

EXHIBIT 1

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

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

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

Plaintiff,

vs.

SEAWORLD ENTERTAINMENT,
INC., et al.,

Defendants.

Case No.: 3:14-cv-2129-MMA-AGS

CLASS ACTION

**STIPULATION AND
AGREEMENT OF SETTLEMENT**

1 This Stipulation and Agreement of Settlement dated February 10, 2020
2 (“Stipulation”) is entered into between (a) Court-appointed Class Representatives
3 Arkansas Public Employees Retirement System and Pensionskassen For Børne-Og
4 Ungdomspædagoger (together, “Class Representatives”), on behalf of themselves and
5 the Court-certified Class; and (b) SeaWorld Entertainment, Inc. (“SeaWorld”), The
6 Blackstone Group L.P., now known as The Blackstone Group Inc. (“Blackstone”),
7 James Atchison, James M. Heaney, and Marc Swanson (Mr. Atchison, Mr. Heaney,
8 Mr. Swanson, SeaWorld, and Blackstone are collectively referred to herein as
9 “Defendants”), and embodies the terms and conditions of the settlement of the above-
10 captioned action (“Action”).¹ Subject to the approval of the Court and the terms and
11 conditions expressly provided herein, this Stipulation is intended to fully, finally, and
12 forever compromise, settle, release, resolve, and dismiss with prejudice the Action and
13 all Released Plaintiffs’ Claims (defined below) against Defendants.

14 WHEREAS:

15 A. On September 9, 2014, the initial complaint (“Initial Complaint”) was
16 filed in this Court against SeaWorld, Blackstone, and certain of SeaWorld’s officers
17 and directors. ECF No. 1.

18 B. By Order dated December 11, 2014, the Court appointed Arkansas Public
19 Employees Retirement System and Pensionskassen For Børne-Og
20 Ungdomspædagoger as Lead Plaintiffs, pursuant to the Private Securities Litigation
21 Reform Act of 1995 (“PSLRA”), and approved Lead Plaintiffs’ selection of Kessler
22 Topaz Meltzer & Check, LLP and Nix Patterson & Roach, LLP (n/k/a Nix Patterson,
23 LLP) as Co-Lead Counsel and Kirby Noonan Lance & Hoge LLP (n/k/a Noonan Lance
24 Boyer & Banach LLP) as Liaison Counsel. ECF No. 25.

25
26
27 ¹ All terms with initial capitalization not otherwise defined herein shall have the
meanings ascribed to them in ¶ 1 below.

1 C. On February 27, 2015, Lead Plaintiffs filed their Consolidated Amended
2 Class Action Complaint (“First Amended Complaint”), asserting violations of Sections
3 10(b) and 20(a) of the Securities Exchange Act of 1934, 15 U.S.C. §§ 78j(b) and 78t(a)
4 (“Exchange Act”), and Rule 10b-5, promulgated thereunder, 17 C.F.R. § 240.10b-5, as
5 well as Sections 11, 12(a)(2), and 15 of the Securities Act of 1933, 15 U.S.C. §§ 77k,
6 77l(a)(2), and 77(o) (“Securities Act”). ECF No. 42. Defendants moved to dismiss the
7 First Amended Complaint on May 29, 2015. ECF Nos. 88 & 89. Following full briefing
8 on defendants’ motions, the Court, by Order dated March 31, 2016, granted
9 defendants’ motions and dismissed the First Amended Complaint without prejudice.
10 ECF No. 102. By the same Order, the Court granted Lead Plaintiffs leave to file an
11 amended complaint addressing the deficiencies noted by the Court.

12 D. On May 31, 2016, Lead Plaintiffs filed the Second Amended
13 Consolidated Class Action Complaint (“Second Amended Complaint”), which
14 dropped certain defendants and the Securities Act claims, and asserted violations of
15 Sections 10(b) of the Exchange Act and Rule 10b-5 promulgated thereunder against
16 Defendants SeaWorld, James Atchison, James M. Heaney, and Marc Swanson, and
17 violations of Section 20(a) of the Exchange Act against Messrs. Atchison, Heaney, and
18 Swanson, and Blackstone. ECF No. 123.

19 E. On June 29, 2016, Defendants moved to dismiss the Second Amended
20 Complaint for failure to state a claim under Rules 9(b) and 12(b)(6), as well as the
21 PSLRA. ECF No. 128. Defendants’ motion was fully briefed, and following oral
22 argument, the Court denied Defendants’ motion to dismiss on September 30, 2016.
23 ECF Nos. 141 & 142. On October 28, 2016, Defendants filed their Answer to the
24 Second Amended Complaint, denying the surviving allegations and asserting certain
25 defenses. ECF No. 149. Thereafter, discovery in the Action commenced.

26 F. On May 19, 2017, Lead Plaintiffs filed their motion for class certification
27 (“Class Certification Motion”). ECF No. 188. Defendants opposed the Class
28

1 Certification Motion on July 27, 2017. ECF No. 198. Lead Plaintiffs’ motion was fully
2 briefed and, following oral argument, the Court, by Order dated November 29, 2017,
3 granted the Class Certification Motion, certifying the Class, appointing Lead Plaintiffs
4 Arkansas Public Employees Retirement System and Pensionskassen For Børne-Og
5 Ungdomspædagoger as Class Representatives, and appointing Kessler Topaz Meltzer
6 & Check, LLP and Nix Patterson & Roach, LLP (n/k/a Nix Patterson, LLP) as Class
7 Counsel. ECF No. 259.

8 G. On December 13, 2017, Defendants filed a petition with the Court of
9 Appeals for the Ninth Circuit (“Ninth Circuit”) seeking permission to appeal the
10 Court’s Order granting the Class Certification Motion. ECF No. 272. Class
11 Representatives opposed the petition. The Ninth Circuit denied Defendants’ petition
12 on June 28, 2018. ECF No. 307.

13 H. On October 9, 2018, Class Representatives filed an unopposed motion to
14 approve the form and manner of notice to the Class (“Class Notice Motion”). ECF No.
15 324. The Court granted the Class Notice Motion on December 6, 2018. ECF No. 336.
16 Among other things, the Court found that the proposed Class Notice met the
17 requirements of Federal Rule of Civil Procedure 23 and due process and constituted
18 the best notice practicable under the circumstances. Class Notice was mailed to
19 potential Class Members beginning on January 9, 2019 and a summary notice of the
20 pendency of the Action as a class action was published in *Investor’s Business Daily*
21 and transmitted over *PR Newswire* on January 14, 2019. *See* ECF No. 364.

22 I. Pursuant to the Court’s December 6, 2018 Order, Class Notice also
23 provided Class Members with the opportunity to request exclusion from the Class,
24 explained that right, and set forth the procedures for doing so. The Class Notice stated
25 that it would be within the Court’s discretion whether to permit a second opportunity
26 to request exclusion if there was a settlement. The Class Notice informed Class
27 Members that if they chose to remain a member of the Class, they would “be bound by

1 all past, present and future orders and judgments in the Action, whether favorable or
2 unfavorable.”

3 J. The deadline for submitting requests for exclusion was April 9, 2019.
4 Five requests for exclusion from the Class were received. *See* Appendix 1 hereto.

5 K. On April 3, 2019, the Parties conducted an in-person, arm’s-length
6 mediation session before private mediator Jed D. Melnick, Esq. of JAMS, in an effort
7 to explore resolving the Action. While the Parties engaged in good faith and made
8 certain progress, at the conclusion of the full-day session, the Parties were not close to
9 an agreement to settle.

10 L. On April 15, 2019, Defendants filed their motion for summary judgment
11 (“Summary Judgment Motion”). ECF No. 359.

12 M. On May 9, 2019, the Court held a mandatory settlement conference. ECF
13 No. 366. At the settlement conference, the Parties were presented with a mediator’s
14 proposal, which was not accepted. ECF No. 367.

15 N. Class Representatives opposed Defendants’ Summary Judgment Motion
16 on May 24, 2019. ECF No. 394. Defendants’ motion was fully briefed and, following
17 oral argument, the Court, by Order dated November 18, 2019, denied Defendants’
18 Summary Judgment Motion as well as ruled on the Parties’ pending *Daubert* motions.
19 ECF No. 470.

20 O. Thereafter, the Parties engaged in substantial trial preparations, including
21 submission of proposed exhibit and witness lists; filed *in limine* motions; and
22 exchanged their contentions of law and fact and other key pretrial disclosures.

23 P. A final pretrial conference was held on January 21, 2020, during which
24 the Court ruled on the Parties’ *in limine* motions, and a status hearing was scheduled
25 for February 11, 2020. A trial of the Action was scheduled to begin on February 18,
26 2020.

1 Q. While trial preparations were ongoing, the Parties agreed to reengage with
2 respect to the possibility of resolving the Action, once again utilizing Jed D. Melnick,
3 Esq. of JAMS. Following hard-fought, arm's-length negotiations, the Parties accepted
4 the mediator's recommendation to resolve the Action for \$65 million.

5 R. Based upon their investigation, prosecution, and mediation of the case,
6 Class Representatives and Class Counsel have concluded that the terms and conditions
7 of this Stipulation are fair, reasonable, and adequate to Class Representatives and the
8 other members of the Class, and in their best interests. Based on Class Representatives'
9 direct oversight of the prosecution of this matter and with the advice of their counsel,
10 Class Representatives have agreed to settle and release the Released Plaintiffs' Claims
11 pursuant to the terms and provisions of this Stipulation, after considering, among other
12 things: (a) the substantial financial benefit that Class Representatives and the other
13 members of the Class will receive under the proposed Settlement; and (b) the
14 significant risks and costs of continued litigation and trial.

