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

LOU BAKER, individually and on behalf  
of all others similarly situated,

Plaintiffs,

v.

SEAWORLD ENTERTAINMENT, INC.,  
et al.,

Defendants.

Case No.: 14cv2129-MMA (AGS)

**ORDER GRANTING CLASS  
REPRESENTATIVES’ UNOPPOSED  
MOTION TO APPROVE THE FORM  
AND MANNER OF CLASS NOTICE**

[Doc. No. 324]

Class Representatives Arkansas Public Employees Retirement System and Pensionskassen for Børne-Og Ungdomspædagoger (“Class Representatives”), individually and on behalf of the certified class, move for an order approving the form and content of the proposed Notice of Pendency of Class Action (“Notice”), and approving the proposed method for disseminating the Notice and Summary Notice to the Class (“Notice Plan”). *See* Doc. No. 324. To date, Defendants SeaWorld Entertainment Inc. (“SeaWorld”), The Blackstone Group L.P., James Atchison, James M. Heaney, and Marc Swanson (collectively, “Defendants”) have not filed an opposition. The Court found the matter suitable for determination on the papers and without oral argument pursuant to Civil Local Rule 7.1.d.1. *See* Doc. No. 332. For the reasons set forth below,

1 the Court **GRANTS** the Class Representatives’ unopposed motion to approve the form  
2 and manner of class notice.

3 **BACKGROUND**

4 On November 29, 2017, the Court certified this action to proceed as a class action  
5 pursuant to Rule 23(b)(3) on behalf of the following class: “All persons and entities who  
6 purchased or otherwise acquired the publicly traded common stock of SeaWorld  
7 Entertainment, Inc. between August 29, 2013 and August 12, 2014, who did not sell such  
8 acquired securities before August 13, 2014, and were damaged” (hereinafter the “Class”).  
9 Doc. No. 259 at 31. Excluded from the Class by definition are: (i) Defendants; (ii)  
10 present or former executive officers of SeaWorld, members of SeaWorld’s Board of  
11 Directors, and members of their immediate families; (iii) any of the foregoing persons’  
12 legal representatives, heirs, successors or assigns; and (iv) any entity in which Defendants  
13 have or had a controlling interest or any affiliate of SeaWorld. *Id.* at 31-32.

14 On October 9, 2018, Class Representatives filed the instant motion, requesting the  
15 Court approve the proposed form and content of notices to be disseminated to the class,  
16 as well as the proposed method for dissemination of these notices. *See* Doc. No. 324.  
17 Class Representatives further request that the Court approve the retention of Epiq Class  
18 Action & Claims Solutions, Inc. (“Epiq”), an experienced class action administrator, as  
19 the Administrator to supervise and administer class notice. *See id.*

20 **DISCUSSION**

21 **1. Legal Standard**

22 Pursuant to Federal Rule of Civil Procedure 23(c)(2)(B), for any class certified  
23 under Rule 23(b)(3), “the court must direct to class members the best notice that is  
24 practicable under the circumstances, including individual notice to all members who can  
25 be identified through reasonable effort.” Fed. R. Civ. P. 23(c)(2)(B). The class notice  
26 must state, in clear and concise language: (i) the nature of the action; (ii) the definition of  
27 the class; (iii) the class claims, issues, or defenses; (iv) that a class member may enter an  
28 appearance through an attorney if the member so desires; (v) that the court will exclude

1 from the class any member who requests exclusion; (vi) the time and manner for  
2 requesting exclusion; and (vii) the binding effect of a judgment on class members. Fed.  
3 R. Civ. P. 23(c)(2)(B).

4 Where a class has been certified pursuant to Rule 23(b)(3), due process is satisfied  
5 “where a fully descriptive notice is sent first-class to each class member, with an  
6 explanation of the right to ‘opt out’” within a reasonable time. *Phillips Petroleum Co. v.*  
7 *Shutts*, 472 U.S. 797, 812 (1985).

