

**IMPORTANT LEGAL NOTICE OF CLASS ACTION SETTLEMENT  
ISSUED BY ORDER OF THE COURT**

**United States District Court, Southern District of New York  
*Qwame Thomas, et al. v. Mekruth Inc. d/b/a Amy Ruth's Restaurant, et al.*  
Civil Action No. 1:19-cv-01566-AJN**

**If you worked at Amy Ruth's Restaurant as a non-exempt hourly paid  
employee at any time between February 21, 2013 and November 15, 2019,  
YOU ARE ENTITLED TO A PAYMENT.**

- This Notice relates to a proposed settlement in a class and collective action lawsuit that alleges Amy Ruth's Restaurant ("Amy Ruth's") violated the federal Fair Labor Standard Act ("FLSA") and New York Labor Laws ("NYLL"). The two sides disagree as to whether Amy Ruth's conduct was permitted under the FLSA and NYLL, whether Amy Ruth's would be liable under the FLSA and NYLL with respect to that conduct, and if so, the extent of any such liability. Amy Ruth's denies that it violated the law in any fashion whatsoever. The parties have agreed to resolve the lawsuit by a settlement.
- There is one proposed NYLL Class that includes all hourly, non-exempt employees of Amy Ruth's between February 21, 2013, and November 15, 2019.
- There is one proposed FLSA Collective that includes all hourly, non-exempt employees of Amy Ruth's between February 21, 2016, and November 15, 2019.
- You are entitled to receive money under the terms of this Settlement.

<b>YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT:</b>	
<b>Submit a Claim Form</b>	Receive two payments. You will receive the first payment, because you are a member of the Settlement Class. You will receive a second payment, because you submitted a Claim Form and became a member of the FLSA Collective.
<b>Do Nothing</b>	Receive one payment. You will receive one payment if you do nothing, because you are a member of the Settlement Class.
<b>Exclude Yourself</b>	Receive zero payments. This is the only option that allows you to be part of any other lawsuit or legal action against Amy Ruth's relating to any and all claims that otherwise would be released by the Settlement Agreement.  <i>See Section 10. How do I get out of the Settlement? for excluding yourself below.</i>

<b>Object</b>	Write to the Court about why you object to the Settlement.  <i>See Objecting To The Settlement below.</i>
<b>Go to the Hearing</b>	Ask to speak in Court about the fairness of the Settlement.

- Your rights and options—and the deadlines to exercise them—are explained in this Notice.
- The Court still has to decide whether to approve this Settlement, which may take some time.

## Basic Information

### 1. Why did I get this Notice?

You are receiving this Notice because Amy Ruth’s records indicate that you worked as an hourly, non-exempt employee at some time between February 21, 2013, and November 15, 2019. As such, you are entitled to up to two payments.

This Court Authorized Notice has been circulated, because members of the NYLL Class and FLSA Collective have a right to know about a proposed settlement in which they are class members and can become collective members by submitting a Claim Form before the Court decides whether to approve the Settlement. If the Court approves the Settlement, but after objections or appeals relating to that Settlement are resolved, members of the NYLL Class and/or FLSA Collective will receive benefit(s) from the Settlement.

This Notice explains the lawsuit, the Settlement, your legal rights, what benefits are available, who is eligible for them, and how to get them. A full copy of the Settlement Agreement may be reviewed online at the Settlement Website [www.amyruthsrestaurantsettlement.com](http://www.amyruthsrestaurantsettlement.com). This Notice contains only a summary of the Settlement Agreement.

The Court in charge of this case is the United States District Court for the Southern District of New York, and the case is known as *Qwame Thomas, individually and on behalf of all others similarly situated, v. Mekruth Inc. d/b/a Amy Ruth’s Restaurant, Mitchell Mekles, David Mekles, in their official and individual capacity, and Does 1-50, inclusive*, in Civil Action No. 1:19-cv-01566-AJN. The persons who filed this lawsuit are called the Plaintiffs, and Amy Ruth’s is the Defendants.

### 2. What is the lawsuit about?

The Plaintiffs allege that Amy Ruth’s failed to pay their hourly, nonexempt employees all appropriate wages, maintain accurate employment records, pay all appropriate spread-of-hours pay, and other violations of the FLSA and NYLL. Based on these allegations, Plaintiffs seek to recover damages.

