

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

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ESTHER O'MAHONEY and KEN FOLEY,

Plaintiffs,

-against-

GAVIN WHISTON, THOMAS MCARTHY,
KIERON SLATTERY, MOXY
RESTAURANT ASSOCIATES, INC., and
DUBCORK INC D/B/A SMITHFIELD
TAVERN, SMITHFIELD NYC, SMITHFIELD
HALL NYC,

Defendants.

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Index No. 652621/2014

~~PROPOSED~~ JUDGMENT

The issues in the above-entitled action having duly come on to be heard before the Hon. Jennifer G. Schechter, a Justice of this Court, without a jury, at a Term, Part 54, of this Court, held at the courthouse thereof, located at 60 Centre Street, Room 228, New York, NY 10007, on January 5, 2022, and the plaintiffs, Esther O'Mahoney and Kenn Foley, having appeared by their attorney, Samuel Goldman, Esq., and the defendants, Gavin Whiston, Thomas McCarthy, Kieron Slattery, Moxy Restaurant Associates, Inc., and Dubcork Inc. d/b/a Smithfield Tavern, Smithfield NYC, Smithfield Hall NYC, having appeared by their attorney, Elaine Platt, Esq., and the issues having been duly tried, and the Court having after due deliberation duly made and filed a decision in writing on February 15, 2023;

NOW, on motion of plaintiffs Esther O'Mahoney and Ken Foley, it is

~~ORDERED~~, ADJUDGED, ~~AND DECREED~~ that Ken Foley, with a last known address at 30-67 42nd St. Apt. 3-R, Queens, NY, 11103, and Dubcork, Inc., d/b/a Smithfield Tavern, Smithfield NYC, Smithfield Hall NYC, with a last known address at 299 Broadway, Suite 1820,

New York, NY 10007, shall have judgement and recover against Gavin Whiston, with a last known address at 240 West Woodland Dr., Wading River, NY 11792; Thomas McCarthy, with a last known address at 24 Haymaker Lane, Levittown, NY 11756; Kieron Slattery, with a last known address at 1453 85th St., Brooklyn, NY 11228; and Moxy Restaurant Associates, Inc., with a last known address at 299 Broadway, Suite 1820, New York, NY 10007, as follows:

- (1) Dubcork, Inc. d/b/a Smithfield Tavern, Smithfield NYC, Smithfield Hall NYC, shall have judgment and recover against defendants Gavin Whiston, Thomas McCarthy, Kieron Slattery, and Moxy Restaurant Associates, Inc., jointly and severally, in the amount of \$2,820,417, with 9% statutory pre-judgment interest from December 14, 2021, to the date judgment is entered, **in the amt of \$335,900.07** making in all the sum of **\$3,156,317.07** ; **x**
- (2) Dubcork, Inc. d/b/a Smithfield Tavern, Smithfield NYC, Smithfield Hall NYC, shall have judgment and recover against Gavin Whiston in the amount of \$100,000, with 9% statutory pre-judgment interest from February 15, 2023, to the date judgment is entered, **in the amt of \$1356.16** making in all the sum of **\$101,356.16** ; **x**
- (3) Dubcork, Inc. d/b/a Smithfield Tavern, Smithfield NYC, Smithfield Hall NYC, shall have judgment and recover against Thomas McCarthy in the amount of \$100,000, with 9% statutory pre-judgment interest from February 15, 2023, to the date judgment is entered, **in the amt of \$1356.16** making in all the sum of **\$101,356.16** ; **x**
- (4) Dubcork, Inc. d/b/a Smithfield Tavern, Smithfield NYC, Smithfield Hall NYC, shall have judgment and recover against Kieron Slattery in the amount of \$100,000, with 9% statutory pre-judgment interest from February 15, 2023, to the date judgment is entered, **in the amt of \$1356.16** making in all the sum of **\$101,356.16** ; **x**

