

**NOTICE OF PROPOSED CLASS ACTION SETTLEMENT**

*Rabanal v. P.F. Chang's Bistro, Inc., et al.*

**Alameda County Superior Court**

**Case No. RG17851208**

**READ THIS NOTICE CAREFULLY YOUR LEGAL RIGHTS MAY BE AFFECTED**

All natural persons who, while residing or located in California, placed a call to a P.F. Chang's or Pei Wei Asian Diner toll-free telephone number at any time during the period March 1, 2016 through September 20, 2017, inclusive, and spoke with a representative, may be entitled to money from a class action settlement. Please read the rest of this Notice to find out more.

**YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT**

<b>Participate in the Settlement</b>	If you wish to receive a Settlement Payment, read this Notice for information on how to file a claim. If you do not file a Claim Form by October 5, 2018, you will not receive a Settlement Payment.
<b>Exclude Yourself from the Settlement</b>	If you do not want to participate in the settlement, you must send a letter requesting exclusion postmarked no later than October 5, 2018 or else you will be bound by the settlement.
<b>Object to the Settlement</b>	If you wish to object to the settlement, you must follow the directions in this Notice. The deadline to object is October 5, 2018.
<b>File a Motion to Intervene</b>	If you wish to intervene in the settlement, you must file a motion to intervene with the Alameda County Superior Court and serve a copy of the motion to the attorneys in this action by no later than October 5, 2018 and have the motion heard by no later than November 13, 2018, the date of the final fairness hearing.
<b>Participate in the Hearing</b>	If you submit a timely objection to the settlement, you may also indicate in the objection whether you wish to appear in court and be heard at the time of the final fairness hearing.
<b>Do Nothing</b>	If you do nothing with respect to this Notice, you will not receive any Settlement Payment and you will be bound by the terms of the settlement including the release of claims described below.

**THESE RIGHTS AND OPTIONS, INCLUDING THE DEADLINES BY WHICH TO EXERCISE THEM, ARE EXPLAINED BELOW**

**What is the Case About?**

This class action case ("the Action") alleges that Defendants (collectively, "P.F. Chang's" or "Defendants") violated California laws that prohibit the recording of telephone calls without notice to or consent of callers. **The case covers calls made by natural persons who, while residing or located in California, placed a call to a P.F. Chang's or Pei Wei Asian Diner toll-free telephone number at any time during the period March 1, 2016 through September 20, 2017, inclusive, and spoke with a representative.**

**What is a Class Action?**

In a class action, one or more people called Class Representatives (in this case, Geomar Rabanal) sue on behalf of people who have similar claims.

**Am I a Class Member?**

You are a Class Member if you are a natural person who called a P.F. Chang's and/or Pei Wei Asian Diner toll-free telephone number during the period March 1, 2016 through September 20, 2017, inclusive (the "Class Period"), while you were physically located in California and spoke with a representative.

**Defendants have a record of telephone numbers that called P.F. Chang's and Pei Wei Asian Diner toll-free telephone numbers during the Class Period. If you received notice of this proposed settlement by U.S. mail, there are records indicating that a telephone number associated with your name placed a qualified call during the Class Period. You may be a Class Member even if you did not receive a notice of this proposed settlement by U.S. mail. If you are not sure whether you qualify, you can contact the Claims Administrator by calling 1-888-564-2634 or by email at [info@pfchangscallrecordingsettlement.com](mailto:info@pfchangscallrecordingsettlement.com) to ask whether your telephone number or numbers appear on the list of calls routed through the call recording system during the Class Period.**

**Why is There a Settlement?**

Both sides agreed to a settlement to avoid the uncertainty and cost of further litigation and a trial, and to provide benefits to Class Members promptly. The terms of the settlement are set forth in the Settlement Agreement and Release, which you may access through the settlement website, [www.PFCHANGSCallRecordingSettlement.com](http://www.PFCHANGSCallRecordingSettlement.com), by calling 1-888-564-2634, by writing to the Claims Administrator at P.F. Chang's Call Recording Settlement Claims Administrator, c/o KCC Class Action Services, P.O. Box 404000, Louisville, KY 40233-4000, or by accessing the Court docket in this case through the Court's website at <https://publicrecords.alameda.courts.ca.gov/prs> and clicking on the "Case Number Search" hyperlink at the top. Where it says "Case Number," type "RG17851208" leaving the case type as General Civil. The Court did not decide in favor of the Class Representative, Class Members or Defendants, and P.F. Chang's denies any liability or wrongdoing of any kind associated with the claims in this class action.