## 8 **2. Analysis**

9 Here, the Court finds that the proposed Notice satisfies the requirements of Rule  
10 23(c)(2)(B). Specifically, the Notice describes the nature of the action, defines the Class,  
11 generally explains the claims and defenses, outlines class members’ rights, including the  
12 right to enter an appearance by an attorney, as well as the right to be excluded from the  
13 Class, and explains the binding effect of a judgment on class members. *See* Doc. No.  
14 324-2 (hereinafter “D’Ancona Decl.”), Ex. A-1. The Notice also provides the required  
15 information in a clear and concise manner. *See id.*

16 Additionally, the proposed Summary Notice similarly satisfies Rule 23(c)(2)(B).  
17 The Summary Notice contains an abbreviated description of the items covered by the  
18 Notice, including the pendency of the action, the definition of the Class, the binding  
19 effect of a judgment, and how to request exclusion from the Class. *See* D’Ancona Decl.,  
20 Ex. A-2. Moreover, both the Notice and Summary Notice provide contact information  
21 for Class Counsel and the Administrator, and both notices provide the address to a  
22 website maintained by the Administrator in this action  
23 ([www.SeaWorldSecuritiesLitigation.com](http://www.SeaWorldSecuritiesLitigation.com)). Accordingly, because the Notice and  
24 Summary Notice satisfy the requirements of Rule 23(c)(2)(B), the Court approves the  
25 form and content of the proposed Notice and Summary Notice.

26 The Court further finds the proposed method of class notice dissemination satisfies  
27 the requirements of Rule 23(c)(2)(B). Here, Class Representatives’ proposed method of  
28 providing notice includes mailing the Notice by first-class mail to all potential members

1 of the Class who can be identified through reasonable effort. In accordance with the  
2 Notice Plan, members of the Class will be identified through SeaWorld's shareholder  
3 recorders and through broker or other nominee purchasers who will be required to either  
4 forward the Notice to all such beneficial owners of SeaWorld common stock, or send a  
5 list of the names and addresses of such beneficial owners to the Administrator, in which  
6 case the Administrator will mail the Notice to the beneficial owners. *See D'Ancona*  
7 *Decl., Ex. A-3.*

8 Moreover, within ten (10) business days from the receipt of SeaWorld's  
9 shareholder records (the "Notice Date"), the Administrator will send the proposed Notice  
10 to potential class members. In addition to mailing the Notice to potential class members,  
11 the Administrator will post a copy of the Notice on the website designated for this action,  
12 from which class members can download a copy of the Notice. The Administrator will  
13 further publish the Summary Notice in *Investor's Business Daily* and over the *PR*  
14 *Newswire* not later than ten (10) calendar days after the Notice Date.

15 Accordingly, the Court finds that the Notice Plan, which combines individual  
16 notice to all class members who can be identified through reasonable effort, as well as  
17 publication of the Summary Notice in a financial publication and over the internet,  
18 constitutes the "best notice practicable under the circumstances" and satisfies due  
19 process. Fed. R. Civ. P. 23(c)(2)(B). As such, the Court approves the Notice Plan  
20 attached to Mr. D'Ancona's Declaration as Exhibit A-3. *See In re MGM Mirage Sec.*  
21 *Litig.*, 708 F. App'x 894, 896 (9th Cir. 2017) (affirming the district court's approval of  
22 similar notice procedures).

23 Finally, the Court approves the selection of Epiq as the Administrator for class  
24 notice, as Epiq has significant and relevant experience in handling the notice and  
25 administration services in similar securities class action lawsuits. *See D'Ancona Decl.,*  
26 *Ex. B; see also Makaeff v. Trump Univ., LLC*, Nos. 10-cv0940-GPC-WVG, 13-cv2519-  
27 GPC-WVG, 2015 WL 5638192, at \*6 (S.D. Cal. Sept. 21, 2015) (approving Epiq  
28 Systems, Inc. as Notice Administrator).

1 CONCLUSION

2 Based on the foregoing, the Court **GRANTS** Class Representatives' unopposed  
3 motion. The Court **APPROVES** the form, substance, and requirements of the Notice and  
4 Summary Notice (*see* D'Ancona Decl., Exs. A-1, A-2), and the method for disseminating  
5 notice to the Class as set forth in the Notice Plan (*see id.*, Ex. A-3). Class  
6 Representatives are to provide notice to the Class in substantially the forms submitted as  
7 Exhibits A-1 and A-2 to Mr. D'Ancona's Declaration.

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9 **IT IS SO ORDERED.**

10  
11 Dated: December 6, 2018



12 HON. MICHAEL M. ANELLO  
13 United States District Judge  
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