- (5) Dubcork, Inc. d/b/a Smithfield Tavern, Smithfield NYC, Smithfield Hall NYC, shall have judgment and recover against Gavin Whiston, Thomas McCarthy, Kieron Slattery, jointly and severally, in the amount of \$648,551, with 9% statutory pre-judgment interest from August 25, 2014, to the date judgment is entered, **in the amt of \$503,897.47** making in all the sum of **\$1,152,448.47** ; **x**
- (6) Dubcork, Inc. d/b/a Smithfield Tavern, Smithfield NYC, Smithfield Hall NYC, shall have judgment and recover against Gavin Whiston in the amount of \$28,000, with 9% statutory pre-judgment interest from August 25, 2014, to the date judgment is entered, **in the amt of \$21,754.85** making in all the sum of **\$49,754.85** ; **x**
- (7) Dubcork, Inc. d/b/a Smithfield Tavern, Smithfield NYC, Smithfield Hall NYC, shall have judgment and recover against Thomas McCarthy in the amount of \$73,672.91, with 9% statutory pre-judgment interest from August 25, 2014, to the date judgment is entered, **in the amt of \$57,240.82** making in all the sum of **\$130,913.73** ; **x**
- (8) Dubcork, Inc. d/b/a Smithfield Tavern, Smithfield NYC, Smithfield Hall NYC, shall have judgment and recover against Gavin Whiston in the amount of \$55,000, with 9% statutory pre-judgment interest from August 25, 2014, to the date judgment is entered, **in the amt of \$42,732.74** making in all the sum of **\$97,732.74** ; **x**
- (9) Dubcork, Inc. d/b/a Smithfield Tavern, Smithfield NYC, Smithfield Hall NYC, shall have judgment and recover against Thomas McCarthy in the amount of \$55,000, with 9% statutory pre-judgment interest from August 25, 2014, to the date judgment is entered, **in the amt of \$42,732.74** making in all the sum of **\$97,732.74** ; **x**
- (10) Dubcork, Inc. d/b/a Smithfield Tavern, Smithfield NYC, Smithfield Hall NYC, shall have judgment and recover against Kieron Slattery in the amount of \$55,000, with

9% statutory pre-judgment interest from August 25, 2014, to the date judgment is entered, **in the amt of \$42,732.74** entered, making in all the sum of **\$97,732.74** ; **x**

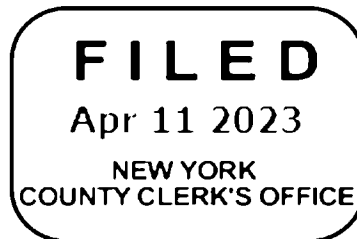
(11) Dubcork, Inc. d/b/a Smithfield Tavern, Smithfield NYC, Smithfield Hall NYC, shall have judgment and recover against Gavin Whiston, Thomas McCarthy, Kieron Slattery, jointly and severally, in the amount of \$70,500, with 9% statutory pre-judgment interest from August 25, 2014, to the date judgment is entered, **in the amt of \$54,775.60** making in all the sum of **\$125,275.60** ; and **x**

(12) Ken Foley shall have judgment and recover against Gavin Whiston, Thomas McCarthy, Kieron Slattery, and Moxy Restaurant Associates, Inc., jointly and severally, in the amount of \$86,397, with 9% statutory pre-judgment interest from August 25, 2014, to the date judgment is entered, **in the amt of \$67,126.92** making in all the sum of **\$153,523.92** ; **x**

and that Dubcork, Inc. d/b/a Smithfield Tavern, Smithfield NYC, Smithfield Hall NYC, and plaintiff Ken Foley shall have execution therefor.

Judgment signed this 11th day of Apr., 2023

Milton Adair Tongberg
CLERK



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ESTHER O'MAHONEY and KEN FOLEY,

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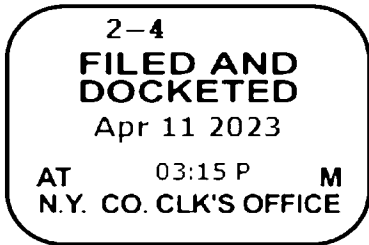
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JUDGMENT

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