Royal v. ARAMARK Corp.

United States District Court for the Eastern District of Pennsylvania

July 27, 1999, Decided ; July 29, 1999, Filed

CIVIL ACTION NO. 97-6226

Reporter: 1999 U.S. Dist. LEXIS 22516

JAMES ROYAL, et al., Plaintiffs, v. ARAMARK CORPORATION, et al., Defendants.

Counsel: [*1] Jack Meyerson, Esquire, Joel Fishbein, Esquire, Class Counsel, Meyerson & Fishbein, Philadelphia, PA.

Stephanie M. Sawyer, Esquire, Class Counsel, Philadelphia, PA.

For ARAMARK Corporation, ACSI, defendants: John B. Langel, Esquire, David S. Fryman, Esquire, Susan R. Becker, Esquire, Ballard Spahr Andrews & Ingersoll, LLP, Philadelphia, PA.

For Glenn Dubois, Brian Keith, Tom Phillips, Peter Wagar, defendants: Neil J. Hamburg, Esquire, Hamburg & Golden, P.C., Philadelphia, PA.

For Bruce Moilan, defendant: Carol A. Mager, Esquire, The Mager Law Firm P.C., Philadelphia, PA.

Judges: LOWELL A. REED, JR., S.J.

Opinion by: LOWELL A. REED, JR.

Opinion

FINAL ORDER CERTIFYING CLASS AND APPROVING SETTLEMENT

AND NOW, this 27th day of July, 1999, upon consideration of the parties' respective motions for final certification of the class and approval of class settlement (Document Nos. 20 and 25), after notice to potentially affected class members, and upon consideration of the arguments of counsel and evidence received during the hearing on this motion held on July 14, 1999, it is hereby **ORDERED** that:

1. Jurisdiction. This Court has jurisdiction over the subject [*2] matter and over the persons constituting the class, pursuant to 29 U.S.C. § 1343(4) and *42 U.S.C. § 2000e et seq*.

2. Class Certification. The facts underlying the Order of this Court dated April 28, 1999 that this lawsuit may be maintained and shall proceed as a class action pursuant to *Federal Rule of Civil Procedure 23* have not changed since the issuance of that Order and, therefore, for the reasons stated in that Order, which is incorporated herein by reference, the Court concludes that this lawsuit meets the requirements of *Federal Rule of Civil Procedure 23* for maintaining this lawsuit as a class action for the class described below. The settlement class consisting of the following is **CERTIFIED** pursuant to *Federal Rule of Civil Procedure 23*:

> All African-American and/or black persons employed by ARAMARK Correctional Services, Inc. ("ACSI") at the Philadelphia Prison System from June 17, 1994 through February 22, 1999 (the "Class").

The prerequisites to a class action as defined in *Rule 23(a)* and *(b) of the Federal Rules of Civil Procedure*, are, for the purpose of settlement only and for no other purpose, [*3] satisfied in that the Class defined above, which numbers 267 members, is so numerous that joinder of all members is impracticable; there are questions of law or fact common to the Class; the claims of the representative parties are typical of the claims of the Class; the representative parties have fairly and adequately protected the interest of the Class; and ACSI has acted or refused to act on grounds generally applicable to the Class, thereby making appropriate final injunctive and monetary relief with respect to the Class as a whole.

3. Class Representatives. James Royal, Darryl Harper and Albert Sebrell have fairly and adequately protected and represented the interests of the Class and are hereby **APPROVED** as Class representatives for settlement purposes.

4. Class Counsel. Jack Meyerson, Esquire, Joel Fishbein, Esquire, and Stephanie Sawyer, Esquire, possess now and have possessed throughout this litigation the requisite competence, experience, dedication, knowledge, training, interest, objectivity and resources to adequately litigate the claims and defenses raised by the parties to this Class action and are hereby **APPROVED** as counsel for the Class.