15 S. This Stipulation constitutes a compromise of all matters that are in dispute
16 between the Parties. Defendants are entering into this Stipulation solely to eliminate
17 the uncertainty, burden, and expense of further protracted litigation. Each of the
18 Defendants denies any wrongdoing, and this Stipulation shall in no event be construed
19 or deemed to be evidence of or an admission or concession on the part of any of the
20 Defendants with respect to any claim or allegation of any fault or liability or
21 wrongdoing or damage whatsoever, or any infirmity in the defenses that Defendants
22 have, or could have, asserted. Defendants expressly deny that Class Representatives
23 have asserted any valid claims as to any of them, and expressly deny any and all
24 allegations of fault, liability, wrongdoing, or damages whatsoever. Similarly, this
25 Stipulation shall in no event be construed or deemed to be evidence of or an admission
26 or concession on the part of Class Representatives of any infirmity in any of the claims
27

1 asserted in the Action, or an admission or concession that any of Defendants’ defenses
2 to liability had any merit.

3 NOW THEREFORE, it is hereby STIPULATED AND AGREED, by and
4 among Class Representatives (individually and on behalf of all other members of the
5 Class) and Defendants, by and through their respective undersigned attorneys and
6 subject to the approval of the Court pursuant to Rule 23(e) of the Federal Rules of Civil
7 Procedure, that, in consideration of the benefits flowing to the Parties from the
8 Settlement, all Released Plaintiffs’ Claims as against Defendants’ Releasees and all
9 Released Defendants’ Claims as against Plaintiffs’ Releasees shall be settled and
10 released, upon and subject to the terms and conditions set forth below.

11 **DEFINITIONS**

12 1. As used in this Stipulation and any exhibits attached hereto and made a
13 part hereof, the following capitalized terms shall have the following meanings:

14 a. “Action” means the securities class action styled *Baker v. SeaWorld*
15 *Entertainment, Inc., et al.*, Case No.: 3:14-cv-2129-MMA-AGS.

16 b. “Alternate Judgment” means a form of final judgment that may be
17 entered by the Court herein but in a form other than the form of Judgment provided for
18 in this Stipulation.

19 c. “Authorized Claimant” means a Class Member who submits a
20 Claim to the Claims Administrator that is approved by the Court for payment from the
21 Net Settlement Fund.

22 d. “Blackstone” means The Blackstone Group L.P., now known as
23 The Blackstone Group Inc.

24 e. “Blackstone Funds” means SW Delaware L.P., SW Delaware A
25 L.P., SW Delaware B L.P., SW Delaware C L.P., SW Delaware D L.P., SW Delaware
26 E L.P., SW Delaware F L.P., SW Delaware Co-Invest L.P., SW Delaware (GS) L.P.,
27 SW Delaware (GSO) L.P., and SW Cayman Limited.

1 f. “Claim” means a paper claim submitted on a Proof of Claim Form
2 or an electronic claim that is submitted to the Claims Administrator.

3 g. “Claim Form” or “Proof of Claim Form” means the form,
4 substantially in the form attached hereto as Exhibit 4 to Exhibit A, which a Claimant
5 must complete and submit should that Claimant seek to share in a distribution of the
6 Net Settlement Fund.

7 h. “Claimant” means a person or entity who or which submits a Claim
8 to the Claims Administrator seeking to be eligible to share in the proceeds of the Net
9 Settlement Fund.

10 i. “Claims Administrator” means Epiq Class Action & Claims
11 Solutions, Inc., the firm retained by Class Counsel and approved by the Court in
12 connection with Class Notice, subject to continuing approval of the Court, to provide
13 all notices approved by the Court to potential Class Members and to administer the
14 Settlement.

15 j. “Class” means the class certified in the Court’s Order Granting
16 Plaintiffs’ Motion for Class Certification dated November 29, 2017. Specifically the
17 Class includes all persons and entities who purchased or otherwise acquired the
18 publicly traded common stock of SeaWorld between August 29, 2013 and August 12,
19 2014, who did not sell such acquired securities before August 13, 2014, and were
20 damaged. Excluded from the Class are: (i) Defendants; (ii) present or former executive
21 officers of SeaWorld, members of SeaWorld’s Board of Directors, and members of
22 their immediate families; (iii) any of the foregoing persons’ legal representatives, heirs,
23 successors or assigns; and (iv) any entity in which Defendants have or had a controlling
24 interest or any affiliate of SeaWorld. Also excluded from the Class are any persons and
25 entities that submitted a request for exclusion in connection with Class Notice as set
26 forth on Appendix 1. If and only if the Court permits a second opportunity for Class
27 Members to request exclusion from the Class, also excluded from the Class shall be

1 any persons and entities who exclude themselves by submitting a request for exclusion
2 in connection with the Notice and whose requests are accepted by the Court (“Future
3 Excluded Persons”).

4 k. “Class Counsel” means Kessler Topaz Meltzer & Check, LLP and
5 Nix Patterson, LLP (f/k/a Nix, Patterson & Roach, LLP).

6 l. “Class Distribution Order” means an order entered by the Court
7 authorizing and directing that the Net Settlement Fund be distributed, in whole or in
8 part, to Authorized Claimants.

9 m. “Class Member” means each person and entity who or which is a
10 member of the Class.

11 n. “Class Period” means the period between August 29, 2013 and
12 August 12, 2014.

13 o. “Class Representatives” means Arkansas Public Employees
14 Retirement System and Pensionskassen For Børne-Og Ungdomspædagoger.

15 p. “Court” means the United States District Court for the Southern
16 District of California.

17 q. “Defendants” means SeaWorld, Blackstone, James Atchison,
18 James M. Heaney, and Marc Swanson.

19 r. “Defendants’ Counsel” means Simpson Thacher & Bartlett LLP
20 and Katten Muchin Rosenman LLP.

21 s. “Defendants’ Releasees” means (i) Defendants and their attorneys,
22 the Blackstone Funds, and the Former Defendants; (ii) the current and former parents,
23 affiliates, subsidiaries, portfolio entities, successors, predecessors, partners, members,
24 shareholders, assigns, and assignees of each of the foregoing in (i); and (iii) the current
25 and former officers, employees, directors, partners, Immediate Family members, heirs,
26 trusts, trustees, executors, estates, administrators, beneficiaries, agents, affiliates,
27

1 insurers, reinsurers, predecessors, successors, assigns and advisors of each of the
2 persons or entities listed in (i) and (ii), in their capacities as such.

3 t. “Effective Date” with respect to the Settlement means the first date
4 by which all of the events and conditions specified in ¶ 33 of this Stipulation have been
5 met and have occurred or have been waived.

6 u. “Escrow Account” means an account maintained at Huntington
7 National Bank wherein the Settlement Amount shall be deposited and held in escrow
8 under the control of Class Counsel.

9 v. “Escrow Agent” means Huntington National Bank.

10 w. “Escrow Agreement” means the agreement between Class Counsel
11 and the Escrow Agent setting forth the terms under which the Escrow Agent shall
12 maintain the Escrow Account.

13 x. “Final,” with respect to the Judgment or, if applicable, the Alternate
14 Judgment, or any other court order, means: (i) if no appeal is filed, the expiration date
15 of the time provided for filing or noticing any appeal under the Federal Rules of
16 Appellate Procedure, *i.e.*, thirty (30) calendar days after entry of the judgment or order;
17 or (ii) if there is an appeal from the judgment or order, (a) the date of final dismissal of
18 all such appeals, or the final dismissal of any proceeding on certiorari or otherwise, or
19 (b) the date the judgment or order is finally affirmed on an appeal, the expiration of the
20 time to file a petition for a writ of certiorari or other form of review, or the denial of a
21 writ of certiorari or other form of review, and, if certiorari or other form of review is
22 granted, the date of final affirmance following review pursuant to that grant. However,
23 any appeal or proceeding seeking subsequent judicial review pertaining solely to an
24 order issued with respect to (i) attorneys’ fees, costs or expenses, or (ii) the plan of
25 allocation of Settlement proceeds (as submitted or subsequently modified), shall not in
26 any way delay or preclude a judgment from becoming Final.

1 y. “Former Defendants” means all persons or entities named as
2 defendants in the Initial Complaint or the First Amended Complaint and not named as
3 defendants in the Second Amended Complaint.

4 z. “Future Excluded Persons” means, if and only if the Court permits
5 a second opportunity for Class Members to request exclusion from the Class, any
6 persons and entities who exclude themselves by submitting a request for exclusion in
7 connection with the Notice and whose requests are accepted by the Court.

8 aa. “Immediate Family” means, as defined in 17 C.F.R § 229.404,
9 Instructions 1(a)(iii) and 1(b)(ii), children, stepchildren, parents, stepparents, spouses,
10 siblings, mothers-in-law, fathers-in-law, sons-in-law, daughters-in-law, brothers-in-
11 law, sisters-in-law and any persons (other than a tenant or employee) sharing the
12 household.

13 bb. “Initial Complaint” means the initial complaint filed in this Action
14 on September 19, 2014.

15 cc. “Judgment” means the final judgment, substantially in the form
16 attached hereto as Exhibit B, to be entered by the Court approving the Settlement.

17 dd. “Liaison Counsel” means Noonan Lance Boyer & Banach LLP.

18 ee. “Litigation Expenses” means costs and expenses incurred in
19 connection with commencing, prosecuting, and settling the Action (which may include
20 the costs and expenses of Class Representatives directly related to their representation
21 of the Class), for which Class Counsel intend to apply to the Court for payment or
22 reimbursement from the Settlement Fund.

