

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN DIEGO

HARLEY SEEGER

v.

**P.F. CHANG'S CHINA BISTRO, INC., et
al.**

Case No. 37-2017-00016131-CU-MC-CTL

NOTICE OF CLASS ACTION AND PROPOSED SETTLEMENT

TO: All persons who engaged in a credit card transaction at a California P.F. Chang's Restaurant from May 3, 2016 through February 22, 2019 during which a Credit Card Transaction Form was used that contained a space that allowed the credit cardholder to fill in his or her personal identification information ("Class Members").

IF YOU ARE A MEMBER OF THIS CLASS OF PERSONS, YOU SHOULD READ THIS NOTICE CAREFULLY BECAUSE IT WILL AFFECT YOUR LEGAL RIGHTS AND OBLIGATIONS.

A settlement ("Settlement") has been proposed in a class action lawsuit pending in San Diego County Superior Court ("Court") titled *Seeger v. P.F. Chang's China Bistro, Inc., et al.*, Case No. 37-2017-00016131-CU-MC-CTL (the "Action").

- The settlement resolves a lawsuit over whether Defendant P.F. Chang's utilized a Credit Card Transaction Form that contained preprinted spaces designated for filling in the telephone number and email address of the cardholder in violation of the Song Beverly Credit Card Act, Civil Code section 1747.08; it avoids costs and risks to Class Members from continuing the lawsuit; pays money to Class Members who submit timely and valid claims; and releases P.F. Chang's from liability.
- A settlement will provide \$1,000,000 to pay claims filed by Class Members.
- Court-appointed lawyers for class members will ask the Court for up to \$358,000, to be paid from the settlement fund, as fees and expenses for investigating the facts, litigating the case, and negotiating the settlement.
- Each Class Member that submits a valid and timely Claim Form, and who does not opt out of the settlement, will receive a cash settlement in the form of a check to be issued by the Settlement Administrator from the Net Settlement Fund. The actual amount of the cash settlement to be distributed to each Class Member who submits a timely and valid Claim Form, up to \$1,000, will be determined by the number of persons with qualifying claims that are approved by the Settlement Administrator.
- Your legal rights are affected whether you act, or don't act. Read this notice carefully.

YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT

| | | |
|-------------------------------------|---|---|
| SUBMIT A CLAIM FORM | <p>You are required to complete a Claim Form to receive a cash settlement under this Settlement Agreement.</p> <p>Visit the Settlement website located at www.SeegertVPFChangSettlement.com to obtain a Claim Form.</p> | <p>Deadline: June 7, 2019</p> |
| EXCLUDE YOURSELF | <p>If you exclude yourself from the Settlement, you will not receive a cash settlement under the Settlement Agreement. Excluding yourself is the only option that allows you to ever bring or maintain your own lawsuit against P.F. Chang’s regarding the allegations in the Action ever again.</p> | <p>Deadline: June 7, 2019</p> |
| OBJECT | <p>You may write to the Court (via the Settlement Administrator) about why you object to (<i>i.e.</i>, do not like) the Settlement and think it should not be approved. Submitting an objection does not exclude you from the Settlement.</p> | <p>Deadline: June 7, 2019</p> |
| GO TO THE “FAIRNESS HEARING” | <p>The Court will hold a “Fairness Hearing” to consider the Settlement, the request for attorneys’ fees and costs of the lawyers who brought the Action, and the Representative Plaintiff’s request for service awards for bringing the Action.</p> <p>You (either you personally or through a lawyer you hire) may, but are not required to, speak at the Fairness Hearing about any objection you submitted to the Settlement. If you intend to speak at the Fairness Hearing, you must also submit a “Notice of Intention to Appear” to the Settlement Administrator, indicating your intent to do so.</p> | <p>Hearing Date: July 12, 2019 at 1:30 PM</p> |
| DO NOTHING | <p>You will give up your right to object to the Settlement and you will be not be able to be part of any other lawsuit about the legal claims in this case.</p> <p>Also, if you do nothing you will not receive a check under the Settlement.</p> | <p>N/A</p> |

- These rights and options—**and the deadlines to exercise them**—are explained in more detail below.
- The Court in charge of this Action has preliminarily approved the Settlement and must decide whether to give final approval to the Settlement. The relief provided to Class Members will be provided only if the Court gives final approval to the Settlement and, if there are any appeals, after the appeals are resolved in favor of the Settlement. ***Please be patient.***

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BACKGROUND INFORMATION

1. *What is this lawsuit about?*

The Action alleges that Defendant P.F. Chang's utilized a Credit Card Transaction Form that contained preprinted spaces designated for filling in the telephone number and email address of the cardholder in violation of the Song Beverly Credit Card Act, Civil Code section 1747.08. Plaintiff sought civil penalties and attorneys' fees and costs, among other relief. P.F. Chang's denies violating California Civil Code section 1747.08 or any wrongdoing and any liability whatsoever.