[*4] 5. Notice. Members of the Class have been given adequate notice of the proposed settlement, of their right to opt-out of the settlement and to file objections, and of the hearing on the proposed settlement held on July 14, 1999,

by way of the Court's order of April 28, 1999 and the parties' compliance therewith. Class counsel mailed Notice of Proposed Settlement of Class Action, Settlement Hearing and Right to Appear (hereinafter the "Notice") by certified mail, postage prepaid, return receipt requested, to all members of the Class. (See Affidavits of Service, Document Nos. 21 and 24). Class counsel thereafter retained an investigator to locate those Class members who did not return notice receipts or claim forms. In total, 213 Class members returned claim forms. Thus 80% of the Class chose to take the opportunity to make a claim. This was an adequate participation of the Class and sufficient notice process and constitutes the best notice practicable, complying in all respects with the Rules, the Orders of this Court, and the constitutional requirements of due process.

6. Settlement.

(a) The proposed Stipulation and Agreement of Settlement, attached as [*5] Exhibit "1" to this Order, embodies the terms of the proposed settlement.

(b) The Stipulation and Agreement of Settlement, filed in this action on April 23, 1999. (Document No. 11) is the result of non-collusive, intensive negotiations between experienced counsel.

(c) The Stipulation and Agreement of Settlement fairly, reasonably, and adequately advance and protect the interest of the Class.

(d) The state of the proceedings and the amount of discovery completed weighs in favor of approval of the Settlement. In light of the extensive informal discovery that has taken place, the state of discovery is mature. Moreover, plaintiffs have had sufficient time and information by which to evaluate and to assess realistically the strengths and weaknesses of their case, and have concluded that the prospective relief agreed to by defendants adequately protects the interests of the class and that settlement is in the best interests of the class.

(e) The complexity and likely duration of the litigation weighs in favor of approval of the proposed Settlement. Further litigation would require a substantial expenditure of time (including completion of discovery, pre-trial motions, [*6] trial preparation, trial, post-trial briefing and motions, and appeals), so that the Class, if it were to prevail, might not receive relief for years. The value of having the Class members gain the benefits from this litigation at this time is a consideration that weighs in favor of approval.

(f) The reaction of Class members to the proposed Settlement weighs in favor of approval. Class counsel has discussed the Settlement with members of the Class and the reaction of Class members has been favorable. No class members opted out of the settlement. There were four objections filed by Class members, one of which was amended. (Document Nos. 15-19). All of the objections were to the allocation of the settlement funds, not to the settlement itself. Because the few objections raised by Class members do not warrant the Court withholding approval of the settlement, the objections are **OVERRULED**.

(g) The risks of securing full relief also weigh in favor of approval. The proposed Settlement secures relief that would be uncertain should the case proceed to trial.

(h) The gross amount of the monetary settlement of $ 3,750,000 and the calculation method and resulting distribution [*7] of the funds in view of the uncertainty of the amount each class member might realize if the case were tried are, when compared to other publicly reported settlements in similar cases, fair and reasonable. The range of reasonableness of the proposed settlement in light of the best possible recovery and the attendant risks of litigation weigh in favor of approval. The proposed Settlement provides substantial monetary relief to the Class and will require ACSI to implement injunctive relief, as detailed in the Stipulation and Agreement of Settlement, that will address concerns raised in the complaint regarding it compliance with the equal employment opportunity laws.

(i) The Stipulation and Agreement of Settlement is therefore, **APPROVED** as fully enforceable according to its terms.7. Dismissal of Plaintiffs' Claims. The claims of all Class members against defendants ARAMARK Corporation, ACSI, Glenn Dubois, Brian Keith, Bruce Mailan, Thomas Phillips, and Peter Wagar are hereby **DISMISSED WITH PREJUDICE**.

8. Compliance with Stipulation and Agreement of Settlement. All parties shall comply with their obligations under the Stipulation and Agreement of Settlement.

[*8] 9. Continuing Jurisdiction of Court. This Court shall retain jurisdiction to enforce the terms of the Stipulation and Agreement of Settlement for two years from the entry of this Order.

10. Counsel Fees and Costs. The Court will consider separately the motions of Class counsel for the approval of reasonable counsel fees, costs, and related expenses which are to be paid from the settlement fund.