23 ff. “Net Settlement Fund” means the Settlement Fund less: (i) any
24 Taxes; (ii) any Notice and Administration Costs; (iii) any Litigation Expenses awarded
25 by the Court; (iv) any attorneys’ fees awarded by the Court; and (v) any other costs or
26 fees approved by the Court.

1 gg. “Notice” means the Notice of (I) Proposed Settlement; (II)
2 Settlement Fairness Hearing; and (III) Motion for Attorneys’ Fees and Litigation
3 Expenses, substantially in the form attached hereto as Exhibit 2 to Exhibit A, which is
4 to be posted on the Settlement Website and mailed or emailed to Class Members upon
5 request.

6 hh. “Notice and Administration Costs” means the costs, fees, and
7 expenses that are incurred by the Claims Administrator and/or Class Counsel in
8 connection with: (i) providing notices to the Class (including, but not limited to, the
9 Class Notice and the notices informing the Class of the Settlement); and
10 (ii) administering the Settlement, including but not limited to the Claims process, as
11 well as the costs, fees, and expenses incurred in connection with the Escrow Account.

12 ii. “Parties” means Defendants and Class Representatives, on behalf
13 of themselves and the Class.

14 jj. “Plaintiffs’ Counsel” means Class Counsel, Liaison Counsel, and
15 additional counsel for Class Representatives, Keil & Goodson P.A. and Grant &
16 Eisenhofer P.A.

17 kk. “Plaintiffs’ Releasees” means (i) Class Representatives, their
18 attorneys and all other Class Members; (ii) the current and former parents, affiliates,
19 subsidiaries, successors, predecessors, assigns, and assignees of each of the foregoing
20 in (i); and (iii) the current and former officers, directors, Immediate Family members,
21 heirs, trusts, trustees, executors, estates, administrators, beneficiaries, agents, affiliates,
22 insurers, reinsurers, predecessors, successors, assigns, and advisors of each of the
23 persons or entities listed in (i) and (ii), in their capacities as such.

24 ll. “Plan of Allocation” means the proposed plan of allocation of the
25 Net Settlement Fund set forth in the Notice.
26
27

1 mm. “Postcard Notice” means the postcard notice, substantially in the
2 form attached hereto as Exhibit 1 to Exhibit A, which is to be mailed and/or emailed
3 to Class Members.

4 nn. “Preliminary Approval Order” means the order, substantially in
5 the form attached hereto as Exhibit A, to be entered by the Court preliminarily
6 approving the Settlement and directing that notice of the Settlement be provided to the
7 Class.

8 oo. “PSLRA” means the Private Securities Litigation Reform Act of
9 1995, 15 U.S.C. §§ 77z-1, 78u-4, as amended.

10 pp. “Released Claims” means all Released Defendants’ Claims and all
11 Released Plaintiffs’ Claims.

12 qq. “Released Defendants’ Claims” means any and all claims, rights,
13 duties, controversies, obligations, demands, actions, debts, sums of money, suits,
14 contracts, agreements, promises, damages, losses, judgments, liabilities, allegations,
15 arguments, and causes of action of every nature and description, whether known claims
16 or Unknown Claims, whether arising under federal, state, local, common, statutory,
17 administrative, or foreign law, or any other law, rule or regulation, at law or in equity,
18 whether class or individual in nature, whether fixed or contingent, whether accrued or
19 unaccrued, whether liquidated or unliquidated, whether matured or unmatured, that
20 arise out of or relate in any way to the institution, prosecution, or settlement of the
21 claims asserted in the Action against Defendants. “Released Defendants’ Claims” do
22 not include any claims relating to the enforcement of the Settlement.

23 rr. “Released Plaintiffs’ Claims” means any and all claims, rights,
24 duties, controversies, obligations, demands, actions, debts, sums of money, suits,
25 contracts, agreements, promises, damages, losses, judgments, liabilities, allegations,
26 arguments, and causes of action of every nature and description, whether known claims
27 or Unknown Claims, whether arising under federal, state, local, common, statutory,
28

1 administrative, or foreign law, or any other law, rule or regulation, at law or in equity,
2 whether class or individual in nature, whether fixed or contingent, whether accrued or
3 unaccrued, whether liquidated or unliquidated, whether matured or unmatured, that
4 Class Representatives or any other member of the Class: (i) asserted in the Action
5 (including both Securities Act and Exchange Act claims) or (ii) could have asserted in
6 any court or forum that arise out of or are based upon the allegations, transactions,
7 facts, matters or occurrences, representations, or omissions set forth in the Action, and
8 that relate in any way, directly or indirectly, to the purchase, sale, acquisition,
9 disposition, or holding of the publicly traded common stock of SeaWorld during the
10 Class Period. “Released Plaintiffs’ Claims” do not include (i) any claims relating to the
11 enforcement of the Settlement; (ii) the claims asserted in the action captioned
12 *Kistenmacher v. Atchison, et al.*, No. 10437-VCN (Del. Ch.); (iii) the claims asserted
13 in the action captioned *Highfields Capital I, LP, et al. v. SeaWorld Entertainment, Inc.,*
14 *et al.*, Case No. 3:18-cv-01276-MMA-AGS (S.D. Cal.); (iv) any claims of any person
15 or entity that submitted a request for exclusion as set forth on Appendix 1 hereto; or
16 (v) any claims of Future Excluded Persons.

17 ss. “Releasee(s)” means each and any of the Defendants’ Releasees
18 and each and any of the Plaintiffs’ Releasees.

19 tt. “Releases” means the releases set forth in ¶¶ 5-6 of this Stipulation.

20 uu. “SeaWorld” or “Company” means SeaWorld Entertainment, Inc.

21 vv. “Second Amended Complaint” means the Second Amended
22 Consolidated Class Action Complaint filed by Lead Plaintiffs in the Action on May
23 31, 2016.

24 ww. “Settlement” means the settlement between Class Representatives
25 and Defendants on the terms and conditions set forth in this Stipulation.

26 xx. “Settlement Amount” means sixty-five million U.S. dollars
27 (\$65,000,000) in cash.

1 yy. “Settlement Fairness Hearing” means the hearing set by the Court
2 under Rule 23(e)(2) of the Federal Rules of Civil Procedure to consider final approval
3 of the Settlement.

4 zz. “Settlement Fund” means the Settlement Amount plus any and all
5 interest earned thereon.

6 aaa. “Settlement Website” means the website created specifically for the
7 Settlement on which the Notice and Claim Form, as well as other information related
8 to the Action and the Settlement, will be posted.

9 bbb. “Summary Notice” means the Summary Notice of (I) Proposed
10 Settlement; (II) Settlement Fairness Hearing; and (III) Motion for Attorneys’ Fees and
11 Litigation Expenses, substantially in the form attached hereto as Exhibit 3 to Exhibit
12 A, to be published as set forth in the Preliminary Approval Order.

13 ccc. “Taxes” means: (i) all federal, state, and/or local taxes of any kind
14 (including any interest or penalties thereon) on any income earned by the Settlement
15 Fund, including any taxes or tax detriments that may be imposed upon the Releasees
16 or their counsel with respect to any income earned by the Settlement Fund for any
17 period after the deposit of the Settlement Amount in the Escrow Account during which
18 the Settlement Fund does not qualify as a “qualified settlement fund” for federal or
19 state income tax purposes; and (ii) the expenses and costs incurred by Class Counsel
20 in connection with determining the amount of, and paying, any taxes owed by the
21 Settlement Fund (including, without limitation, expenses of tax attorneys and
22 accountants).

23 ddd. “Unknown Claims” means any Released Plaintiffs’ Claims which
24 Class Representatives or any other Class Member do not know or suspect to exist in
25 his, her, or its favor at the time of the release of such claims, and any Released
26 Defendants’ Claims which any Defendant does not know or suspect to exist in his or
27 its favor at the time of the release of such claims, which, if known by him, her, or it,

1 might have affected his, her, or its decision(s) with respect to this Settlement, including,
2 but not limited to, whether or not to object to the Settlement or to the release of the
3 Released Claims. With respect to any and all Released Claims, the Parties stipulate and
4 agree that, upon the Effective Date of the Settlement, Class Representatives and
5 Defendants shall expressly waive, and each of the Class Members shall be deemed to
6 have, and by operation of the Judgment or the Alternate Judgment, if applicable, shall
7 have, expressly waived, the provisions, rights, and benefits conferred by any law of
8 any state or territory of the United States, or principle of common law or foreign law,
9 which is similar, comparable, or equivalent to California Civil Code §1542, which
10 provides:

11 A general release does not extend to claims which the creditor does not
12 know or suspect to exist in his or her favor at the time of executing the
13 release, which if known by him or her must have materially affected his
or her settlement with the debtor.

14 The Parties acknowledge that they may hereafter discover facts in addition to or
15 different from those which he or it or their counsel now knows or believes to be true
16 with respect to the subject matter of the Released Claims, but, upon the Effective Date,
17 Class Representatives and Defendants shall expressly settle and release, and each of
18 the other Class Members shall be deemed to have, and by operation of the Judgment
19 or the Alternate Judgment, if applicable, shall have, settled and released, any and all
20 Released Claims without regard to the subsequent discovery or existence of such
21 different or additional facts. Class Representatives and Defendants acknowledge, and
22 each of the other Class Members shall be deemed by operation of law to have
23 acknowledged, that the foregoing waiver was separately bargained for and a key
24 element of the Settlement.