Amy Ruth’s vigorously disputes the Plaintiffs’ allegations, denies it violated any law, and denies all liability to Plaintiffs. In the lawsuit, Amy Ruth’s has denied Plaintiffs’ allegations and has raised a number of defenses to the claims asserted.

The Court has not determined whether Plaintiffs or Amy Ruth’s are right or wrong. Although the Court has

authorized Notice to be given of the proposed Settlement. This Notice does not express the opinion of the Court as to the merits of the claims or defenses asserted by either side in the lawsuit.

### **3. Why is this case a class action and a collective action?**

**Class actions** are lawsuits in which the claims and rights of many people are decided in a single proceeding. In a class action, Representative Plaintiffs (*a.k.a.*, “Class Representatives”) seek to assert claims on behalf of all members of the class or classes. In a class action, people with similar claims are treated alike. Class members are not individually responsible for the costs or fees of counsel, which are subject to court award.

**Collective actions** are lawsuits pursuant to the federal Fair Labor Standards Act, where individuals are permitted to seek relief jointly for alleged FLSA violations.

### **4. Why is there a Settlement?**

The Court did not decide this case in favor of the Plaintiffs or the Defendants. The parties have investigated the facts and applicable law regarding the Plaintiffs’ claims and the Defendant’ defenses. This Settlement was reached through the parties’ participation in a mediation and through negotiations. The Class Representative and Counsel for the Settlement Class believe that the proposed Settlement Agreement is fair, reasonable, and in the best interests of the class. The parties agree this Settlement will avoid the uncertainties and expense of further litigation.

## **Who Is In The Settlement?**

### **5. How do I know if I am part of the NYLL Settlement Class?**

If you are receiving this notice, Amy Ruth’s records indicate you were employed by Amy Ruth’s as an hourly, non-exempt employee at any time between February 21, 2013, and November 15, 2019. If you worked as an hourly, non-exempt employee for Amy Ruth’s at any time between February 21, 2013, and November 15, 2019, you are a part of the NYLL Class.

If you are not certain as to whether you are a member of the Settlement Class or Collective, you may contact the Settlement Administrator to find out. In all cases, the question of membership will be determined based on Amy Ruth’s records.

## **The Settlement Benefits—What You Get**

### **6. What does the Settlement provide?**

If you are receiving this Notice you are entitled to receive up to two payments.

A Gross Settlement Fund totaling \$1,500,000.00, less administration costs, attorneys’ fees and costs, and other disbursements, has been established. Your share of the Settlement Fund will be based on, *inter alia*, a calculation involving the number of pay periods you worked for Amy Ruth’s, divided by the total number of pay periods worked by all Plaintiffs that have been identified by Amy Ruth’s between February 21, 2013, and November 21, 2019.

Payments to NYLL Class and FLSA Collective are contingent on final court approval. If any settlement funds

remain unclaimed after 180 days due to uncashed or non-negotiated checks, such funds shall be returned to Amy Ruth's.

## 7. How can I get a benefit?

**You do not have to do anything to receive your Settlement Class payment.** If you exclude yourself as described below, however, you will not receive your Settlement Class payment.

**To receive a Collective payment, you must return the Claim Form that is included in this Notice Package and you must mail it on or before July 12, 2021.** You may also submit a claim form online by visiting: [www.amyruthsrestaurantsettlement.com](http://www.amyruthsrestaurantsettlement.com). The completed Claim Form must include your current name, former name (if different during employment at Amy Ruth's), address, telephone number, e-mail address (if applicable), and the last four digits of your Social Security number. It must also include your certification under penalty of perjury that all information on the Claim Form is true and correct. You may send the Claim Form to the Settlement Administrator within an envelope if you prefer. If so, you will need to supply postage. **If you do not submit a Claim Form you will not receive a Collective payment.**

If you change your address, you must notify the Settlement Administrator with your new address.

## 8. When do I receive payment?

The Court will hold a Final Fairness Hearing at 11:00 am on August 18, 2021 in the United States District Court for the Southern District of New York, Thurgood Marshall U.S. Courthouse, 40 Foley Square, Courtroom 906, New York NY 10007, to decide whether to finally approve the Settlement. If the Settlement is finally approved, there may be appeals. Payments to members of the Settlement Class will be made only if the Settlement is finally approved and fully effective. This may take some time, so please be patient.