In light of the foregoing findings of fact and conclusions of law, it is hereby **ORDERED** that the underlying Stipulation and Agreement of Settlement, binding upon the parties hereto, is **APPROVED** as fair to the Class as a whole pursuant to *Federal Rule of Civil Procedure 23(e)*.

IT IS FURTHER ORDERED that the Stipulation and Agreement of Settlement (Exhibit 1 hereto) is hereby made part of the record of this case, is incorporated into this Order, and as such, shall have the full force and effect of an Order of this Court.

IT IS FURTHER ORDERED that class counsel shall distribute the settlement funds in the manner set forth in the Stipulation and Agreement of Settlement to all members of the Class who submitted signed claim forms in accordance with the [*9] instructions to do so in the Notice to Class Members. Class counsel shall complete such distribution within 60 days of the date of this Order and Class counsel will file under seal with the Court an accounting of all distributions made from the Settlement Fund within 60 days of the date of this Order.

LOWELL A. REED, JR., S.J.

Exhibit 1

STIPULATION AND AGREEMENT OF SETTLEMENT

This Stipulation and Agreement of Settlement is entered into between and among plaintiffs James Royal, Darryl Harper and Albert Sebrell, on behalf of themselves and all those similarly situated (collectively known as "Class members" and defined below in Section 1), and defendants ARAMARK Corporation ("ARAMARK"), ARAMARK Correctional Services Inc. ("ACSI"), Glenn Dubois, Brian Keith, Bruce Moilan, Tom Phillips and Peter Wagar (collectively known as "the Defendants"), by and through their undersigned counsel.

WHEREAS, named plaintiffs Darryl Harper and James Royal, on behalf of themselves and those similarly situated, have filed an action in the United States District Court for the Eastern District of Pennsylvania, Civil Action 97-6226 (the "Lawsuit");

WHEREAS, the Lawsuit alleges on behalf [*10] of the Class (as defined herein) that Defendants violated Title VII of the Civil Rights Act of 1964, as amended, *42 U.S.C. §§ 2000e et seq.*, and *42 U.S.C. § 1981*;

WHEREAS, Defendants deny all allegations of improper conduct and wrongdoing, but consider it desirable that the Lawsuit be settled and dismissed to avoid the substantial burden, expense, inconvenience and distraction of continued litigation;

WHEREAS, in no event shall this Settlement be construed or deemed to be evidence of an admission or a concession on the part of Defendants of fault, liability or wrongdoing or damage whatsoever, or any infirmity in the defenses that Defendants may have asserted;

WHEREAS, counsel for all parties have explored thoroughly the merits underlying the allegations in the Lawsuit and have conducted numerous arms' length settlement discussions;

WHEREAS, Class Counsel (as defined herein) have concluded that the terms and conditions of the Settlement are fair, reasonable and adequate to Class members and in their respective best interests, and have agreed to settle the Lawsuit pursuant to the terms and provisions of this Settlement after considering [*11] (a) the benefits that Class members will receive from the Settlement; (b) the attendant risks of litigation; and (c) the desirability of resolving the Lawsuit as provided by the terms of this Settlement; and

WHEREAS, the parties desire to settle amicably, fully and finally all matters between Class members and the Defendants, including all claims that were or could have been brought in the Lawsuit.

NOW THEREFORE, Class members and Defendants, in consideration of their mutual promises and intending to be legally bound, hereby stipulate and agree, subject to the Court's approval and pursuant to *Federal Rule of Civil Procedure 23*, as follows:

1. The Settlement Class

The Settlement Class is defined as "All African-American and/or black persons who were employed by ACSI at the Philadelphia Prison System at any time between June 17, 1994 and February 22, 1999, excluding any such person who has filed a timely request to opt-out of the monetary relief provisions of the Settlement."

2. Class Counsel

Jack Meyerson, Esquire, and Joel I. Fishbein, Esquire, of the law firm of Meyerson & Fishbein, and Stephanie M.