25 **PRELIMINARY APPROVAL OF THE SETTLEMENT**

26 2. Promptly upon execution of this Stipulation, and by no later than February
27 11, 2020, Class Representatives will move for preliminary approval of the Settlement,

1 authorization to provide notice of the Settlement to the Class, and the scheduling of a
2 hearing for consideration of final approval of the Settlement, which motion shall be
3 unopposed by Defendants. Concurrently with this motion, Class Representatives shall
4 apply to the Court for, and Defendants shall agree to, entry of the Preliminary Approval
5 Order, substantially in the form attached hereto as Exhibit A.

6 3. Also in connection with the motion for preliminary approval of the
7 Settlement, the Parties agree to request that the Court not permit a second opportunity
8 for Class Members to request exclusion from the Class. There is no due process right
9 to a second opt-out opportunity. *See Low v. Trump Univ. LLC*, 881 F.3d 1111, 1121
10 (9th Cir. 2018). However, the Settlement is not contingent on the Court's decision
11 regarding whether or not a second opportunity to request exclusion shall be permitted.

12 **RELEASE OF CLAIMS**

13 4. The obligations incurred pursuant to this Stipulation are in consideration
14 of: (a) the full and final disposition of the Action as against Defendants; and (b) the
15 Releases provided for herein.

16 5. Pursuant to the Judgment, or the Alternate Judgment, if applicable,
17 without further action by anyone, upon the Effective Date of the Settlement, Class
18 Representatives and each of the other Class Members, on behalf of themselves, and
19 their respective heirs, executors, administrators, trusts, trustees, estates, beneficiaries,
20 legatees, insurers, reinsurers, predecessors, successors, and assigns (and assignees of
21 each of the foregoing), in their capacities as such, shall be deemed to have, and by
22 operation of law and of the Judgment shall have, fully, finally, and forever
23 compromised, settled, released, resolved, relinquished, waived, and discharged each
24 and every Released Plaintiffs' Claim against Defendants and the other Defendants'
25 Releasees, and shall forever be barred and enjoined from prosecuting any or all of the
26 Released Plaintiffs' Claims against any of the Defendants' Releasees.

1 6. Pursuant to the Judgment, or the Alternate Judgment, if applicable,
2 without further action by anyone, upon the Effective Date of the Settlement,
3 Defendants, on behalf of themselves, and their respective heirs, executors,
4 administrators, trusts, trustees, estates, beneficiaries, legatees, insurers, reinsurers,
5 predecessors, successors, and assigns (and assignees of each of the foregoing), in their
6 capacities as such, shall be deemed to have, and by operation of law and of the
7 Judgment shall have, fully, finally, and forever compromised, settled, released,
8 resolved, relinquished, waived, and discharged each and every Released Defendants’
9 Claim against Class Representatives and the other Plaintiffs’ Releasees, and shall
10 forever be barred and enjoined from prosecuting any or all of the Released Defendants’
11 Claims against any of the Plaintiffs’ Releasees. This Release shall not apply to: (i) any
12 person or entity who previously submitted a request for exclusion from the Class in
13 connection with the Class Notice as set forth on Appendix 1 hereto; or (ii) any Future
14 Excluded Persons.

15 7. Notwithstanding ¶¶ 5-6 above, nothing in the Judgment, or the Alternate
16 Judgment, if applicable, shall bar any action by any of the Parties to enforce or
17 effectuate the terms of this Stipulation or the Judgment, or Alternate Judgment, if
18 applicable.

19 8. The Judgment shall contain a bar order in the form set forth in Exhibit B
20 hereto that, upon the Effective Date, to the fullest extent permitted by law, (i) all
21 persons shall be permanently enjoined, barred and restrained from commencing,
22 instituting, prosecuting, or maintaining any claims, actions, or causes of action for
23 contribution, indemnity or otherwise against any of Defendants’ Releasees seeking as
24 damages or otherwise the recovery of all or part of any liability, judgment, or settlement
25 which they pay or are obligated to pay or agree to pay to the Plaintiffs’ Releasees
26 arising out of, relating to or concerning any acts, facts, statements or omissions that
27 were or could have been alleged in the Action, both known and Unknown Claims,

1 whether arising under state, federal or foreign law, as claims, cross-claims,
2 counterclaims, third-party claims or otherwise, in the Court or any other federal, state,
3 or foreign court, or in any arbitration proceeding, administrative agency proceeding,
4 tribunal, or any other proceeding or forum; and (ii) all Defendants' Releasees shall be
5 permanently enjoined, barred and restrained from commencing, instituting,
6 prosecuting, or maintaining any claims, actions, or causes of action for contribution,
7 indemnity or otherwise against any persons seeking as damages or otherwise the
8 recovery of all or part of any liability, judgment or settlement which they pay or are
9 obligated to pay or agree to pay to the Plaintiffs' Releasees arising out of, relating to,
10 or concerning any acts, facts, statements or omissions that were or could have been
11 alleged in the Action, both known and Unknown Claims, whether arising under state,
12 federal or foreign law, as claims, cross-claims, counterclaims, third-party claims or
13 otherwise, in the Court or any other federal, state, or foreign court, or in any arbitration
14 proceeding, administrative agency proceeding, tribunal, or any other proceeding or
15 forum; ***provided that*** clauses (i) and (ii) of this Paragraph shall not be construed to
16 modify, amend, or supersede any agreements between or among Defendants'
17 Releasees with respect to claims between or among those Defendants' Releasees,
18 including, without limitation, any claims for contractual or other indemnification
19 rights, nor limit the Defendants' ability to pursue insurance recoveries against their
20 insurers for claims relating to this Action, including the Settlement Amount and legal
21 fees and costs incurred in connection with the Action. The foregoing barred claims
22 shall not include claims that arise out of or relate to a cause of action that has been or
23 may be asserted by (i) any person or entity who previously submitted a request for
24 exclusion from the Class in connection with the Class Notice as set forth on Appendix
25 1 hereto; or (ii) any Future Excluded Persons.

1 **THE SETTLEMENT CONSIDERATION**

2 9. In consideration of the full settlement of the claims asserted in the Action
3 against Defendants and the Releases specified in ¶¶ 4-8 above, SeaWorld shall pay or
4 cause to be paid the Settlement Amount into the Escrow Account no later than fifteen
5 (15) business days after the later of: (a) the Court’s entry of the Preliminary Approval
6 Order; or (b) the provision to Defendants’ Counsel of all information necessary to
7 effectuate a transfer of funds to the Escrow Account, including the bank name and
8 ABA routing number, account number, and a signed Form W-9 reflecting the taxpayer
9 identification for the Settlement Fund.

10 **USE OF THE SETTLEMENT FUND**

11 10. The Settlement Fund shall be used to pay: (a) any Taxes; (b) any Notice
12 and Administration Costs; (c) any Litigation Expenses awarded by the Court; (d) any
13 attorneys’ fees awarded by the Court; and (e) any other costs and fees approved by the
14 Court. The balance remaining in the Settlement Fund, that is, the Net Settlement Fund,
15 shall be distributed to Authorized Claimants as provided in ¶¶ 19-31 below. Under no
16 circumstances will Defendants or any of the other Defendants’ Releasees be required
17 to make any payment other than the payment SeaWorld shall pay or cause to be paid
18 pursuant to ¶ 9 above.

19 11. Except as provided herein or pursuant to orders of the Court, the Net
20 Settlement Fund shall remain in the Escrow Account prior to the Effective Date. All
21 funds held by the Escrow Agent shall be deemed to be in the custody of the Court and
22 shall remain subject to the jurisdiction of the Court until such time as the funds shall
23 be distributed or returned pursuant to the terms of this Stipulation and/or further order
24 of the Court. At the written direction of Class Counsel, the Escrow Account shall invest
25 any funds in the Escrow Account exclusively in instruments or accounts backed by the
26 full faith and credit of the United States Government or fully insured by the United
27 States Government or an agency thereof, including a United States Treasury Fund or

1 bank account that is either (a) fully insured by the Federal Deposit Insurance
2 Corporation (“FDIC”), or (b) secured by instruments backed by the full faith and credit
3 of the United States Government. The Escrow Agent shall reinvest the proceeds of
4 these instruments or accounts as they mature in similar instruments or accounts at their
5 then-current market rates.

6 12. The Parties agree that the Settlement Fund is intended to be a Qualified
7 Settlement Fund within the meaning of Treasury Regulation § 1.468B-1 and that Class
8 Counsel, as administrators of the Settlement Fund within the meaning of Treasury
9 Regulation § 1.468B-2(k)(3), shall be solely responsible for filing or causing to be filed
10 all informational and other tax returns as may be necessary or appropriate (including,
11 without limitation, the returns described in Treasury Regulation § 1.468B-2(k)) for the
12 Settlement Fund. Class Counsel shall also be responsible for causing payment to be
13 made from the Settlement Fund of any Taxes owed with respect to the Settlement Fund.
14 Defendants’ Releasees shall not have any liability or responsibility for any such Taxes.
15 Upon written request, Defendants will provide to Class Counsel the statement
16 described in Treasury Regulation § 1.468B-3(e). Class Counsel, as administrators of
17 the Settlement Fund within the meaning of Treasury Regulation § 1.468B-2(k)(3), shall
18 timely make such elections as are necessary or advisable to carry out this paragraph,
19 including, as necessary, making a “relation back election,” as described in Treasury
20 Regulation § 1.468B-1(j), to cause the Qualified Settlement Fund to come into
21 existence at the earliest allowable date, and shall take or cause to be taken all actions
22 as may be necessary or appropriate in connection therewith. Class Counsel shall
23 cooperate with reasonable written requests of Defendants related to Taxes that may be
24 owed with respect to the Settlement Fund.

