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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

IN RE POKÉMON GO NUISANCE LITIGATION	**Case No. 3:16-cv-04300-JD** **CLASS ACTION** **PLAINTIFFS' REPLY IN FURTHER SUPPORT OF MOTIONS FOR FINAL APPROVAL OF SETTLEMENT AND FOR AWARD OF ATTORNEYS' FEES AND EXPENSES AND SERVICE AWARDS** Date: August 22, 2019 Time: 10:00 a.m. Courtroom: 11, 19th Floor Judge: Hon. James Donato

Introduction

Plaintiffs Scott Dodich and Jayme Gotts-Dodich; The Villas of Positano Condominium Association, Inc., on behalf of its members ("Villas"); Jill M. Barbarise; Jason Sarkis; Melissa Perez; Congshan "Sam" Hao; Bruce Garton; Sally Rogers; Deborah J. Pimentel; and Loren Morgan (collectively "Plaintiffs"), on behalf of themselves and the Settlement Class, respectfully submit this reply in further support of their motions for (1) Final Approval of the Settlement (ECF No. 135) and (2) Award of Attorneys' Fees And Expenses and Service Awards (ECF No. 136).

Pursuant to the Court's May 2, 2019 Order (ECF No. 131) (the "Preliminary Approval Order"), on May 16, 2019, the Long-Form Notice, Short-Form Notice, Complaint, Settlement Agreement, and Preliminary Approval Order were all posted on https://www.pokemongopropertysettlement.com (the "Class Settlement Website"), along with contact information for Plaintiffs' Counsel, the deadline to file objections, and the date of the Final Approval Hearing.

The Short-Form Notice (which briefly summarized the Action and Settlement and directed potential class members to the Class Settlement Website for further information) was posted on the Pokémon GO support website on May 16, 2019; posted in the National Recreation and Park Association eNewsletter on May 20, 2019; published in the *New York Times, USA Today, and People* Magazine on May 29, 2019; and published in the Parks and Rec Business eNewsletter on May 31, 2019.

The Long-Form Notice included all the information required by Rule 23(c)(2)(B) or otherwise necessary for Settlement Class Members to make an informed decision regarding the proposed Settlement, including: (i) an explanation of the nature of the Action and the claims asserted; (ii) the definition of the Settlement Class; (iii) the terms of the Settlement, including the means for Class members who have already gone through Niantic's customer service process to contact Plaintiffs' Counsel for further review of their complaints; (iv) the parties' reasons for proposing the Settlement; (v) that Plaintiffs' Counsel would apply for an award of attorneys' fees and expenses not to exceed $4 million, and compensatory awards of up to

$2,500 each for the Named Plaintiffs; (vi) how to object to the Settlement; (vii) how to contact Plaintiffs' Counsel with any questions; (viii) all relevant dates and deadlines; and (ix) the binding effect of a judgment on Settlement Class members. It thus described "'the terms of the settlement in sufficient detail to alert those with adverse viewpoints to investigate and to come forward and be heard.'" *In re Online DVD-Rental Antitrust Litig*., 779 F.3d 934, 946 (9th Cir. 2015) (quoting *Lane v. Facebook, Inc*., 696 F.3d 811, 826 (9th Cir. 2012)).

Plaintiffs believe that this Notice Program, especially in conjunction with the considerable media coverage of this Action and Settlement, was sufficient to reach a substantial portion of the Settlement Class. The periodicals and publications described above are targeted towards the Class demographics (*i.e.*, private property owners), and have an aggregate circulation of several million. In addition, Plaintiffs' Motion for Final Approval and Motion for Award of Attorneys' Fees and Expenses (ECF Nos. 135, 136) were posted on the Class Settlement Website on June 17, 2019, shortly after they were filed on June 13, 2019. This gave Settlement Class Members the opportunity "thoroughly to examine counsel's fee motion" before the July 18, 2019 objection deadline, as required by *In re Mercury Interactive Corp. Securities Litigation*, 618 F.3d 988, 994 (9th Cir. 2010).

As set forth in the Preliminary Approval Order and as specified on the Class Settlement Website and in the Short-Form Notice and Long-Form Notice, the deadline for Settlement Class members to submit objections was July 18, 2019. No objections were postmarked or received before this deadline.

However, one putative objection was postmarked July 25, 2019 and received by Class Counsel on August 6, 2019. *See* Exhibit A. This putative objection was submitted by an inmate at a prison in Pennsylvania who "invokes a claim for monetary relief that he may otherwise have against Niantic; and invokes any and all legal rights, substantive due process." *Id*. It provides the inmate's mailing address at the prison but does not list any other address or otherwise contain any information indicating membership in the Settlement Class. Because the putative objection contains no information indicating membership in the Settlement Class, and the Settlement has no effect on monetary claims, the putative objection should be overruled.