The issuance of this Notice is NOT an expression of the Court's opinion on the merits or the lack of merits of any of the Plaintiff's claims in the Action or whether P.F. Chang's engaged in any wrongdoing.

For information about how to learn about what has happened in the Action to date, please see Section 19 below.

2. *Why is this a class action?*

In a class action lawsuit, one or more people called "Representative Plaintiffs" (in this Action, the Representative Plaintiff is Harley Seegert) sue on behalf of other people who may potentially have similar claims. For purposes of this proposed Settlement, one court will resolve the issues for all Class Members, except for those people who properly exclude themselves from the Class, as explained in Section 13 below. The company sued in this case is P.F. Chang's China Bistro, Inc.

3. *Why is there a Settlement?*

The Representative Plaintiff made claims against P.F. Chang's. P.F. Chang's denies that it has done anything wrong or violated any statute and admits no liability. The Court has **not** decided whether the Representative Plaintiff or P.F. Chang's should win this Action. Instead, both sides agreed to a Settlement. That way, they avoid the cost of a trial, and the Class Members will receive relief now rather than years from now, if at all.

4. *How do I know if I am part of the Settlement?*

The Court has decided that everyone who fits this description is a Class Member for purposes of the proposed Settlement: "all persons who engaged in a credit card transaction at a California P.F. Chang's Restaurant during the Class Period, during which Defendant provided a Credit Card Transaction Form that contained a space that allowed the credit cardholder to fill in his or her personal identification information. Excluded from the Class are Defendant, its officers, directors, employees, and attorneys, and the judge presiding over the Action." The term "Class Period" means May 3, 2016 until February 22, 2019. The term "California P.F. Chang's Restaurant" means any P.F. Chang's branded restaurant located in the State of California.

5. *I'm still not sure if I am included.*

If you are still not sure whether you are included, you can write the Settlement Administrator for free help. The address of the Settlement Administrator is: *Seegert v. P.F. Chang's China Bistro Inc.*, c/o JND Legal Administration, P.O. Box 91323, Seattle, WA 98111-9423.

THE PROPOSED SETTLEMENT

6. *What relief does the Settlement provide to the Class Members?*

All Class Members who do not opt-out of the Class Settlement and submit a valid and timely Claim Form shall receive a cash settlement in the form of a check up to a maximum of \$1,000 to be issued by the Settlement Administrator from the Net Settlement Fund. The Net Settlement Fund is the amount remaining from the total \$1,000,000 Maximum Settlement Amount to be funded by P.F. Chang's, minus the attorneys' fees and costs to be paid to Class Counsel, the award to Named Plaintiff for bringing this Action, and the costs of the Settlement Administrator for providing notice to the Class of the Settlement and administering the settlement. The actual amount of the cash settlement distributed to each Class Member will be determined by the number of qualifying Claims approved by the Settlement Administrator. The actual amount of the cash settlements will be approximately \$550,000 divided by the number of timely and valid Claims submitted. For instance, if there are 2,500 claims, each Claimant will receive approximately \$220. If there are 55,000 claims, each Claimant will receive approximately \$10. Cash settlements are limited to one per Authorized Claimant regardless of the number of transactions entered into by the Authorized Claimant during the Class Period. Any funds left over in the Net Settlement Fund due to, e.g., the operation of the \$1,000 cap or uncashed checks will be provided to the Cy Pres Beneficiaries—the Consumer Federation of California and the Privacy Rights Clearinghouse.

HOW TO REQUEST A CASH SETTLEMENT – SUBMITTING A CLAIM FORM

7. *How can I get a cash settlement?*

To qualify for a cash award, you must send in a Claim Form. A Claim Form is available on the Internet at the website www.SeegertVPFChangsSettlement.com. The Claim Form may be submitted electronically or by postal mail. Read the instructions carefully, fill out the form, and submit it before midnight (Pacific) on **June 7, 2019**.