Sawyer, Esquire, have acted as Class Counsel and [*12] will seek the Court's approval as such for purposes of the Settlement of the Lawsuit. Class Counsel have filed an Statement of Counsel demonstrating their qualifications and absence of conflicts to serve as Class Counsel. This document is identified by the Clerk of the United States District Court for the Eastern District of Pennsylvania as Document 11 in this case.

3. Class Certification For Purposes of Settlement Only

The parties agree, for the purpose of settlement only and for no other purpose, to the certification of the "Class," as described above in Section 1. The parties stipulate, for the purpose of settlement only and for no other purpose, that the prerequisites to a class action, as defined in *Rules 23(a)* and *(b) of the Federal Rules of Civil Procedure*, are hereby satisfied.

4. Procedure for Judicial Approval of Settlement

a. Joint Motion for Preliminary Approval of Settlement. The parties will file a Joint Motion for Preliminary Approval of Settlement, thereby moving for a judicial determination that the terms of the proposed Settlement are appropriate for possible final approval.

b. Notice to Class Members. If the Court determines [*13] that the terms of the proposed Settlement are appropriate for possible approval, Class Counsel shall then issue a Notice (in a form submitted to and approved by the Court) notifying all potential Class members of the proposed Settlement, and of their right to object to or opt-out from the proposed Settlement at a hearing to be scheduled by the Court.

5. Terms of Proposed Settlement

a. Monetary Relief. Subject to Court approval, the Settlement provides classwide monetary relief. Pursuant to the proposed Settlement, ACSI has agreed to pay a Settlement Fund totaling $ 3,750,000, plus interest which will begin to accrue upon deposit of the Settlement Fund in an interest bearing account not more than seven days after the date of preliminary court approval of the Settlement. The Settlement Fund will be used to pay (1) all Settlement Class members' claims in accordance with the terms summarized below; (2) all costs of Notice of the Settlement; (3) all administrative costs of the Settlement; and (4) all amounts awarded by the Court for attorneys' fees, costs and expenses of litigation.

Of the $ 3.75 million Settlement Fund, $ 150,000 has been set aside for the three (3) [*14] named plaintiffs (James Royal, Darryl Harper and Albert Sebrell), each of whom will receive $ 50,000 less attorneys' fees. Of the $ 3.75 million Settlement Fund, $ 640,000 has been set aside for thirty-two (32) Settlement Class members who filed charges of discrimination with the Equal Employment Opportunity Commission and/or who provided witness statements used during the mediation process, each of whom will receive $ 20,000 less attorneys' fees.

The remainder of the Settlement Fund will be allocated to Class members (including those discussed in the preceding paragraph) based upon the number of days they served on the payroll at ACSI. Days during the period June 17, 1994 through December 31, 1997 will be compensated at a rate of $ 28.10 per day less attorneys' fees. Days during the period January 1, 1998 through February 22, 1999 will be compensated at a rate of $ 9.00 per day less attorneys' fees. Different rates of compensation have been applied based on the nature and level of alleged discrimination during these two periods.

If the Court approves the Settlement, Class Counsel will apply to the Court for an award of attorneys' fees equal to 33 1/3% of the amounts awarded to each [*15] of the individual Class members. Class Counsel will also seek reimbursement for out of pocket costs and disbursements advanced by Class Counsel on behalf of the Class, including expert witness fees and anticipated costs of notice, in an amount not in excess of $ 60,000.

Class Counsel will provide to each Class member a Claim Form with the Class member's anticipated allocation from the Settlement Fund, based on the formula set forth above. All Settlement payments will be taxable income. Class members should consult a tax professional with questions about taxes. Any portion of the Settlement Fund set aside for Class members not claimed by Class members, and monies claimed and distributed by check but not cashed within 120 days, shall revert to ACSI. Class Counsel will file under seal with the Court an accounting of all distributions made from the Settlement Fund within 60 days of the Court's final approval of the Settlement.

b. Injunctive Relief. ACSI has agreed to the following injunctive relief:

Within 30 days from the Court's final approval of the Settlement, ACSI will retain an outside consultant (chosen jointly by ACSI and Class Counsel), who will within the following 90 [*16] days, conduct diversity awareness training of no less than 90 minutes in length for all Philadelphia based ACSI staff.

