in 915 Wilshire Boulevard, Suite 1900, Los Angeles, California 90017. The Final Approval Hearing may be continued without further notice. It is not necessary for you to appear at this hearing, unless you have timely filed an objection to the Settlement.

Any Class Member who does not object in the manner provided above shall be deemed to have approved the Settlement and to have waived any objections, and shall be forever foreclosed from objecting to the fairness or adequacy of the proposed Settlement, the payment of attorneys' fees and expenses, the claims process, the payment to the named plaintiff, or any other aspect of the Settlement. If the Settlement is not approved, the lawsuit will continue to be prepared for trial or other judicial resolution.

G. ADDITIONAL INFORMATION.

This Notice only summarizes the lawsuit, the Settlement and related matters. For more information, you may inspect the Court files at the Los Angeles County Superior Court, 111 North Hill Street, Los Angeles, California 90012 from 8:00 a.m. to 5:00 p.m., Monday through Friday, except holidays.

IF YOU HAVE QUESTIONS ABOUT THIS NOTICE, PLEASE CALL THE SETTLEMENT ADMINISTRATOR AT (310) 417-3919. DO NOT CALL THE ARBITRATOR.