## 9. What am I giving up to get a benefit or stay in the class?

Upon the Court's approval of the Settlement, all members of the NYLL Class (i.e., those who do not exclude themselves) and all FLSA Collective members (i.e., those who submitted a Claim Form), as well as their spouses, heirs, and others who may possess rights on their behalf, will fully release Amy Ruth's (and its affiliates, subsidiaries, employees, and others who may be subject to claims with respect to Amy Ruth's as specified in the Settlement Agreement) from any and all claims arising under the FLSA and/or NYLL's wage and hours laws, including claims for statutory damages and actual damages, arising out of or relating directly or indirectly in any manner whatsoever to the facts alleged in this case, or based on legal theories asserted in this case, including but not limited to any claims related directly or indirectly in any manner whatsoever to those claims raised by Plaintiffs. This release effects your rights and carries obligations in the future.

To view the full terms of this release, which are contained in the Settlement Agreement, please visit [www.amyruthsrestaurantsettlement.com](http://www.amyruthsrestaurantsettlement.com).

## 10. How do I get out of the Settlement?

If you choose to be excluded or "opt-out" from the Settlement, you will not be bound by any judgment or other final disposition of the lawsuit. You will retain any claims against Amy Ruth's you might have. To request exclusion, you must state in writing your desire to be excluded from the Settlement Class. **Your request for exclusion must be sent by first-class mail, postmarked on or before July 12, 2021** addressed to:

Amy Ruth's Settlement Administrator  
c/o Settlement Services, Inc.  
PO Box 10269 Tallahassee, FL 32308

Phone: (844) 329-0035

or to

Attn: Clerk of Court  
Southern District of New York  
Thurgood Marshall U.S. Courthouse  
40 Foley Square  
New York, NY 10007

**If this request is not postmarked on or before July 12, 2021 your request for exclusion will be invalid,** and you will be bound by the terms of the Settlement approved by the Court, including without limitation, the judgment ultimately rendered in the case, and you will be barred from bringing any claims that arise out of or relate in any way to the claims in the case as specified in the release referenced in Paragraph 9 above.

**11. If I exclude myself, can I get benefits from this Settlement?**

**No, you will not receive any benefit from the Settlement if you exclude yourself.** Further, unless you exclude yourself, you give up any right to sue Amy Ruth's for the claims that this Settlement resolves, even if you do not file a Claim Form.

*If you have a pending claim or lawsuit, speak to your attorney in that case immediately.*

**The Attorneys Representing You**

**12. Do I have an attorney in this case?**

The Court has appointed the following attorney as Counsel for the Settlement Class:

Robert Ottinger, *Esq.*  
The Ottinger Firm, P.C.  
535 Mission St, 14<sup>th</sup> Fl  
San Francisco, CA 94105

Counsel for the Settlement Class represent the interests of the Settlement Class. You may hire your own attorney to advise you, but if you hire your own attorney, you will be responsible for paying that attorney's fees.

**13. How will the attorneys be paid?**

Counsel for the Settlement Class will be paid out of the Gross Settlement Fund.

**14. Who are the Class Representatives and what additional compensation do they receive?**

The Court has appointed Qwame Thomas as the Class Representative. Mr. Thomas initiated the lawsuit, participated in discovery, and assisted Counsel for the NYLL Class and FLSA Collective at every stage of these proceedings.

## Objecting To The Settlement

### 15. How do I tell the Court that I don't like the Settlement?

You can object to any aspect of the proposed Settlement by filing and serving a written objection. Your written objection must include: (1) evidence that you are a member of the Settlement Class; (2) a notice of your intent to appear at the Final Fairness Hearing at 11:00 am on August 18, 2021 in the United States District Court for the Southern District of New York, Thurgood Marshall U.S. Courthouse, 40 Foley Square, Courtroom 906, New York NY 10007, (3) a statement of the objection(s) being asserted; (4) a detailed description of the facts and legal authorities underlying each objection; (5) a list of any witnesses who may be called to testify at the Final Fairness Hearing, whether in person, by deposition, or affidavit; and (6) a list of any exhibits, and copies of the same, which you may offer at the Final Fairness Hearing.