Within 60 days from the Court's final approval of the Settlement, ACSI will also report to Class Counsel and the Court regarding procedures which are currently in place that address the underlying areas of concern in this litigation, *i.e.*, diversity awareness as part of the orientation program for new hires; periodic performance evaluations and reviews; use of objective criteria for job assignment, discipline, promotion, and discharge; and ACSI's policy against harassment which includes alternative channels for complaints of discrimination or harassment.

Within 30 days from the Court's final approval of the Settlement, ACSI will retain an independent monitor (chosen jointly by ACSI and Class Counsel) who will monitor ACSI's compliance with the provisions set forth in this section. The monitor will provide ACSI, Class Counsel and the Court with semi-annual reports containing the monitor's conclusions regarding ACSI's compliance with the provisions set forth in this section (the first such report to be submitted six months following the Court's final approval of [*17] the Settlement). The monitor will focus on process and procedure; his or her duties and authority are limited as set forth above, and he or she will not engage in fact finding, investigation or adjustment of grievances or complaints of discrimination. The monitoring shall not exceed two years from the date of the Court's final approval of the Settlement, during which time the Court will retain jurisdiction to enforce the provisions of this section.

Any disputes concerning the monitor's conclusions shall be submitted to mediation before Jonathan Marks, Esquire, whose mediation services were utilized in achieving the settlement of this matter. If the parties cannot reach agreement, Mr. Marks will issue a binding decision concerning the monitor's conclusions.

c. Release of Claims. Upon the Court's final approval of the Settlement, Class members who do not timely request exclusion from the monetary relief provisions of this Settlement, and their heirs, successors and estates shall be deemed to have fully released and forever discharged the individual defendants (Glenn Dubois, Brian Keith, Bruce Moilan, Tom Phillips and Peter Wagar), ARAMARK Corporation and ACSI and their affiliates, [*18] subsidiaries, parents, directors, officers, managers, agents, employees, insurers, attorneys, successors and assigns, and all plans and benefit plan administrators and anyone acting in concert with or on behalf of any of them (jointly referred to as "Defendants"), from any and all claims under federal, state or other laws that have been, or could have been asserted against the Defendants arising out of or related to their employment with ACSI, the cessation of employment, claims of pay continuation, pay differential, severance pay, or any other benefits or payments whatsoever, claims of defamation, libel or slander, claims under the Pennsylvania Wage and Hour Law and under the Fair Labor Standards Act, claims of discrimination on any basis whatsoever, including without limitation any employment discrimination (including retaliation) or disparate treatment or impact in their employment with ACSI or any claim for discrimination on the basis of age (including the Age Discrimination in Employment Act), disability, gender, national origin, race, religion or any other protected classification. In addition, the Settlement would bar the Class members from filing or asserting any new complaints, [*19] charges or grievances for any matter occurring up to the date of the Court's final approval of the Settlement, if such approval occurs, or relating to the claims that have been released and dismissed above.

6. Binding Nature of Settlement.

The proposed Settlement, if approved by the Court, will be binding on all Class members and will bar any person who is a Class member from seeking relief from ACSI or any other defendant for all claims described above in Section 5.c., unless he or she excludes himself or herself from the individual monetary portion of the Settlement pursuant to the opt-out procedure set forth in this Settlement. This is true whether or not the Class member files a timely Claim Form and/or receives a monetary award.

7. Filing a Claim for Monetary Award.

Any member of the Settlement Class as defined in Section 1 above who wishes to file a claim for a monetary award under the proposed Settlement will be required to return to Class Counsel a completed Claim Form signed by the class member under penalty of perjury. The claim form may not be signed by the Class member's attorney or other representative.

