

FILED

IN THE CIRCUIT COURT OF THE 19TH JUDICIAL CIRCUIT
LAKE COUNTY, ILLINOIS

DEC 03 2020

Ena (Ena) ...
CIRCUIT CLERK

HUGO SOTO and SHARON SOTO,
individually and on behalf of similarly
situated persons,

 Plaintiffs,

 v.

GREAT AMERICA LLC, d/b/a
SIX FLAGS GREAT AMERICA and
SIX FLAGS HURRICANE HARBOR,
and DOES 1 to 20,

 Defendants.

Case No. 17 CH 1118

Hon. Stacey L. Seneczko

**ORDER PRELIMINARILY APPROVING
SETTLEMENT AND CERTIFYING SETTLEMENT CLASS**

This matter coming before the Court by stipulation of the Plaintiffs Hugo Soto and Sharon Soto and Defendant Great America LLC and after review and consideration of the Class Settlement (the "Agreement"), the Preliminary Approval Hearing held on December 3, 2020, and the arguments of counsel,

IT IS HEREBY ORDERED as follows:

1. Plaintiffs Hugo Soto and Sharon Soto are granted leave to amend the complaint to add Elizabeth Alvarado, Elvin Alvarado, Irene Miranda, Jose Raul Turcios, Herschel K. Bailey IV and Yaakov A. Katz¹ as additional plaintiffs and Six Flags Entertainment Corp, Six Flags Great Adventure, LLC and Magic Mountain, LLC² as additional defendants.

¹ Hugo Soto, Sharon Soto, Elizabeth Alvarado, Elvin Alvarado, Irene Miranda, Jose Raul Turcios, Herschel K. Bailey IV and Yaakov A. Katz will be collectively referred to as "Plaintiffs".

² Great America LLC Six Flags Entertainment Corp, Six Flags Great Adventure, LLC and Magic Mountain, LLC will be collectively referred to as "Defendants".

2. Pursuant to 735 ILCS 5/2-805, the settlement of this action, as embodied in the terms of the Settlement Agreement, is hereby preliminarily approved as a fair, reasonable, and adequate settlement of this case in light of the factual, legal, practical, and procedural considerations raised by this case. The Settlement Agreement is incorporated by reference into this Order (with capitalized terms as set forth in the Settlement Agreement) and is hereby preliminarily adopted as an Order of this Court.

3. Solely for the purpose of settlement, and pursuant to 735 ILCS 5/2-802, the Court hereby preliminarily certifies the following Class:

All consumers who used a credit and/or debit card to make a purchase at one or more of the following locations during the date range applicable to each location:

- i. Six Flags Over Georgia: October 14, 2016 through September 28, 2017, inclusive.
- ii. Six Flags Over Texas: February 25, 2017 through September 28, 2017, inclusive.
- iii. Hurricane Harbor Arlington: May 6, 2017 through September 28, 2017, inclusive.
- iv. White Water Atlanta: May 13, 2017 through September 28, 2017, inclusive.
- v. Six Flags Discovery Kingdom: December 17, 2016 through September 28, 2017, inclusive.
- vi. Six Flags Magic Mountain & Hurricane Harbor Valencia: January 12, 2017 through September 28, 2017, inclusive.
- vii. The Great Escape (and Hurricane Harbor) & Six Flags Great Escape Lodge & Indoor Waterpark: May 13, 2017 through September 28, 2017, inclusive.
- viii. Hurricane Harbor Concord: June 12, 2017 through September 28, 2017, inclusive.
- ix. Six Flags Fiesta Texas: November 19, 2016 through September 28, 2017, inclusive.
- x. Six Flags Great Adventure & Hurricane Harbor New Jersey: April 1, 2017 through September 28, 2017, inclusive.
- xi. Six Flags Great America: April 16, 2017 through September 28, 2017, inclusive.
- xii. Six Flags New England: April 8, 2017 through September 28, 2017, inclusive.
- xiii. Six Flags St. Louis: March 25, 2017 through September 28, 2017, inclusive.

xiv. Six Flags America: April 1, 2017 through September 28, 2017, inclusive.
(collectively “Covered Parks”.)

4. The Court finds that certification for purposes of settlement is appropriate in that (a) the class is so numerous that joinder of all members is impractical; (b) there are questions of law and fact common to the class that predominate over any questions affecting only individual class members; (c) Plaintiffs’ claims are typical of the claims of the class; (d) Plaintiffs will fairly and adequately protect the interests of the class; and (e) a class action is an appropriate method for the fair and efficient adjudication of this controversy.