25 13. All Taxes shall be paid out of the Settlement Fund, and shall be timely
26 paid, or caused to be paid, by Class Counsel and without further order of the Court.
27 Any tax returns prepared for the Settlement Fund (as well as the election set forth

1 therein) shall be consistent with the previous paragraph and in all events shall reflect
2 that all Taxes on the income earned by the Settlement Fund shall be paid out of the
3 Settlement Fund as provided herein. Defendants' Releasees shall have no
4 responsibility or liability for the acts or omissions of Class Counsel or their agents with
5 respect to the payment of Taxes, as described herein.

6 14. The Settlement is not a claims-made settlement. Upon the occurrence of
7 the Effective Date, no Defendant, Defendants' Releasee, or any other person or entity
8 who or which paid any portion of the Settlement Amount shall have any right to the
9 return of the Settlement Fund or any portion thereof for any reason whatsoever,
10 including without limitation, the number of Claims submitted, the collective amount
11 of Recognized Claims of Authorized Claimants, the percentage of recovery of losses,
12 or the amounts to be paid to Authorized Claimants from the Net Settlement Fund.

13 15. Notwithstanding the fact that the Effective Date of the Settlement has not
14 yet occurred, Class Counsel may pay from the Settlement Fund, without further
15 approval from Defendants or further order of the Court, all Notice and Administration
16 Costs actually incurred and paid or payable. Such costs and expenses shall include,
17 without limitation, the actual costs of printing and mailing the Class Notice, the actual
18 costs of printing and mailing the Postcard Notice, developing the Settlement Website
19 and posting the Notice and Claim Form, publishing the Summary Notice,
20 reimbursements to nominee owners for forwarding notices to their beneficial owners,
21 the administrative expenses incurred and fees charged by the Claims Administrator in
22 connection with providing notice, administering the Settlement (including processing
23 submitted Claims), and the fees, if any, of the Escrow Agent. In the event that the
24 Settlement is terminated pursuant to the terms of this Stipulation, all Notice and
25 Administration Costs paid or incurred, including any related fees, shall not be returned
26 or repaid to Defendants, any of the other Defendants' Releasees, or any other person
27 or entity who or which paid any portion of the Settlement Amount.

ATTORNEYS' FEES AND LITIGATION EXPENSES

1
2 16. Class Counsel, on behalf of Plaintiffs' Counsel, will apply to the Court
3 for an award of attorneys' fees to be paid solely from (and out of) the Settlement Fund.
4 Class Counsel also will apply to the Court for reimbursement or payment of Litigation
5 Expenses, which may include a request for reimbursement of Class Representatives'
6 costs and expenses directly related to their representation of the Class, to be paid solely
7 from (and out of) the Settlement Fund. Class Counsel's application for attorneys' fees
8 and/or Litigation Expenses is not the subject of any agreement between Defendants
9 and Class Representatives other than what is set forth in this Stipulation.

10 17. Any attorneys' fees and Litigation Expenses that are awarded by the Court
11 shall be paid to Class Counsel immediately upon award, notwithstanding the existence
12 of any timely filed objections thereto, or potential for appeal therefrom, or collateral
13 attack on the Settlement or any part thereof, subject to Class Counsel's obligation to
14 make appropriate refunds or repayments to the Settlement Fund, plus accrued interest
15 at the same net rate as is earned by the Settlement Fund, if the Settlement is terminated
16 pursuant to the terms of this Stipulation or if, as a result of any appeal or further
17 proceedings on remand, or successful collateral attack, the award of attorneys' fees
18 and/or Litigation Expenses is reduced or reversed and such order reducing or reversing
19 the award has become Final. Class Counsel shall make the appropriate refund or
20 repayment in full no later than thirty (30) calendar days after: (a) receiving from
21 Defendants' Counsel notice of the termination of the Settlement; or (b) any order
22 reducing or reversing the award of attorneys' fees and/or Litigation Expenses has
23 become Final. An award of attorneys' fees and/or Litigation Expenses is not a
24 necessary term of this Stipulation and is not a condition of the Settlement embodied
25 herein. Neither Class Representatives nor Class Counsel may cancel or terminate the
26 Settlement based on this Court's or any appellate court's ruling with respect to
27 attorneys' fees and/or Litigation Expenses, and any appeal from any order awarding

1 attorneys' fees and/or Litigation Expenses or any reversal or modification of any such
2 order shall not affect or delay the finality of the Judgment. Any refunds or repayments
3 required pursuant to this paragraph shall be the several obligation of Plaintiffs'
4 Counsel, including their law partners and/or shareholders, to make appropriate refunds
5 or repayments to the Settlement Fund. Each such Plaintiffs' Counsel receiving an
6 award of fees and expenses, as a condition of receiving such fees, expenses or award
7 on behalf of itself and each partner and/or shareholder of it, agrees that: (a) such person
8 or entity and its partners, shareholders, and/or members are subject to the jurisdiction
9 of the Court for the purpose of enforcing the provisions of this paragraph; and (b) are
10 severally liable for the full amount of any fees, expenses and/or costs paid to them from
11 the Settlement Fund together with the interest earned thereon.

12 18. Class Counsel shall allocate the attorneys' fees awarded amongst
13 Plaintiffs' Counsel in a manner which they, in good faith, believe reflects the
14 contributions of such counsel to the institution, prosecution and settlement of the
15 Action. Defendants' Releasees shall have no responsibility for or liability whatsoever
16 with respect to the allocation or award of attorneys' fees or Litigation Expenses. The
17 attorneys' fees and Litigation Expenses that are awarded to Plaintiffs' Counsel shall be
18 payable solely from the Escrow Account. With the sole exception of SeaWorld's
19 obligation to cause the Settlement Amount to be paid into the Escrow Account pursuant
20 to ¶ 9 above, Defendants' Releasees shall have no responsibility for, and no liability
21 whatsoever with respect to, any payment of attorneys' fees and/or Litigation Expenses
22 to Plaintiffs' Counsel pursuant to this Stipulation, or for any other attorneys' fees
23 and/or Litigation Expenses incurred by or on behalf of any other Class Member in
24 connection with this Action or the Settlement.

25 **NOTICE AND SETTLEMENT ADMINISTRATION**

26 19. As part of the Preliminary Approval Order, Class Representatives shall
27 seek reappointment of Epiq Class Action & Claims Solutions, Inc. as the Claims

1 Administrator. Epiq Class Action & Claims Solutions, Inc. was previously approved
2 by the Court as administrator in connection with the dissemination of Class Notice.
3 ECF No. 336. The Claims Administrator shall administer the Settlement, including but
4 not limited to the process of receiving, reviewing, and approving or denying Claims,
5 under Class Counsel’s supervision and subject to the jurisdiction of the Court. None of
6 the Defendants, nor any other Defendants’ Releasees, shall have any involvement in or
7 any responsibility, authority, or liability whatsoever for the selection of the Claims
8 Administrator, the Plan of Allocation, the administration of the Settlement, the Claims
9 process, or disbursement of the Net Settlement Fund, and shall have no liability
10 whatsoever to any person or entity, including, but not limited to, Class Representatives,
11 any other Class Members, or Class Counsel in connection with the foregoing.
12 Defendants’ Counsel shall cooperate in the administration of the Settlement to the
13 extent reasonably necessary to effectuate its terms.

14 20. In accordance with the terms of the Preliminary Approval Order to be
15 entered by the Court, Class Counsel shall cause the Claims Administrator to mail,
16 and/or email, the Postcard Notice to those members of the Class as may be identified
17 through reasonable effort, including those previously identified by SeaWorld in
18 connection with Class Notice. Class Counsel shall also cause the Claims Administrator
19 to post the Notice and Claim Form on the Settlement Website as well as cause the
20 Claims Administrator to have the Summary Notice published in accordance with the
21 terms of the Preliminary Approval Order to be entered by the Court.

22 21. No later than ten (10) calendar days following the filing of this Stipulation
23 with the Court, Defendants shall serve the notice required under the Class Action
24 Fairness Act, 28 U.S.C. § 1715 *et seq.* (“CAFA”). Defendants are solely responsible
25 for the costs of the CAFA notice and administering the CAFA notice. At least seven
26 (7) calendar days before the Settlement Fairness Hearing, Defendants shall cause to be
27

1 served on Class Counsel and filed with the Court proof, by affidavit or declaration,
2 regarding compliance with CAFA § 1715(b).

3 22. The Claims Administrator shall receive Claims and determine first,
4 whether the Claim is a valid Claim, in whole or part, and second, each Authorized
5 Claimant's *pro rata* share of the Net Settlement Fund based upon each Authorized
6 Claimant's Recognized Claim compared to the total Recognized Claims of all
7 Authorized Claimants (as set forth in the Plan of Allocation set forth in the Notice
8 attached hereto as Exhibit 2 to Exhibit A, or in such other plan of allocation as the
9 Court approves).

10 23. The Plan of Allocation proposed in the Notice is not a necessary term of
11 the Settlement or of this Stipulation and it is not a condition of the Settlement or of this
12 Stipulation that any particular plan of allocation be approved by the Court. Class
13 Representatives and Class Counsel may not cancel or terminate the Settlement (or this
14 Stipulation) based on this Court's or any appellate court's ruling with respect to the
15 Plan of Allocation or any other plan of allocation in this Action. Defendants and the
16 other Defendants' Releasees shall not object in any way to the Plan of Allocation or
17 any other plan of allocation in this Action. No Defendant, nor any other Defendants'
18 Releasees, shall have any involvement with or liability, obligation, or responsibility
19 whatsoever for the application of the Court-approved plan of allocation.