As of August 6, 2019, no other putative objections have been received. This favorable reaction by the Settlement Class further supports the fairness and adequacy of the Settlement. *See Omnivision*, 559 F. Supp. 2d at 1043; *Nat'l Rural Telecomms.*, 221 F.R.D. at 529 ("[T]he absence of a large number of objections to a proposed class action settlement raises a strong presumption that the terms of a proposed class settlement action are favorable to the class members.").

Conclusion

For all the foregoing reasons, the Settlement should be granted final approval; the Settlement Class should be certified for settlement purposes; the Named Plaintiffs (Scott Dodich and Jayme Gotts-Dodich; The Villas of Positano Condominium Association, Inc.; Jill M. Barbarise; Jason Sarkis; Melissa Perez; Congshan "Sam" Hao; Bruce Garton; Sally Rogers; Deborah J. Pimentel; and Loren Morgan) should be appointed as class representatives; and Pomerantz LLP should be appointed Class Counsel. In addition, Plaintiffs respectfully request that this Court grant an award of $4 million as attorneys' fees and as reimbursement for expenses that Plaintiffs' Counsel advanced for the benefit of the Settlement Class that were reasonably necessary to the prosecution of this Action, and were the type usually billed to clients outside of a contingency payment arrangement. Finally, Plaintiffs' Counsel request that the Named Plaintiffs be granted service awards of $2,500 each for their efforts expended in this Action, without which the Settlement would not have been achieved.

Dated: August 7, 2019

Respectfully submitted,

POMERANTZ LLP

/s/ Murielle J. Steven Walsh

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Counsel for Plaintiffs

Exhibit A

RONDANDAF KJ-7780
[redacted]
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LEGAL DEPARTMENT

c/o Class Action Clerk
TO Class Counsel:
- Pomerantz, LLP 600 Third Avenue
20th Floor
New York, New York

[redacted]

INMATE MAIL - DEPARTMENT OF CORRECTIONS

U.S. POSTAGE PITNEY BOWES
ZIP 15450 $ 000.50⁰
02 4W
0000354482 JUL 25 2019

Respectfully submitted:
Ronald Dandar

Ronald Dandar KG7780
Legal Mail Department
50 Overlook Drive
LaBelle Penna 15450
Please return a copy of what I am sending

TO CLASS COUNSEL: 6-1-2019

① PLEASE SEND A COPY OF ALL PLEADINGS FILINGS, COURT RECORDS, COURT LITIGATION, ANY AND ALL TRANSCRIPTS EXHIBITS, DOCKET ENTRIES AN UP-TO DATE PASS, PRESENT, PRIOR, COMMENCEMENT FILINGS.

② PLEASE ADD ME TO THE "MASTER PROOF OF SERVICE ALL-ANY MAILINGS— LITIGATION "COURT RECORDS"

over

I. PLEASE SEND COPY OF WWW.POKEMONGO SETTLEMENT.COM -
I. CLASS ACTION: PETITIONER: RON DANDAR:
IN REGARD: POKEMAN GO NUISANCE
LITIGATION CASE NO 3:16-CV-04300 -
N.D. CAL'S - OBJECTION TO PROPOSED CLASS
- ACTION SETTLEMENT: UNFAIR, EQUITABLE CLAIMS:
II. TO: CLASS ACTION - COUNSEL: POMER-
ANTZ, LLP, 600 THIRD AVENUE, 20TH
FLOOR NEW YORK - N.Y 10016 -
III. PETITIONERS OBJECTION TO THE SETTLE-
MENT AGREEMENT; OBJECTION TO FINAL
APPROVAL HEARING, ON AUGUST 22 2019
IV. PETITIONER, INVOKES A CLAIM FOR MONE-
TARY RELIEF, THAT HE, MAY OTHERWISE HAVE
AGAINST NIANTIC; AND INVOKES, ANY AND
ALL LEGAL RIGHTS SUBSTANTIVE DUE PROCESS
V. PETITIONER REQUEST FOR THE BELOW:
A) ALL VIOLATIONS OF STATE TRESPASS AND
NUISANCE LAWS; THE SETTLEMENT AND THE
INJUNCTIVE RELIEF IT PROVIDES; THE PROCED-
URES FOR OBJECTING TO THE SETTLEMEN INTERALIA
VI. REQUEST TO BE PUT ON THE MASTER PROOF
OF SERVICE; AN UP-TO-DATE DOCKET ENTRIES,
AND UP TO DATE; ANY AND ALL FILINGS, EXHIBITS,
COURT RECORDS, COURT LITIGATION AS A CLASS MEM-
BER "THE COMPLAINTS" RESPECTFULLY SUBMITTED:
PLEASE SEND A DETAILED NOTICE Y Ronald Dandar
RON DANDAR, K07780 LEGAL DEPT 50 OVERLOOK DRIVE
LABELLE PENNA 15450
MAILINGS 6-1-2019