5. The Court hereby preliminarily appoints the Plaintiffs as Representative of the Class and finds that it meets the requirements of 735 ILCS 5/2-801.

6. The Court preliminarily appoints the following lawyers as counsel to the Class and finds that counsel meets the requirements of 735 ILCS 5/2-801:

EDELMAN, COMBS, LATTURNER & GOODWIN, LLC
20 South Clark Street, Suite 1500
Chicago, Illinois 60603

Curtis C. Warner (ARDC #6282197)
5 E. Market St., Suite 250
Corning, NY 14830

7. Upon admissions pursuant to Supreme Court Rule 707, the Court further preliminarily appoints the following lawyers as counsel to the Class, and finds that counsel³ meets the requirements of 735 ILCS 5/2-801:

LACY, PRICE & WAGNER, P.C.
249 North Peters Road, Suite 101
Knoxville, Tennessee 37923

GAINES & GAINES, APLC
27200 Agoura Road, Suite 101
Calabasas, California 91301

³ Attorneys listed in paragraphs 6 and 7 will be collectively referred to as “Settlement Class Counsel”.

**THE LAW OFFICES OF SHIMSHON
WEXLER, PC**
2244 Henderson Mill Rd Ste 108
Atlanta, GA 30345

KELLER GROVER LLP
1965 Market Street
San Francisco, CA 91403

8. The Court finds that the Settlement Agreement's plan for class notice is the best notice practicable under the circumstances and satisfies the requirements of due process and 735 ILCS 5/2-803. That plan is approved and adopted. This Court further finds that the Notice of Pendency of Class Action, Proposed Settlement, and Hearing (the "Class Notice") (attached to the Settlement Agreement as Exhibit 1), complies with 735 ILCS 5/2-803, is appropriate as part of the notice plan, and is approved and adopted.

9. By this Order, the Court hereby approves of the Parties' notice procedure as follows:

1) Defendants shall compile a list of all persons who were U.S. season pass holders and/or members during the Class Period and search for names, mailing addresses, and email addresses associated with the list. All of the information collected by Defendants, taken in total, shall be referred to as the Class Member Contact List. The Class Member Contact List shall be compiled and provided to the Claims Administrator no later than 30 calendar days after entry of the Court's order preliminarily approving the settlement and shall be treated as confidential and not disclosed to anyone.

2) No later than 20 calendar days after receiving the Class Member Contact List, the Claims Administrator shall run all mailing addresses through the United States Postal Service National Change of Address ("NCOA") (or comparable) database to update the information provided by Defendants.

3) No later than 60 calendar days after entry of the Court's order preliminarily approving the settlement, the Claims Administrator shall send to each person on the Class Member Contact List for whom no e-mail is available, but for whom a mailing address is available, the Postcard Settlement Class Notice substantially in the form of Exhibit C to the Agreement hereto by first class United States mail. No later than 60 calendar days after entry of the Court's order preliminarily approving the settlement, the Claims Administrator shall email to each person on the Class Member Contact List for whom an email address is available, the Email Settlement Class Notice substantially in the form of Exhibit D to the Agreement. If any Postcard Settlement Class Notice or Email Notice is returned to the Claims Administrator as undeliverable, the Claims Administrator will immediately perform a skip-trace and/or other customary address

searches in an attempt to locate a valid address, and if a new mailing address or new e-mail address is obtained, re-mail or re-email the appropriate notice document to that updated mailing address or e-mail address.

4) Beginning 60 days after entry of the Court's order preliminarily approving the settlement, the Claims Administrator shall initiate an on-line banner advertising campaign that will continue for a period to be determined by the Claims Administrator that ends no later than 120 days after the Court's order preliminarily approving the settlement. The on-line program will utilize data targeting, contextual targeting, and geo-targeting to reach adults in an area approximately 150 square miles around each Covered Park with an emphasis on users with theme park purchases and a history of visiting websites with theme park content. The online program will be delivered over the Google Display Network, Instagram, and Twitter, and will include a live link to the Settlement Website, www.themeparkFACTAsettlement.com. The online banner ads will be drafted by the Claims Administrator and approved by the Parties not less than 10 days before they go live. The intent of the online banner ads is to communicate the following information in a format suggested by the Claims Administrator and approved by the Parties: "If you used your credit or debit card at a Six Flags theme park or water park between October 14, 2016 and September 28, 2017, inclusive, **You May be Entitled to Compensation From a Class Action Settlement.**"