20 24. Any Class Member who does not submit a valid Claim will not be entitled
21 to receive any distribution from the Net Settlement Fund, but will otherwise be bound
22 by all of the terms of this Stipulation and the Settlement, including the terms of the
23 Judgment or, the Alternate Judgment, if applicable, to be entered in the Action and the
24 Releases provided for herein and therein, and will be permanently barred and enjoined
25 from bringing any action, claim, or other proceeding of any kind against the
26 Defendants' Releasees with respect to the Released Plaintiffs' Claims in the event that
27 the Effective Date occurs with respect to the Settlement.

1 25. Class Counsel shall be responsible for supervising the administration of
2 the Settlement and the disbursement of the Net Settlement Fund subject to Court
3 approval. No Defendant, or any other Defendants' Releasees, shall be permitted to
4 review, contest, or object to any Claim, or any decision of the Claims Administrator or
5 Class Counsel with respect to accepting or rejecting any Claim for payment, nor shall
6 any of Defendants' Releasees have any responsibility for, interest in, or liability with
7 respect to any such decision. Class Counsel shall have the right, but not the obligation,
8 to waive what they deem to be formal or technical defects in any Claims submitted in
9 the interests of achieving substantial justice.

10 26. For purposes of determining the extent, if any, to which a Class Member
11 shall be entitled to be treated as an Authorized Claimant, the following conditions shall
12 apply:

13 a. Each Claimant shall be required to submit a Claim in paper form,
14 substantially in the form attached hereto as Exhibit 4 to Exhibit A, or in electronic
15 form, in accordance with the instructions for the submission of such Claims, and
16 supported by such documents as are designated therein, including proof of the
17 Claimant's loss, or such other documents or proof as the Claims Administrator or Class
18 Counsel, in their discretion, may deem acceptable;

19 b. All Claims must be submitted by the date set by the Court in the
20 Preliminary Approval Order and specified in the Notice. Any Class Member who fails
21 to submit a Claim by such date shall be forever barred from receiving any distribution
22 from the Net Settlement Fund or payment pursuant to this Stipulation (unless by Order
23 of the Court such Class Member's Claim is accepted), but shall in all other respects be
24 bound by all of the terms of this Stipulation and the Settlement, including the terms of
25 the Judgment or Alternate Judgment, if applicable, and the Releases provided for
26 herein and therein, and will be permanently barred and enjoined from bringing any
27 action, claim, or other proceeding of any kind against any Defendants' Releasees with

1 respect to any Released Plaintiffs' Claim. Provided that it is mailed by the claim-
2 submission deadline, a Claim Form shall be deemed to be submitted when postmarked,
3 if received with a postmark indicated on the envelope and if mailed by first-class mail
4 and addressed in accordance with the instructions thereon. In all other cases, the Claim
5 Form shall be deemed to have been submitted on the date when actually received by
6 the Claims Administrator;

7 c. Each Claim shall be submitted to and reviewed by the Claims
8 Administrator who shall determine in accordance with this Stipulation and the plan of
9 allocation the extent, if any, to which each Claim shall be allowed, subject to review
10 by the Court pursuant to subparagraph (e) below as necessary;

11 d. Claims that do not meet the submission requirements may be
12 rejected. Prior to rejecting a Claim in whole or in part, the Claims Administrator shall
13 communicate with the Claimant in writing, to give the Claimant the chance to remedy
14 any curable deficiencies in the Claim submitted. The Claims Administrator shall notify,
15 in a timely fashion and in writing, all Claimants whose Claim the Claims Administrator
16 proposes to reject in whole or in part, setting forth the reasons therefor, and shall
17 indicate in such notice that the Claimant whose Claim is to be rejected has the right to
18 a review by the Court if the Claimant so desires and complies with the requirements of
19 subparagraph (e) below; and

20 e. If any Claimant whose Claim has been rejected in whole or in part
21 desires to contest such rejection, the Claimant must, within twenty (20) days after the
22 date of mailing of the notice required in subparagraph (d) above or a lesser time period
23 if the Claim was untimely, serve upon the Claims Administrator a notice and statement
24 of reasons indicating the Claimant's grounds for contesting the rejection along with
25 any supporting documentation, and requesting a review thereof by the Court. If a
26 dispute concerning a Claim cannot be otherwise resolved, Class Counsel shall
27 thereafter present the request for review to the Court.

1 27. Each Claimant shall be deemed to have submitted to the jurisdiction of
2 the Court with respect to the Claimant's Claim, and the Claim will be subject to
3 investigation and discovery under the Federal Rules of Civil Procedure, provided,
4 however, that such investigation and discovery shall be limited to that Claimant's status
5 as a Class Member and the validity and amount of the Claimant's Claim. No discovery
6 shall be allowed on the merits of this Action or of the Settlement in connection with
7 the processing of Claims.

8 28. Class Counsel will apply to the Court, on notice to Defendants' Counsel,
9 for a Class Distribution Order: (a) approving the Claims Administrator's administrative
10 determinations concerning the acceptance and rejection of the Claims submitted;
11 (b) approving payment of any unpaid administration fees and expenses associated with
12 the administration of the Settlement from the Escrow Account; and (c) if the Effective
13 Date has occurred, directing payment of the Net Settlement Fund to Authorized
14 Claimants from the Escrow Account.

15 29. Payment pursuant to the Class Distribution Order shall be final and
16 conclusive against all Claimants. All Class Members whose Claims are not approved
17 by the Court for payment shall be barred from participating in distributions from the
18 Net Settlement Fund, but otherwise shall be bound by all of the terms of this Stipulation
19 and the Settlement, including the terms of the Judgment or Alternate Judgment, if
20 applicable, to be entered in this Action and the Releases provided for herein and
21 therein, and will be permanently barred and enjoined from bringing any action against
22 any and all Defendants' Releasees with respect to any and all of the Released Plaintiffs'
23 Claims.

24 30. No person or entity shall have any claim against Class Representatives,
25 Plaintiffs' Counsel, the Claims Administrator, or any other agent designated by Class
26 Counsel, or Defendants' Releasees and/or their respective counsel, arising from
27 distributions made substantially in accordance with the Stipulation, the plan of

1 allocation approved by the Court, or any order of the Court. Class Representatives and
2 Defendants, and their respective counsel, and Class Representatives' damages expert
3 and all other Releasees shall have no liability whatsoever for the investment or
4 distribution of the Settlement Fund or the Net Settlement Fund, the plan of allocation,
5 or the determination, administration, calculation, or payment of any claim or
6 nonperformance of the Claims Administrator, the payment or withholding of taxes
7 (including interest and penalties) owed by the Settlement Fund, or any losses incurred
8 in connection therewith.

9 31. All proceedings with respect to the administration, processing, and
10 determination of Claims and the determination of all controversies relating thereto,
11 including disputed questions of law and fact with respect to the validity of Claims, shall
12 be subject to the jurisdiction of the Court. All Class Members, other Claimants, and
13 parties to this Settlement expressly waive trial by jury (to the extent any such right may
14 exist) and any right of appeal or review with respect to such determinations.

15 **TERMS OF THE JUDGMENT**

16 32. If the Settlement contemplated by this Stipulation is approved by the
17 Court, Class Counsel and Defendants' Counsel shall request that the Court enter a
18 Judgment, substantially in the form attached hereto as Exhibit B.

19 **CONDITIONS OF SETTLEMENT AND EFFECT OF**
20 **DISAPPROVAL, CANCELLATION OR TERMINATION**

21 33. The Effective Date of the Settlement shall be deemed to occur on the
22 occurrence or waiver of all of the following events:

23 a. the Court has entered the Preliminary Approval Order, substantially
24 in the form set forth in Exhibit A attached hereto, as required by ¶ 2 above;

25 b. the Settlement Amount has been deposited into the Escrow
26 Account in accordance with the provisions of ¶ 9 above;

1 c. Defendants have not exercised their option to terminate the
2 Settlement pursuant to the provisions of this Stipulation;

3 d. Class Representatives have not exercised their option to terminate
4 the Settlement pursuant to the provisions of this Stipulation; and

5 e. the Court has approved the Settlement as described herein,
6 following notice to the Class and a hearing, as prescribed by Rule 23 of the Federal
7 Rules of Civil Procedure, and entered the Judgment and the Judgment has become
8 Final, or the Court has entered an Alternate Judgment and none of the Parties seek to
9 terminate the Settlement and the Alternate Judgment has become Final.

10 34. Upon the occurrence of all of the events referenced in ¶ 33 above, any and
11 all remaining interest or right of Defendants in or to the Settlement Fund, if any, shall
12 be absolutely and forever extinguished and the Releases herein shall be effective.

13 35. If (i) Defendants exercise their right to terminate the Settlement as
14 provided in this Stipulation; (ii) Class Representatives exercise their right to terminate
15 the Settlement as provided in this Stipulation; (iii) the Court disapproves the
16 Settlement; or (iv) the Effective Date as to the Settlement otherwise fails to occur, then:

17 a. The Settlement and the relevant portions of this Stipulation shall be
18 canceled and terminated.

19 b. Class Representatives and Defendants shall revert to their
20 respective positions in the Action as of February 3, 2020.

21 c. The terms and provisions of this Stipulation, with the exception of
22 this ¶ 35 and ¶¶ 15, 17, 39, and 60, shall have no further force and effect with respect
23 to the Parties and shall not be used in the Action or in any other proceeding for any
24 purpose, and any Judgment, or Alternate Judgment, if applicable, or order entered by
25 the Court in accordance with the terms of this Stipulation shall be treated as vacated,
26 *nunc pro tunc*.