### **What Can I Get From The Settlement?**

P.F. Chang's has agreed to create a settlement fund of \$2,728,000. After class action notice and administration fees and costs, a service payment to the Class Representative, and Class Counsel's attorneys' fees and costs are deducted, the entire remaining amount will be divided up amongst all Class Members who submit timely and valid Claim Forms based on the number of qualified calls made by those Class Members. Although the actual amount paid out to individual Class Members will depend on the number of Class Members who submit timely and valid Claims Forms, based on claims rates in similar cases, it is estimated that each Class Member who submits a timely and valid Claim Form will receive approximately **\$150 per qualified call**, but not more than \$5,000 per qualified call, although the actual amount may be more or less than \$150.

**The Claims Administrator can verify the number of telephone calls made by each telephone number during the Class Period. If you would like information regarding the number of telephone calls associated with your claim, you can contact the Claims Administrator by calling 1-888-564-2634 or by email at [info@pfchangscallrecordingsettlement.com](mailto:info@pfchangscallrecordingsettlement.com).**

### **How Do I Dispute the Number of Qualifying Calls That I Made**

**If you would like to dispute the number of telephone calls associated with your telephone number or numbers, you should contact the Claims Administrator by telephone 1-888-564-2634 or email [info@pfchangscallrecordingsettlement.com](mailto:info@pfchangscallrecordingsettlement.com) to submit a dispute. You may be required to provide proof of your telephone calls to Defendants during the Class Period. All disputes must be submitted by October 5, 2018, which is the deadline to submit a claim. The Claims Administrator shall make a final and binding resolution of all disputes.**

### **What Do I Need to Do To Receive a Settlement Payment?**

**You must complete a Claim Form and return it to the Claims Administrator on time.** You may obtain a hard copy Claim Form from the Settlement Website, [www.PFCHANGSCallRecordingSettlement.com](http://www.PFCHANGSCallRecordingSettlement.com), by calling 1-888-564-2634, or by writing to the Claims Administrator at P.F. Chang's Call Recording Settlement Claims Administrator, c/o KCC Class Action Services, P.O. Box 404000, Louisville, KY 40233-4000. You also may submit a completed Claim Form online at the Settlement Website, [www.PFCHANGSCallRecordingSettlement.com](http://www.PFCHANGSCallRecordingSettlement.com). **In order to submit a Claim Form online, please provide your 8-digit Claim ID# that can be found on the postcard notice you may have received. If you do not have a claim ID or PIN code, please contact the Claims Administrator by telephone 1-888-564-2634 or email [info@pfchangscallrecordingsettlement.com](mailto:info@pfchangscallrecordingsettlement.com).** A Claim Form will not be considered timely unless it is returned to the Claims Administrator online or sent by mail postmarked no later than October 5, 2018.

### **What Am I Giving Up to Get Settlement Benefits or Stay In the Class?**

Unless you exclude yourself, as described below, you will remain in the Class and be bound by the terms of the settlement and all of the Court's orders regardless of whether you submit a Claim Form. This means that you can't sue or be part of any other lawsuit against Defendants or other Released Parties (defined below) about the issues in this case. Staying in the Class also means that you agree to the following release of claims, which describes the legal claims that you give up:

**Release by the Settlement Class.** Upon entry of the Final Approval Order and Judgment, the Settlement Class Representative and each Settlement Class Member, and their respective heirs, assigns, successors, agents, attorneys, executors, and representatives, shall be deemed to have and by operation of this Agreement and the Final Approval Order and Judgment shall have, fully, finally, irrevocably, and forever, released P.F. Chang's China Bistro, Inc., P.F. Chang's III, LLC, Pei Wei Asian Diner, LLC, Contact One Call Center, Inc. and, for each, its past or present direct and indirect parents, affiliates and subsidiaries (whether or not wholly owned) and their respective directors, officers, employees, agents, insurers, shareholders, members, attorneys, advisors, consultants, representatives, affiliates, related companies, parents, subsidiaries (whether or not wholly owned), joint ventures, divisions, predecessors, successors, and assigns and each of them (collectively, the "Released Parties") from any and all liabilities, claims, causes of action, damages (whether actual, compensatory, statutory, punitive or of any other type), penalties, costs, attorneys' fees, losses, or demands, whether known or unknown, in law or equity, existing or suspected or unsuspected, that were or reasonably could have been asserted based on the factual allegations contained in the First Amended Complaint, or that relate to or arise out of the alleged recording, monitoring, or eavesdropping on telephone calls made to Defendants' or Pei Wei's toll-free telephone numbers through September 20, 2017 (collectively, the "Released Claims"). The Released Claims include, but are not limited to, claims that were or reasonably could have been asserted based on the factual allegations contained in the First Amended Complaint concerning P.F. Chang's and Pei Wei's violations of any law prohibiting or regulating the monitoring, recording or eavesdropping on telephone calls without the consent of all parties, including but not limited to any claims under California Penal Code §§ 632, 632.7 and 637.2. The Released Claims also include but are not limited to claims under any other California or federal statute, code, rule or regulation that regulates or restricts the monitoring, recording or eavesdropping of telephone calls; however, Contact One's release shall only be with respect to calls that Contact One handled for the restaurant chains P.F. Chang's and Pei We and shall not apply to any other calls handled by Contact One.

