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**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

LOU BAKER, Individually and on Behalf
of All Others Similarly Situated,

Plaintiff,

v.

SEAWORLD ENTERTAINMENT, INC.
et al.,

Defendants.

Case No. 14-cv-2129-MMA (AGS)

**ORDER GRANTING CLASS
REPRESENTATIVES’ UNOPPOSED
MOTION AND APPROVING
DISTRIBUTION PLAN**

[Doc. No. 531]

This matter comes before the Court on Class Representatives’ Motion for Approval of Distribution Plan. Doc. No. 531. The motion is made pursuant to Paragraph 28 of the Stipulation and Agreement of Settlement dated February 11, 2020. Doc. No. 516-3 at 30 (“Settlement” or “Stipulation”).

By its Order Granting Plaintiff’s Motion for Approval of Class Action Settlement and Plan of Allocation; and Granting Plaintiff’s Motion for Attorneys’ Fees and Litigation Expenses dated July 24, 2020, Doc. No. 529, and its Judgment and Order of Dismissal dated July 24, 2020, Doc. No. 530, the Court approved the terms of the Settlement and the proposed plan for allocating the net settlement proceeds to eligible Class Members, Doc. No. 523-3, Ex. B, Appx. A) (“Plan of Allocation”).

1 The Court directed the parties to consummate the terms of the Settlement and Plan
2 of Allocation.

3 The Settlement provided for consideration of \$65,000,000 in cash (“Settlement
4 Amount”) and, pursuant to the terms of the Stipulation, the Settlement Amount was
5 deposited into an escrow account established by Class Counsel for the benefit of the
6 Class.

7 As set forth in the mailed Postcard Notice and the posted Notice of (I) Proposed
8 Settlement; (II) Settlement Fairness Hearing; and (III) Motion for Attorneys’ Fees and
9 Litigation Expenses, Doc. No. 523-3, Exs. A & B (“Notice”), the deadline for Class
10 Members to submit Claims to the Court-appointed claims administrator for the
11 Settlement, Epiq Class Action & Claims Solutions, Inc. (“Epiq”), in order to be
12 potentially eligible to participate in the distribution of the Net Settlement Fund has
13 passed.

14 In satisfaction of due process requirements, all Class Members who submitted
15 Claims that were in any way ineligible or deficient were: (i) informed that their Claims
16 were ineligible or deficient; and (ii) given opportunities to correct any curable
17 deficiencies prior to their Claims being finally rejected, or to contest the determination as
18 to such deficiencies, by requesting judicial review;

19 The process of reviewing Claims has been completed.

20 Class Representatives, through Class Counsel, now seek authorization to distribute
21 the proceeds of the Settlement Fund to Authorized Claimants, after deduction of any
22 taxes, fees, and expenses previously approved by the Court or approved by this Order
23 (“Net Settlement Fund”). The Court retained jurisdiction over this Action, the Parties,
24 and each of the Class Members for all matters relating to this Action, including any
25 motion to approve the Class Distribution Order. Doc. No. 530 ¶ 14.

26 Upon careful consideration of: (i) the Declaration of Nicholas Schmidt in Support
27 of Class Representatives’ Unopposed Motion for Approval of Distribution Plan submitted
28 on behalf of Epiq (“Schmidt Declaration”); (ii) the Memorandum of Points and

1 Authorities in Support of Class Representatives’ Unopposed Motion for Approval of
2 Distribution Plan; and (iii) the other submissions and papers on file with the Court; and
3 upon all prior proceedings heretofore and herein, and after due deliberation, the Court
4 **GRANTS** Class Representatives’ motion and **ORDERS** as follows:

5 1. That all capitalized terms not otherwise defined herein shall have the same
6 meanings as set forth in the Stipulation and in the Schmidt Declaration;

7 2. That the administrative determinations of Epiq accepting the Claims
8 described in the Schmidt Declaration and listed on Exhibits C-1 and C-2 thereto,
9 calculated pursuant to the Court-approved Plan of Allocation set forth in the Notice, are
10 hereby approved, and said Claims are hereby accepted;

11 3. That the administrative determinations of Epiq rejecting the Claims
12 described in the Schmidt Declaration and listed on Exhibit C-3 thereto are hereby
13 approved, and said Claims are hereby rejected;

14 4. That Epiq be paid the sum of \$17,833.00 from the Net Settlement Fund as
15 payment for its fees and expenses to be incurred in conducting the Initial Distribution of
16 the Net Settlement Fund;