8. *When will I get a cash settlement?*

As described in Section 17, the Court will hold a hearing on July 12, 2019, to decide whether to approve this Settlement. If the Court approves the Settlement after that, there may be appeals. It's always uncertain whether these appeals can be resolved, and resolving them can take time, perhaps more than a year. You can check on the progress of the case on the website dedicated to the Settlement at www.SeegertVPFChangsSettlement.com. *Please be patient.*

LAWYERS IN THIS CASE AND THE REPRESENTATIVE PLAINTIFF

9. *Do I have a lawyer in this case?*

The Court has ordered that Carlson Lynch LLP and Stonebarger Law Group, APC (“Class Counsel”) to represent the interests of all Class Members. You will not be separately charged for these lawyers. If you want to be represented by your own lawyer, you may hire one at your own expense.

10. *How will the lawyers be paid?*

Class Counsel will request up to \$333,000 total for their attorneys’ fees and \$25,000 for costs. The Court will make the final decision as to the amounts to be paid to Class Counsel.

11. *Will the Plaintiff receive any compensation for his efforts in bringing this Action?*

Plaintiff will request a service award (also known as “incentive” award) of up to \$5,000 total for his services as class representative and his efforts in bringing the Action. The Court will make the final decision as to the amount to be paid to the class representative.

RELEASE OF ALL CLAIMS

12. *What am I giving up to obtain relief under the Settlement?*

If the Court approves the proposed Settlement, unless you exclude yourself from the Settlement, you will be releasing your claims against P.F. Chang’s. This generally means that you will not be able to file a lawsuit, continue prosecuting a lawsuit, or be part of any other lawsuit regarding the allegations in the Action. The Settlement Agreement, available on the Internet at the website www.SeegertVPFChangsSettlement.com contains the full terms of the release.

TO EXCLUDE YOURSELF FROM THE SETTLEMENT

13. *How do I exclude myself from the Settlement?*

You may exclude yourself from the Class and the Settlement. If you want to be excluded, you must send a signed letter or postcard stating (a) the name and case number of the Action, “*Seegert v. P.F. Chang’s China Bistro, Inc., et al.*, San Diego Superior Court Case No. 37-2017-00016131-CU-MC-CTL”; (b) your full name, address, email address, and telephone number; and (c) a statement that you do not wish to participate in the Settlement, postmarked no later than **June 7, 2019** to the Settlement Administrator at:

Seegert v. P.F. Chang’s China Bistro, Inc.
c/o JND Legal Administration
P.O. Box 91323
Seattle, WA 98111-9423

If you timely request exclusion from the Class, you will be excluded from the Class, you will not be bound by the judgment entered in the Action, and you will not be precluded from prosecuting any timely, individual claim against P.F. Chang’s based on the conduct complained of in the

Action. If you file a Claim Form and request exclusion, your request for exclusion will be deemed invalid.

HOW TO OBJECT TO THE SETTLEMENT

14. *How do I tell the Court that I do not like the Settlement?*

At the date, time, and location stated in Section 17 below, the Court will hold a Fairness Hearing to determine if the Settlement is fair, reasonable, and adequate, and to also consider Class Counsel's request for an award of attorneys' fees and costs, and service awards to the Representative Plaintiff.

If you have not submitted a timely request for exclusion and wish to object to the fairness, reasonableness or adequacy of the Settlement Agreement or the proposed Settlement, or to the award of attorneys' fees and costs or the service awards, you must deliver a written objection to the Settlement Administrator at the addresses set forth below no later than (*i.e.*, postmarked by) **June 7, 2019**.

Seegert v. P.F. Chang's China Bistro, Inc.
c/o JND Legal Administration
P.O. Box 91323
Seattle, WA 98111-9423

Any written objections must state (a) the name and case number of the Action, "*Seegert v. P.F. Chang's China Bistro, Inc., et al.*, San Diego Superior Court Case No. 37-2017-00016131-CU-MC-CTL"; (b) the full name, address, email address, and telephone number of the person objecting; (c) the words "Notice of Objection" or "Formal Objection;" and (d) in clear and concise terms, the legal and factual arguments supporting the objection, including an attestation under the penalty of perjury of facts demonstrating that the person objecting is a Class Member. You may, but need not, serve your objection through counsel of your choice. If you do make your objection through an attorney, you will be responsible for your personal attorney's fees and costs.