If a Class member does not mail the [*20] Claim Form as instructed by the Notice, he or she will not be eligible to receive a monetary award under the proposed Settlement. Class members will be bound by the proposed Settlement if finally approved by the Court, whether or not they submit a Claim Form, unless they exclude themselves from the monetary portion of the Settlement pursuant to the procedure described in Section 8 regarding Opt-Outs. Filing a Claim Form by the deadline will not automatically guarantee that a Class member will receive a monetary award; the information provided on the Claim Form will be subject to verification by Class Counsel and ACSI.

Class Counsel and ACSI will review each claim, and Class Counsel will notify each Class member whether the claim is determined to be valid. Any disputes arising from a difference between the information provided by the Class member on the claim form and the information available to ACSI will be resolved by Jonathan Marks, Esquire, whose mediation services were utilized in achieving the settlement of this matter.

Class members will be instructed to report any change of address in writing to Class Counsel. Failure to report a change of address after actual notice [*21] to the Class member and an opportunity to cure could result in forfeiture of any monetary award Class members may otherwise be entitled to receive under the proposed Settlement.

8. Opt-Out Procedure.

Class members who wish to exclude themselves ("Opt-Out") from the monetary relief portion of the settlement will be required to file a written Opt-Out statement with the Court.

To opt-out of the Settlement, the Class member will be required to submit a form signed personally by the Class member his attorney or other representative unless otherwise authorized by law or approved in advance by the Court) containing his or her full name, address, day and evening telephone numbers, Social Security number and the following statement:

> "I am a Settlement Class Member in the lawsuit of Royal v. ARAMARK, et al., 1999 U.S. Dist. LEXIS 22516, Case No. 97-6226. I wish to opt-out of the monetary portion of the settlement of this case. I understand that by requesting to be excluded from the Class Monetary Settlement I will receive no money whatsoever from ACSI under the Settlement entered into by Defendants and Class members and preliminarily approved by the Court as fair and reasonable on __, [*22] 1999. I understand that I may bring a separate lawsuit, in which I will not be represented by Class Counsel and I understand that in any separate lawsuit I may receive nothing, or, I may receive less than I would have if I had filed a claim under the Settlement Fund. I also understand that I cannot seek exclusion from the class for non-monetary relief, and I will be bound by the class-wide equitable relief provisions of the Settlement entered into by Defendants and Class members, if the Court gives final approval to the Settlement."Opt-out forms will be made available to Class members upon request to Class Counsel at the following addresses:

Jack Meyerson, Esquire

Joel Fishbein, Esquire

Meyerson & Fishbein

1700 Market Street, Suite 2632

Philadelphia, PA 19103

(215) 972-1376

Stephanie M. Sawyer, Esquire

One Penn Center

1617 John F. Kennedy Blvd.

Suite 999

Philadelphia, PA 19103

(215) 988-9080

Those who choose to opt-out of this lawsuit, (a) will have no right to file a claim for or to receive any money under the settlement of this case; (b) will not be bound by the individual monetary relief provisions of the settlement of this lawsuit; and (c) may bring a [*23] separate lawsuit against defendants. ACSI retains the right to withdraw from the proposed Settlement based on its review of opt-out statements submitted by Class members.

9. Settlement Hearing and Objections to the Settlement

Subject to its preliminary approval, the Court will schedule a hearing with respect to the proposed Settlement, to determine whether the proposed Settlement is fair, reasonable, and adequate and should be approved.

If a Class member objects to the proposed Settlement, he or she will be required to file an objection in writing with the Clerk of the United States District Court for the Eastern District of Pennsylvania stating the basis of his or her objection. The objecting Class member will be permitted to appear in person or through counsel at the Settlement Hearing to have the Court hear the objection. However, the Court will only hear objections that are previously filed in writing on or before a date set by the Court. Any attorney who will represent an individual objecting to the Settlement must file a notice of appearance with the Court and serve counsel for all parties (listed below) on or before a date set by the Court. All objections [*24] or other correspondence must state the name and number of the case, (Royal v. ARAMARK, et al., Case No. 97-6226), as well as the objecting party's full name, address and day and evening telephone numbers. The names and addresses of counsel for all parties are:

Jack Meyerson, Esquire

Joel Fishbein, Esquire

Meyerson & Fishbein

1700 Market Street, Suite 2632

Philadelphia, PA 19103

(Class Counsel)

Stephanie M. Sawyer, Esquire

One Penn Center

1617 John F. Kennedy Blvd.

Suite 999

Philadelphia, PA 19103

(Class Counsel)

John B. Langel, Esquire

Ballard Spahr Andrews & Ingersoll, LLP

1735 Market Street, 51st Floor

Philadelphia, PA 19103

(Attorney for defendants ARAMARK Corporation and ACSI)

Neil Hamburg, Esquire

Hamburg & Golden, P.C.

1601 Market Street, Suite 565

Philadelphia, PA 19103

(Attorney for defendants Glenn Dubois, Brian Keith, Tom Phillips and Peter Wagar)

Carol Mager, Esquire

The Mager Law Firm

One Liberty Place

44th Floor

Philadelphia, PA 19103

(Attorney for defendant Bruce Moilan)

Attendance at the Settlement Hearing is not necessary. However, the proposed Settlement, if approved by the Court, will constitute a full and binding settlement [*25] of all claims that were or could have been brought by all members of the Class against any defendant up until the date the Court grants final approval of the Settlement. Any member of the Settlement Class who does not make his or her objection in the manner provided shall have waived such objection and shall forever be foreclosed from making any objection to the fairness, adequacy or reasonableness of the proposed Settlement.

10. Communications Concerning Settlement

The parties and their counsel agree not to: make any public statement; issue any press release; hold any press conference; or contact the media to discuss any aspect of the case, including the terms of the Settlement. In addition, the parties shall prepare a joint written statement to be provided to any person who inquires about the case or the terms of the Settlement. The parties and their counsel agree not to make any public statement about the case or the Settlement other than the joint written statement. The parties recognize, however, that all documents filed with the Court in this matter, except those documents filed under seal, will be available to the public.

11. No Admission of Liability [*26]

This stipulation and any negotiations or proceedings hereunder are not, and shall not be construed as or deemed to be, an admission or concession by or on the part of any defendant of any liability or wrongdoing. Defendants expressly deny and disclaim any such liability or wrongdoing.

12. Status Quo Ante Rights.

If the Settlement shall not be approved or consummated for any reason whatsoever, the Settlement and all related proceedings shall be without prejudice to the status quo ante rights of the parties to the Action.

In the event that the Settlement is not approved and/or consummated for any reason, (1) the Settlement Fund and the interest accrued in escrow shall revert to ACSI; and (2) plaintiffs will bear the costs of any administration and/or implementation.

IN WITNESS WHEREOF, intending to be legally bound hereby, the parties have executed this Stipulation Agreement of Settlement on the dates noted below:

Jack Meyerson, Esquire

Joel Fishbein, Esquire

Meyerson & Fishbein

1700 Market Street, Suite 2632

Philadelphia, PA 19103

(Class Counsel)

Dated: 4/23/99

Stephanie M. Sawyer, Esquire

One Penn Center

1617 J.F.K. Boulevard, Suite 999

Philadelphia, [*27] PA 19103

(Class Counsel)

Dated: 4/23/99

John B. Langel, Esquire

David S. Fryman, Esquire

Susan R. Becker, Esquire

Ballard Spahr Andrews & Ingersoll, LLP

1735 Market Street, 51st Floor

Philadelphia, PA 19103

(Attorneys for defendants ARAMARK Corporation and ACSI)

Dated: 4/23/99

Neil J. Hamburg, Esquire

Hamburg & Golden, P.C.

1601 Market Street, Suite 565

Philadelphia, PA 19103-1443

(Attorney for defendants Glenn Dubois, Brian Keith, Tom Phillips and Peter Wagar)

Dated: 4/23/99

Carol A. Mager, Esquire

The Mager Law Firm P.C.

One Liberty Place, 44th Floor

Philadelphia, PA 19103

(Attorney for defendant Bruce Moilan)

Dated: 4/23/99