**You must file any objection with the Clerk of the Court at the address below by July 12, 2021 .**

United States District Court for the Southern District of New York  
Thurgood Marshall U.S. Courthouse  
40 Foley Square, New York NY 10007

Please prominently reference:

*Qwame Thomas, individually and on behalf of all others similarly situated, v. Mekruth Inc. d/b/a Amy Ruth's Restaurant, Mitchell Mekles, David Mekles, in their official and individual capacity, and Does 1-50, inclusive*, in Civil Action No. 1:19-cv-01566-AJN

**You must also send your objection by first-class mail, postmarked on or before July 12, 2021 to Counsel for the Settlement Class and counsel for Amy Ruth's. These documents should be mailed to Counsel for the Settlement Class at:**

Robert Ottinger, Esq.  
The Ottinger Firm, P.C.  
535 Mission St, 14th Fl  
San Francisco, CA 94105

and to counsel for

Amy Ruth's at:

Ruth B. Kraft  
Vigorito, Barker, Patterson,  
Nichols & Porter, LLP  
300 Garden City Plaza,  
Suite 308  
Garden City, New York 11530

Any member of the Settlement Class who does not file and serve an objection in the time and manner described above will not be permitted to raise that objection later.

## **16. Where and when will the Court decide whether to approve the Settlement?**

There will be a Final Fairness Hearing to consider approval of the proposed Settlement at 11:00 am on August 18, 2021 at the United States District Court for the Southern District of New York, Thurgood Marshall U.S. Courthouse, 40 Foley Square, Courtroom 906, New York NY 10007. The hearing may be postponed to a later date without further notice. The purpose of the hearing is to determine the fairness, reasonableness, and adequacy of the terms of Settlement; whether the NYLL Class and FLSA Collective is adequately represented by the Class Representative and Counsel for the NYLL Class and FLSA Collective; and whether an order and final judgment should be entered approving the proposed Settlement. The Court also will consider (i) Settlement Class Counsel's application for an award of attorneys' fees and the reimbursement of litigation costs and expenses and (ii) Class Representative's and Opt-in Plaintiffs' incentive awards.

You will be represented at the Final Fairness Hearing by Counsel for the NYLL Class and FLSA Collective, unless you choose to enter an appearance in person or through your own counsel, but you will be responsible for paying your own attorney if you chose to be represented by an attorney other than the Settlement Class Counsel. The appearance of your own attorney is not necessary to participate in the Final Fairness Hearing.

## **17. Do I have to come to the hearing?**

No. Counsel for the NYLL Class and FLSA Collective will represent the NYLL Class and FLSA Collective at the Final Fairness Hearing, but you are welcome to come at your own expense. If you send any objection, you do not have to attend the Final Fairness Hearing to present your objection to the Court and respond to any inquiries. As long as you filed and mailed your written objection on time, the Court will consider it. You may also pay your own attorney to attend, if you wish.

## **18. May I speak at the hearing?**

You may ask the Court for permission to speak at the Final Fairness Hearing. To do so, you must send with your objection a notice of intention to appear at the hearing as described in Paragraph 15 above.

## **Getting More Information**

## **19. Are there more details about the Settlement?**

This Notice is only a summary. For a more detailed statement of the matters involved in the lawsuit or the Settlement, you may refer to the papers filed in this case during regular business hours at the office of the Clerk of the Court, United States District Court for the Southern District of New York, Thurgood Marshall U.S. Courthouse, 40 Foley Square, New York NY 10007, File: *Thomas, et al. v. Mekruth Inc. d/b/a Amy Ruth's Restaurant, et al., Civil Action No. 19-cv-01566-AJN*. The full Settlement Agreement and certain pleadings filed in the cases are available at [www.amyruthsrestaurantsettlement.com](http://www.amyruthsrestaurantsettlement.com) or can be or can be requested, in writing, from the Settlement Administrator, identified in Paragraph 10 above.

## **20. How do I get more information?**

You can visit [www.amyruthsrestaurantsettlement.com](http://www.amyruthsrestaurantsettlement.com) or contact the Settlement Administrator, identified in Paragraph 10 above.