### **When Can I Expect To Receive My Settlement Payment?**

The Court will hold a hearing on November 13, 2018, to decide whether to give final approval to the settlement. If the settlement is finally approved, payments may be made as soon as 108 days after this date but, depending on what happens in the case, payments may be delayed. You will be kept informed of the progress of the settlement through the dedicated settlement website at [www.PFCHANGSCallRecordingSettlement.com](http://www.PFCHANGSCallRecordingSettlement.com). Please be patient.

### **Can I Exclude Myself From the Settlement?**

If you want to keep the right to sue Defendants or any of the Released Parties on your own at your own expense about the issues in this case, then you **must** take steps to exclude yourself from the settlement. This is also called “opting out” of the settlement. To exclude yourself from the settlement, you must send a letter by first class United States mail to the Claims Administrator, containing: (1) the title of the Action; (2) your full name, address, and telephone number; (3) a statement that you request to be excluded from the Settlement Class; and (4) the telephone number(s) that you claim to have used in making a call covered by this class action settlement. Be sure to include your name, address, telephone number, and signature. Your letter requesting exclusion from the settlement **must** be postmarked no later than October 5, 2018 and mailed to:

P.F. Chang’s Call Recording Settlement Exclusions  
c/o KCC Class Action Services  
P.O. Box 404000  
Louisville, KY 40233-4000

If you request exclusion from the settlement, you will not get any settlement benefits, and you cannot object to the terms of the settlement. You will not be legally bound by anything that happens in this lawsuit.

### **If I Don’t Exclude Myself, Can I Sue the Defendants for the Same Thing Later?**

No. Unless you exclude yourself, you **give up any right** to sue Defendants and any of the Released Parties for the claims that this settlement resolves. If you have a pending lawsuit covering these same claims, speak to your lawyer in that case immediately. You must exclude yourself from this settlement to continue your own lawsuit.

### **Do I Have a Lawyer in the Case?**

The Court has appointed Eric A. Grover of Keller Grover, LLP and Scot Bernstein of Law Offices of Scot D. Bernstein, A Professional Corporation to represent you and other Class Members as Class Counsel. They will be paid from the settlement fund and you will not be charged for this. If you want to be represented by your own lawyer, you may hire one at your own expense.

### **How Will the Lawyers and the Class Representatives Be Paid?**

Class Counsel will ask the Court to approve payment of up to \$909,333 (one-third of the \$2,728,000 settlement fund) in attorneys’ fees and an additional amount for out-of-pocket costs, which is estimated not to exceed \$35,000. The fees would pay Class Counsel for investigating the facts, litigating the case, negotiating the settlement, and following through to make sure that its terms are carried out. Class Counsel also will ask the Court to approve a payment of \$7,500 to the named plaintiff for his service as Class Representative. The Court may award less than these amounts. These amounts, along with the costs of settlement notice and administration, which are estimated not to exceed \$150,000, will be paid out of the \$2,728,000 settlement fund. Class Counsel will file with the Court their motion for award of attorneys’ fees, litigation costs, administration costs and Class Representative’s service payment no later than October 25, 2018.

### **How Do I Tell the Court That I Don’t Like the Settlement?**

You can ask the Court to deny approval by filing an objection. If the Court denies approval, no settlement payments will be sent out and the lawsuit will continue.