IF YOU DO NOT TIMELY MAKE YOUR OBJECTION, YOU WILL BE DEEMED TO HAVE WAIVED ALL OBJECTIONS AND WILL NOT BE ENTITLED TO SPEAK AT THE FAIRNESS HEARING.

If you submit a written objection, you may appear at the Fairness Hearing, either in person or through personal counsel hired at your expense, to object to the Settlement Agreement. You are not required, however, to appear. If you, or your attorney, intend to make an appearance at the Fairness Hearing, you must also deliver to the Settlement Administrator, no later than (*i.e.*, postmarked by) **June 7, 2019**, a Notice of Intention to Appear, which may be combined with the objection.

15. *What is the difference between excluding myself and objecting to the Settlement?*

Objecting is simply telling the Court that you don't like something about the Settlement. You can object only if you stay in the Settlement Class. Excluding yourself is telling the Court that you

don't want to be part of the Settlement Class. If you exclude yourself, you have no basis to object because the Settlement no longer affects you.

FAIRNESS HEARING

16. *What is the Fairness Hearing?*

The Court has preliminarily approved the Settlement and will hold a hearing to decide whether to give final approval to the Settlement. The purpose of the Fairness Hearing will be for the Court to determine whether the Settlement should be approved as fair, reasonable, adequate, and in the best interests of the Settlement Class; to consider the award of attorneys' fees and expenses to Class Counsel; and to consider the request for a service award to the Representative Plaintiff.

17. *When and where is the Fairness Hearing?*

On **July 12, 2019 at 1:30 p.m.**, a hearing will be held on the fairness of the proposed Settlement. At the hearing, the Court will be available to hear any objections and arguments concerning the proposed Settlement's fairness. The hearing will take place before the Honorable Katherine Bacal in Department 69 of the San Diego County Superior Court, located at the Hall of Justice Courthouse, 330 West Broadway, San Diego, CA 92101.

The hearing may be postponed to a different date or time or location without notice. Please check www.SeegertVPFChangsSettlement.com for any updates about the Settlement generally or the Fairness Hearing specifically. If the date or time of the Fairness Hearing changes, an update to the Settlement website will be the only way you will be informed of the change.

18. *May I speak at the hearing?*

At that hearing, the Court will be available to hear any objections and arguments concerning the fairness of the Settlement.

You may attend, but you do not have to. As described above in Section 14, you may speak at the Fairness Hearing only if **(a)** you have timely submitted an objection, and **(b)** you have timely submitted a Notice of Intent to Appear (which may be combined with the objection).

If you have requested exclusion from the Settlement, however, you may not speak at the Fairness Hearing.

GETTING MORE INFORMATION

19. *How do I get more information?*

To see a copy of the Settlement Agreement, the Court's Preliminary Approval Order, Class Counsel's application for attorneys' fees and costs (after they are filed), and the operative complaint filed in the Action, please visit the Settlement website located at: www.SeegertVPFChangsSettlement.com. Alternatively, you may contact the Settlement Administrator at the postal mailing address: *Seegert v. P.F. Chang's China Bistro, Inc.*, c/o JND Legal Administration, P.O. Box 91323, Seattle, WA 98111-9423.

This description of the Action is general and does not cover all of the issues and proceedings that have occurred. In order to see the complete file, you should visit the Clerk's office at the San Diego County Superior Court, located at the Hall of Justice Courthouse, 330 West Broadway, San Diego, CA 92101. The Clerk will tell you how to obtain the file for inspection and copying at your own expense.

20. *What if my address or other information has changed or changes after I submit a claim form?*

It is your responsibility to inform the Settlement Administrator of your updated information. You may do so at the address below:

Seegert v. P.F. Chang's China Bistro, Inc.
c/o JND Legal Administration
P.O. Box 91323
Seattle, WA 98111-9423

DO NOT ADDRESS ANY QUESTIONS ABOUT THE SETTLEMENT OR THE LITIGATION TO THE CLERK OF THE COURT OR THE JUDGE.

Dated: February 22, 2019

By: Order of the HON. KATHERINE BACAL
JUDGE OF THE SAN DIEGO
COUNTY SUPERIOR COURT