17 5. That Epiq conduct the Initial Distribution of the Net Settlement Fund as set
18 forth in the Schmidt Declaration. As set forth in ¶ 40 of the Schmidt Declaration, 90% of
19 the Net Settlement Fund shall be distributed in the Initial Distribution and the remaining
20 10% of the Net Settlement Fund shall be held in reserve (the “Reserve”) in order to
21 address any claims administration-related contingencies that may arise following the
22 Initial Distribution. Any Authorized Claimant who would have received a distribution of
23 \$10.00 or more, but less than \$100.00 based on the total amount of the Net Settlement
24 Fund shall be paid their full award now (“Claims Paid in Full”) and shall not receive any
25 future distributions from the Net Settlement Fund. Any Authorized Claimant who would
26 have received a distribution of \$100.00 or more based on the total amount of the Net
27 Settlement Fund shall be paid 90% of their award now;
28

1 6. That the Net Settlement Fund shall be distributed to the Authorized
2 Claimants listed on Exhibits C-1 and C-2 to the Schmidt Declaration pursuant to the
3 Court-approved Plan of Allocation in proportion to each Authorized Claimant's
4 Recognized Claim as compared to the total Recognized Claims of all Authorized
5 Claimants as shown on such Exhibits;

6 7. That all checks to Authorized Claimants issued in the Initial Distribution
7 shall bear the notation "DEPOSIT PROMPTLY, VOID AND SUBJECT TO RE-
8 DISTRIBUTION IF NOT NEGOTIATED BY [DATE 90 DAYS AFTER ISSUE
9 DATE]." Class Counsel and Epiq are authorized to take appropriate actions to locate
10 and/or contact any Authorized Claimant who has not cashed his, her, or its check within
11 said time;

12 8. That Authorized Claimants who do not cash their checks within the time
13 allotted will irrevocably forfeit all recovery from the Settlement;

14 9. That, after making reasonable and diligent efforts to have Authorized
15 Claimants negotiate their Initial Distribution checks, but not earlier than nine (9) months
16 after the Initial Distribution, Epiq will, if cost-effective to do so, redistribute any funds
17 remaining in the Net Settlement Fund, including from the Reserve and all uncashed
18 checks, to Authorized Claimants who have cashed their Initial Distribution checks and
19 who would receive at least \$10.00 from such redistribution based on their *pro rata* share
20 of the remaining funds, after deducting Epiq's fees and expenses incurred in connection
21 with administering the Settlement for which it has not yet been paid (including the costs
22 for such redistribution), and after deducting any estimated taxes, the costs of preparing
23 appropriate tax returns and any escrow fees;

24 10. That Epiq may make additional distributions of balances remaining in the
25 Net Settlement Fund to Authorized Claimants who have cashed their prior checks and
26 who would receive at least \$10.00 on such additional distributions if Class Counsel, in
27 consultation with Epiq, determine that additional distributions, after deducting any fees
28 and expenses as described above, would be cost-effective;

1 11. That, at such time as Class Counsel, in consultation with Epiq, determine
2 that further distribution of the funds remaining in the Net Settlement Fund is not cost-
3 effective, any otherwise valid Claims received after September 30, 2021 or Claims
4 adjusted after September 30, 2021 may be paid in accordance with ¶ 40(f) of the Schmidt
5 Declaration;

6 12. That any balance that remains in the Net Settlement Fund after further
7 distributions or payment of any otherwise valid Claims received after September 30,
8 2021, or Claims adjusted after September 30, 2021, in accordance with ¶ 40(f) of the
9 Schmidt Declaration, which is not cost-effective to reallocate, will be contributed, after
10 deducting any fees and expenses as described above, to non-sectarian, not-for-profit
11 organization(s) recommended by Class Counsel and approved by the Court;

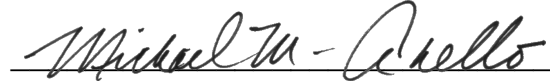
12 13. That the Court finds that the administration of the Settlement and the
13 proposed distribution of the Net Settlement Fund comply with the terms of the
14 Stipulation and the Plan of Allocation and that all persons and entities involved in the
15 review, verification, calculation, tabulation, or any other aspect of the processing of the
16 Claims submitted in connection with the Settlement of this Action, or who are otherwise
17 involved in the administration or taxation of the Settlement Fund or the Net Settlement
18 Fund are released and discharged from any and all claims arising out of such
19 involvement, and, pursuant to the release terms of the Settlement, all Class Members,
20 whether or not they are to receive payment from the Net Settlement Fund, are barred
21 from making any further claims against the Net Settlement Fund or the parties released
22 pursuant to the Settlement beyond the amount allocated to them pursuant to this Order;

23 14. That Epiq is hereby authorized to destroy paper copies of Claims and all
24 supporting documentation one (1) year after the Second Distribution of the Net
25 Settlement Fund, if that occurs, or, if there is no Second Distribution, two (2) years after
26 the Initial Distribution and all electronic copies of the same one (1) year after all funds
27 have been distributed; and
28

1 15. That this Court retain jurisdiction over any further application or matter
2 which may arise in connection with this Action.

3 **IT IS SO ORDERED.**

4 Dated: January 31, 2022

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6 HON. MICHAEL M. ANELLO
7 United States District Judge
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