1 d. Within five (5) business days after joint written notification of
2 termination is sent by Defendants' Counsel and Class Counsel to the Escrow Agent,
3 the Settlement Fund (including accrued interest thereon and any funds received by
4 Class Counsel consistent with ¶ 17 above), less any Notice and Administration Costs
5 actually incurred, paid, or payable and less any Taxes paid, due, or owing shall be
6 refunded by the Escrow Agent to Defendants (or such other persons or entities as
7 Defendants may direct). In the event that the funds received by Class Counsel
8 consistent with ¶ 17 above have not been refunded to the Settlement Fund within the
9 five (5) business days specified in this paragraph, those funds shall be refunded by the
10 Escrow Agent to Defendants (or such other persons or entities as Defendants may
11 direct) immediately upon their deposit into the Escrow Account consistent with ¶ 17
12 above.

13 36. It is further stipulated and agreed that Defendants, provided they
14 unanimously agree, and Class Representatives, provided they unanimously agree, shall
15 each have the right to terminate the Settlement and this Stipulation, by providing
16 written notice of their election to do so ("Termination Notice") to the other Parties to
17 this Stipulation within thirty (30) days of: (a) the Court's final refusal to enter the
18 Preliminary Approval Order in any material respect; (b) the Court's final refusal to
19 approve the Settlement or any material part thereof; (c) the Court's final refusal to enter
20 the Judgment in any material respect as to the Settlement; (d) the date upon which the
21 Judgment is modified or reversed in any material respect by the United States Court of
22 Appeals for the Ninth Circuit or the United States Supreme Court; or (e) the date upon
23 which an Alternate Judgment is modified or reversed in any material respect by the
24 United States Court of Appeals for the Ninth Circuit or the United States Supreme
25 Court, and the provisions of ¶ 35 above shall apply. However, any decision or
26 proceeding, whether in this Court or any appellate court, with respect to an application
27 for attorneys' fees or Litigation Expenses or with respect to any plan of allocation shall

1 not be considered material to the Settlement, shall not affect the finality of any
2 Judgment or Alternate Judgment, if applicable, and shall not be grounds for termination
3 of the Settlement.

4 37. In addition to the grounds set forth in ¶ 36 above, and only in the event
5 that the Court provides a second opportunity for Class Members to request exclusion
6 from the Class, SeaWorld shall have the unilateral right exercisable in its sole
7 discretion to terminate the Settlement in the event that Future Excluded Persons meet
8 the conditions set forth in SeaWorld’s confidential supplemental agreement with Class
9 Representatives (the “Supplemental Agreement”), in accordance with the terms of that
10 agreement. The Supplemental Agreement, which is being executed concurrently
11 herewith, shall not be filed with the Court and its terms shall not be disclosed in any
12 other manner (other than the statements herein and in the Notice, to the extent
13 necessary, or as otherwise provided in the Supplemental Agreement) unless the Court
14 otherwise directs or a dispute arises between Class Representatives and SeaWorld
15 concerning its interpretation or application, in which event the Parties shall submit the
16 Supplemental Agreement to the Court in camera and request that the Court afford it
17 confidential treatment. In the event that the Court does not provide for a second
18 opportunity for Class Members to exclude themselves from the Class in connection
19 with the settlement proceedings, SeaWorld will have no right to terminate the
20 Settlement pursuant to this paragraph.

21 38. Class Representatives shall also have the option to terminate the
22 Settlement in the event that the Settlement Amount has not been paid as provided for
23 in ¶ 9 above, by providing written notice of the election to terminate to Defendants’
24 Counsel.

25 **NO ADMISSION OF WRONGDOING**

26 39. Neither this Stipulation (whether or not consummated), including the
27 exhibits hereto and the Plan of Allocation contained therein (or any other plan of

1 allocation that may be approved by the Court), the negotiations leading to the execution
2 of this Stipulation, nor any proceedings taken pursuant to or in connection with this
3 Stipulation, and/or approval of the Settlement (including any arguments proffered in
4 connection therewith):

5 a. shall be offered against any of the Defendants' Releasees as
6 evidence of, or construed as, or deemed to be evidence of any presumption, concession,
7 or admission by any of the Defendants' Releasees with respect to the truth of any fact
8 alleged by Class Representatives or the validity of any claim that was or could have
9 been asserted or the deficiency of any defense that has been or could have been asserted
10 in this Action or in any other litigation, or of any liability, negligence, fault, or other
11 wrongdoing of any kind of any of the Defendants' Releasees or in any way referred to
12 for any other reason as against any of the Defendants' Releasees, in any arbitration
13 proceeding or other civil, criminal, or administrative action or proceeding, other than
14 such proceedings as may be necessary to effectuate the provisions of this Stipulation;

15 b. shall be offered against any of the Plaintiffs' Releasees, as evidence
16 of, or construed as, or deemed to be evidence of any presumption, concession, or
17 admission by any of the Plaintiffs' Releasees that any of their claims are without merit,
18 that any of the Defendants' Releasees had meritorious defenses, or that damages
19 recoverable under the Second Amended Complaint would not have exceeded the
20 Settlement Amount or with respect to any liability, negligence, fault, or wrongdoing of
21 any kind, or in any way referred to for any other reason as against any of the Plaintiffs'
22 Releasees, in any arbitration proceeding or other civil, criminal, or administrative
23 action or proceeding, other than such proceedings as may be necessary to effectuate
24 the provisions of this Stipulation; or

25 c. shall be construed against any of the Releasees as an admission,
26 concession, or presumption that the consideration to be given hereunder represents the
27 amount which could be or would have been recovered after trial;

1 *provided, however*, that if this Stipulation is approved by the Court, the Parties and the
2 Releasees and their respective counsel may refer to it to effectuate the protections from
3 liability granted hereunder or otherwise to enforce the terms of the Settlement.

4 **MISCELLANEOUS PROVISIONS**

5 40. All of the exhibits attached hereto are hereby incorporated by reference as
6 though fully set forth herein. Notwithstanding the foregoing, in the event that there
7 exists a conflict or inconsistency between the terms of this Stipulation and the terms of
8 any exhibit attached hereto, the terms of the Stipulation shall prevail.

9 41. SeaWorld warrants, as to the payments made or to be made on behalf of
10 itself, that at the time of entering into this Stipulation and at the time of such payment
11 SeaWorld was not insolvent, nor will the payment required to be made by or on behalf
12 of SeaWorld render it insolvent, within the meaning of and/or for the purposes of the
13 United States Bankruptcy Code, including §§ 101 and 547 thereof. This representation
14 is made by SeaWorld and not by Defendants' Counsel.

15 42. In the event of the entry of a final order of a court of competent jurisdiction
16 determining the transfer of money to the Settlement Fund or any portion thereof by or
17 on behalf of Defendants to be a preference, voidable transfer, fraudulent transfer or
18 similar transaction and any portion thereof is required to be returned, and such amount
19 is not promptly deposited into the Settlement Fund by others, then, at the election of
20 Class Representatives, Class Representatives and Defendants shall jointly move the
21 Court to vacate and set aside the Releases given and the Judgment or Alternate
22 Judgment, if applicable, entered in favor of Defendants and the other Releasees
23 pursuant to this Stipulation, in which event the Releases and Judgment, or Alternate
24 Judgment, if applicable, shall be null and void, and the Parties shall be restored to their
25 respective positions in the litigation as provided in ¶ 35(b) above, Plaintiffs' Counsel
26 shall promptly return any attorneys' fees and Litigation Expenses received pursuant to
27 ¶ 17, above, plus accrued interest at the same net rate as is earned by the Settlement

1 Fund, and any cash amounts in the Settlement Fund (less any Taxes paid, due, or owing
2 with respect to the Settlement Fund and less any Notice and Administration Costs
3 actually incurred, paid, or payable) shall be returned as provided in ¶ 35.

4 43. The Parties intend this Stipulation and the Settlement to be a final and
5 complete resolution of all disputes asserted or which could be asserted by Class
6 Representatives and any other Class Members against Defendants' Releasees with
7 respect to the Released Plaintiffs' Claims. No Party shall assert any claims of any
8 violation of Rule 11 of the Federal Rules of Civil Procedure relating to the institution,
9 prosecution, defense, or settlement of this Action. The Parties agree that the amount
10 paid and the other terms of the Settlement were negotiated at arm's length and in good
11 faith by the Parties, including through a mediation process conducted by Jed Melnick,
12 Esq. of JAMS, and reflect the Settlement that was reached voluntarily after extensive
13 negotiations and consultation with experienced legal counsel, who were fully
14 competent to assess the strengths and weaknesses of their respective clients' claims or
15 defenses.

16 44. While retaining their right to deny that the claims asserted in the Action
17 were meritorious, Defendants and their counsel, in any statement made to any media
18 representative (whether or not for attribution) will not assert that the Action was
19 commenced or prosecuted in bad faith, nor will they deny that the Action was
20 commenced and prosecuted in good faith and is being settled voluntarily after
21 consultation with competent legal counsel. In all events, Class Representatives and
22 their counsel and Defendants and their counsel shall not make any accusations of
23 wrongful or actionable conduct by either Party concerning the prosecution, defense,
24 and resolution of the Action, and shall not otherwise suggest that the Settlement
25 constitutes an admission of any claim or defense alleged.

26 45. The terms of the Settlement, as reflected in this Stipulation, may not be
27 modified or amended, nor may any of its provisions be waived except by a writing

1 signed on behalf of both Class Representatives and Defendants (or their successors-in-
2 interest).

3 46. The headings herein are used for the purpose of convenience only and are
4 not meant to have legal effect.