5) No later than 50 calendar days after entry of the Court's order preliminarily approving the settlement, the Claims Administrator shall publish a website on the internet at the URL www.themeparkFACTAsettlement.com. (or a similar name as agreed upon by the Parties if that one is not available)(the "Settlement Website"), which shall set forth a summary of the terms of the settlement, state the means by which Settlement Class Members may communicate with the Claims Administrator (including but not limited to the Claims Administrator's business name, address, a toll-free telephone number, and e-mail address), contain a set of Frequently Asked Questions and corresponding answers, provide instructions on how to submit a Claim Form (Cash and Voucher) (both electronically and by mail) and the deadlines associated therewith, and provide instructions on how to object to and opt out of the settlement and the deadlines associated therewith. The Settlement Website also shall provide, free of charge, a viewable, printable, and downloadable copy, in PDF file format, of each of the following documents: this Agreement; the complaint in each of the Actions; the Court's order preliminarily approving the settlement; the Claim Form-Cash (Exhibit A to the Agreement); the Claim Form-Voucher (Exhibit B to the Agreement); and the Long-Form Settlement Class Notice (Exhibit E to the Agreement). The Settlement Website shall remain active for 90 calendar days after the Settlement Effective Date. Defense Counsel and Settlement Class Counsel shall have the right to review and approve the Settlement Website, including its content, not less than 10 days before it goes live.

10. The notice to the class shall provide that requests for exclusion (or opt-outs) may be submitted by either mail or email, and provide contact information for submission of the requests for exclusion.

11. To effectuate the settlement, the Court hereby adopts deadlines and dates for the acts and events set forth in the Settlement Agreement, and directs the parties to incorporate the deadlines and dates in the Class Notice and Claim Form:

Last day for Defendants to provide the Claims Administrator with Class Member Contact List	30 days after preliminary approval
Last day for Claims Administrator to publish Settlement Website	50 days after preliminary approval
Last day for Claims Administrator to mail and email the Settlement Class Notice to Settlement Class Members	60 days after preliminary approval
Dates of on-line banner campaign	Between 60 and 120 days after preliminary approval
Last day for Settlement Class Counsel to file motion for award of attorneys' fees, litigation expenses, administration costs, and Settlement Class Representatives' enhancement awards	90 days after preliminary approval
Last day for claims to be submitted electronically or postmarked by Settlement Class Members	120 days after preliminary approval
Last day for requests for exclusion from the settlement to be postmarked by Settlement Class Members	120 days after preliminary approval
Last day for Settlement Class Members to submit objections to the settlement	120 days after preliminary approval
Last day for the Parties to reply to any objections filed by Settlement Class Members	140 days after preliminary approval
Last day for Settlement Class Counsel to file motion for final approval of settlement	140 days after preliminary approval
Hearing on motion for final approval of settlement and motion for Settlement Class	At least 160 days after preliminary approval

Representatives' enhancement awards, administration costs, and application for attorneys' fees and litigation expenses	
--	--

12. Settlement Class Counsel shall file a motion for award of attorneys' fees, litigation expenses, administration costs, and Settlement Class Representatives' enhancement awards on or before March 3, 2021. The Court will rule on such motion at the Fairness Hearing. This order does not rule on the subject.

13. All memoranda in support of final approval shall be filed on or before April 23, 2021.

14. The Fairness Hearing, set forth in the Class Notice, is hereby scheduled for June 18, 2021, at 9.30 a.m.

15. The notice to the class shall contain instructions for participation in the Fairness Hearing via Zoom or telephone, as set forth in the current Administrative Order of the Lake County Circuit Court.

BY ORDER OF THE COURT

Stacey L. Seneczko

Honorable Stacey L. Seneczko

Dated: 12/3/20

Prepared by:

Daniel A. Edelman (ARDC 0712094)
EDELMAN, COMBS, LATTURNER & GOODWIN, LLC
20 South Clark Street, Suite 1500

Chicago, IL 60603-1824
(312) 739-4200
(312) 419-0379 (FAX)
Email address for service: courtecl@edcombs.com