5 47. The administration and consummation of the Settlement as embodied in
6 this Stipulation shall be under the authority of the Court, and the Court shall retain
7 jurisdiction for the purpose of entering orders providing for awards of attorneys' fees
8 and Litigation Expenses to Plaintiffs' Counsel and enforcing the terms of this
9 Stipulation, including the Plan of Allocation (or such other plan of allocation as may
10 be approved by the Court) and the distribution of the Net Settlement Fund to Class
11 Members.

12 48. The waiver by one Party of any breach of this Stipulation by any other
13 Party shall not be deemed a waiver of any other prior or subsequent breach of this
14 Stipulation.

15 49. This Stipulation, its exhibits, and the Supplemental Agreement constitute
16 the entire agreement among Class Representatives and Defendants concerning the
17 Settlement. All Parties acknowledge that no other agreements, representations,
18 warranties, or inducements have been made by any Party hereto concerning this
19 Stipulation, its exhibits, or the Supplemental Agreement other than those contained and
20 memorialized in such documents.

21 50. This Stipulation may be executed in one or more counterparts, including
22 by signature transmitted via facsimile, or by a .pdf/.tif image of the signature
23 transmitted via email. All executed counterparts and each of them shall be deemed to
24 be one and the same instrument.

25 51. This Stipulation shall be binding upon and inure to the benefit of the
26 successors and assigns of the Parties, including any and all Releasees and any
27

1 corporation, partnership, or other entity into or with which any Party hereto may merge,
2 consolidate, or reorganize.

3 52. The construction, interpretation, operation, effect and validity of this
4 Stipulation, the Supplemental Agreement and all documents necessary to effectuate it
5 shall be governed by the internal laws of the State of California without regard to
6 conflicts of laws, except to the extent that federal law requires that federal law govern.

7 53. Any action arising under or to enforce this Stipulation or any portion
8 thereof, shall be commenced and maintained only in the Court.

9 54. This Stipulation shall not be construed more strictly against one Party than
10 another merely by virtue of the fact that it, or any part of it, may have been prepared
11 by counsel for one of the Parties, it being recognized that it is the result of arm's-length
12 negotiations between the Parties and all Parties have contributed substantially and
13 materially to the preparation of this Stipulation.

14 55. All counsel and any other person executing this Stipulation and any of the
15 exhibits hereto, or any related Settlement documents, warrant and represent that they
16 have the full authority to do so and that they have the authority to take appropriate
17 action required or permitted to be taken pursuant to the Stipulation to effectuate its
18 terms.

19 56. Class Counsel and Defendants' Counsel agree to cooperate fully with one
20 another in seeking Court approval of the Preliminary Approval Order and the
21 Settlement, as embodied in this Stipulation, and to use best efforts to promptly agree
22 upon and execute all such other documentation as may be reasonably required to obtain
23 final approval by the Court of the Settlement.

24 57. If any Party is required to give notice to another Party under this
25 Stipulation, such notice shall be in writing and shall be deemed to have been duly given
26 upon receipt of hand delivery or facsimile or email transmission, with confirmation of
27 receipt. Notice shall be provided as follows:

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

If to Class Representatives or
Class Counsel:

Kessler Topaz Meltzer & Check, LLP
Attn: Joshua E. D’Ancona, Esq.
280 King of Prussia Road
Radnor, PA 19087
Tel: (610) 667-7706
Fax: (610) 667-7056
Email: jdancona@ktmc.com

-and-

Nix Patterson, LLP
Attn: Jeffrey J. Angelovich, Esq.
3600 N. Capital of Texas Hwy.
Suite B350
Austin, TX 78746
Tel: (512) 328-5333
Fax: (512) 328-5332
Email: jangelovich@nixlaw.com

If to Defendants SeaWorld
Entertainment, Inc., James M.
Heaney, Marc Swanson, and
The Blackstone Group Inc.:

Simpson Thacher & Bartlett LLP
Attn: Jonathan K. Youngwood, Esq.
425 Lexington Avenue
New York, NY 10017
Tel: (212) 455-2000
Fax: (212) 455-2502
Email: jyoungwood@stblaw.com

If to Defendant James
Atchison:

Katten Muchin Rosenman LLP
Attn: Michael J. Diver, Esq.
525 W. Monroe Street
Chicago, IL 60661-3693
Tel: (312) 902-5200
Fax: (312) 902-1061
Email: michael.diver@katten.com

58. Except as otherwise provided herein, each Party shall bear its own costs.

59. Whether or not the Stipulation is approved by the Court and whether or not the Stipulation is consummated, or the Effective Date occurs, the Parties and their counsel shall use their best efforts to keep all negotiations, discussions, acts performed,

1 agreements, drafts, documents signed, and proceedings in connection with the
2 Stipulation confidential.

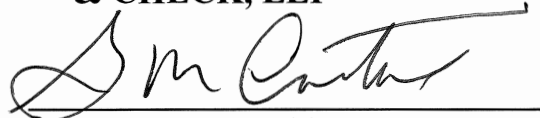
3 60. All agreements made and orders entered during the course of this Action
4 relating to the confidentiality of information shall survive this Settlement.

5 61. No opinion or advice concerning the tax consequences of the proposed
6 Settlement to individual Class Members is being given or will be given by the Parties
7 or their counsel; nor is any representation or warranty in this regard made by virtue of
8 this Stipulation. Each Class Member's tax obligations, and the determination thereof,
9 are the sole responsibility of the Class Member, and it is understood that the tax
10 consequences may vary depending on the particular circumstances of each individual
11 Class Member.

12 **IN WITNESS WHEREOF**, the Parties hereto have caused this Stipulation to
13 be executed, by their duly authorized attorneys, on February 10, 2020.

14 Dated: February 10, 2020

**KESSLER TOPAZ MELTZER
& CHECK, LLP**



Gregory M. Castaldo
Joshua E. D'Ancona
Joshua A. Materese
Samuel C. Feldman
280 King of Prussia Road
Radnor, PA 19087
Tel: (610) 667-7706
Fax: (610) 667-7056
gcastaldo@ktmc.com
jdancona@ktmc.com
jmaterese@ktmc.com
sfeldman@ktmc.com


-and-

Stacey M. Kaplan (Bar No. 241989)

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

One Sansome Street, Suite 1850
San Francisco, CA 94104
Tel: (415) 400-3000
Fax: (415) 400-3001
skaplan@ktmc.com

NIX PATTERSON, LLP



Jeffrey J. Angelovich
Bradley E. Beckworth
Cody L. Hill
3600 N. Capital of Texas Hwy.,
Suite B350
Austin, TX 78746
Tel: (512) 328-5333
Fax: (512) 328-5332
jangelovich@nixlaw.com
bbeckworth@nixlaw.com
codyhill@nixlaw.com

-and-

Susan Whatley
P.O. Box 178
Linden, TX 75563
Tel: (903) 215-8310
swhatley@nixlaw.com

*Co-Class Counsel for Class Representatives
and the Class*

**NOONAN LANCE BOYER
& BANACH LLP**

David J. Noonan (Bar No. 55966)
Ethan T. Boyer (Bar No. 173959)
701 Island Avenue, Suite 400
San Diego, CA 92101
Tel: (619) 780-0880
dnoonan@noonanlance.com
eboyer@noonanlance.com

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Liaison Counsel for the Class

KEIL & GOODSON P.A.
John C. Goodson
406 Walnut Street
Texarkana, AR 71954
Tel: (870) 772-4113
jcgoodson@kglawfirm.com

GRANT & EISENHOFER P.A.
Jeff A. Almeida
123 Justison Street
7th Floor
Wilmington, DE 19801
Tel: (302) 622-7000
Fax: (302) 622-7100
jalmeida@gelaw.com

Additional Counsel for Class Representatives

**SIMPSON THACHER
& BARTLETT LLP**



Jonathan K. Youngwood (*pro hac vice*)
Brooke Cucinella (*pro hac vice*)
Janet A. Gochman (*pro hac vice*)
Isaac M. Rethy (*pro hac vice*)
Meredith D. Karp (*pro hac vice*)
425 Lexington Avenue
New York, NY 10017
Tel: (212) 455-2000
Fax: (212) 455-2502
jyoungwood@stblaw.com
jgochman@stblaw.com
irethy@stblaw.com
meredith.karp@stblaw.com

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

-and-

Chet A. Kronenberg
1999 Avenue of the Stars
29th Floor
Los Angeles, CA 90067
Tel: (310) 407-7500
Fax: (310) 407-7502
ckronenberg@stblaw.com

*Attorneys for Defendants SeaWorld
Entertainment, Inc., James M. Heaney, Marc
Swanson, and The Blackstone Group Inc.*

KATTEN MUCHIN ROSENMAN LLP



Michael J. Diver (*pro hac vice*)
Gil M. Soffer
Michael J. Lohnes (*pro hac vice*)
525 W. Monroe Street
Chicago, IL 60661-3693
Tel: (312) 902-5200
Fax: (312) 902-1061
michael.diver@katten.com

-and-

Richard H. Zelichov
2029 Century Park East
Suite 2600
Los Angeles, CA 90067-3012
Tel: (310) 788-4400
Fax: (310) 712-8433
richard.zelichov@katten.com

Attorneys for Defendant James Atchison

Appendix 1

List of Persons and Entities Excluded From the Class

Number	Name	Name 2	City	State
1	Paul James Taylor		Port Saint Lucie	FL
2	Danielle A. Someson Trustee	Danielle A. Someson Trust	San Marcos	CA
3	Frederick Douglas Jacobs		Harleysville	PA
4	Highfields Funds	c/o Lowenstein Sandler LLP New York, NY 10020	Boston	MA
5	Steven Mandel		Los Angeles	CA