Any objection to the proposed settlement must be in writing. All written objections and supporting papers must include: (1) the name and case number of the lawsuit (*Rabanal. v. P.F. Chang’s China Bistro, Inc., et al.*, Alameda County Superior Court Case No. RG17851208); (2) the objector’s full name and postal address; (3) a statement as to the basis of the objector’s belief that he or she is a member of the Settlement Class; (4) all grounds for the objection including, if available, the factual and legal bases for the objection known to the objector or his or her counsel and the relief the objector is seeking; (5) the identity, postal address, and telephone number for all counsel who represent the objector, if any; and (6) a statement confirming whether the objector or the objector’s counsel intends to appear personally at the final fairness hearing.

Objections must be submitted to the Claims Administrator by mailing them to P.F. Chang’s Call Recording Settlement Objections, c/o KCC Class Action Services, P.O. Box 404000 Louisville, KY 40233-4000. Objections must be postmarked on or before October 5, 2018 to be considered timely.

Motions to intervene must be filed with the Alameda County Superior Court and a copy of such motions, as well as any supporting papers submitted to the Court, must be served on the following counsel:

Eric A. Grover, Esq.  
KELLER GROVER, LLP  
1965 Market Street  
San Francisco, California 94103

Michelle Doolin, Esq.  
Darcie Tilly, Esq.  
COOLEY LLP  
4401 Eastgate Mall  
San Diego, California 92121

Additionally, all motions to intervene must be set for hearing in Department 23 of the Alameda County Superior Court and scheduled to be heard no later than the date of the final fairness hearing.

### **What's the Difference Between Objecting and Excluding?**

Objecting is telling the Court that you don't like something about the settlement. You can object only if you stay in the Class. If you object, you must still submit a timely Claim Form if you want to receive the benefits of the settlement in the event the objection is overruled and the settlement is approved. Excluding yourself is telling the Court that you don't want to be part of the Class. If you exclude yourself, you have no basis to object because the case no longer affects you. You cannot both object to and exclude yourself from the settlement. Any persons who attempt both to object to and exclude themselves from the settlement will be deemed to have excluded themselves and will forfeit the right to object to or participate in the settlement or any of its terms. You cannot both opt-out and submit a Claim Form. If you submit a timely Claim Form and opt-out request, the opt-out request shall be deemed void and the Claim Form will be processed under the terms of this Settlement Agreement and Release.

### **When and Where Will the Court Decide Whether to Approve the Settlement?**

The Court will hold a final fairness hearing regarding the settlement at 3:00 p.m. on November 13, 2018 at the Alameda County Superior Court, Department 23, 1221 Oak Street, Oakland, California. At that hearing, the Court will consider whether the settlement is fair, reasonable, and adequate. If there are objections, the Court will consider them. The Court will listen to people who have asked to speak at the hearing. The Court also will decide how much to pay to Class Counsel, the Class Representative, and the Claims Administrator. The Court will also determine whether it is appropriate to distribute any leftover settlement funds to the designated cy pres beneficiary, the non-profit group Consumer Federation of California. After the hearing, the Court will decide whether to approve the settlement. Class Counsel do not know how long those decisions will take.

The final fairness hearing date or time may be changed without further notice. Any change to the final fairness hearing date or time will be posted on the Settlement Website, [www.PFCHANGSCallRecordingSettlement.com](http://www.PFCHANGSCallRecordingSettlement.com).

### **Do I Have to Come to the Hearing?**

No. Class Counsel will answer questions the Court may have. But you are welcome to come at your own expense. If you submit an objection, you don't have to come to Court to talk about it. As long as you file your written objection on time, the Court will consider it. You also may have your own lawyer attend at your own expense but doing so is not necessary.

You may ask the Court for permission to address any objection you may have to the settlement at the final fairness hearing. To do so, you must submit a timely objection and include a statement that you intend to appear at the final fairness hearing.

### **What Happens if I Do Nothing At All?**

If you do nothing, you will remain in the Settlement Class and will be bound by the terms of the settlement and all of the Court's orders including the Release. This also means that you will not receive any settlement benefits and can't sue or be part of any other lawsuit against Defendant or the Released Parties about the issues in this case.

### **Are There More Details About the Settlement?**

This notice summarizes the proposed settlement. For the precise terms and conditions of the settlement, please see the Settlement Agreement and Release. You can get a copy of the Settlement Agreement and Release and other case documents through the settlement website, [www.PFCHANGSCallRecordingSettlement.com](http://www.PFCHANGSCallRecordingSettlement.com), by calling 1-888-564-2634 or by writing to the Claims Administrator at P.F. Chang's Call Recording Settlement Claims Administrator, c/o KCC Class Action Services, P.O. Box 404000 Louisville, KY 40233-4000.

**You may review documents online by accessing the Alameda County Superior Court's public website, known as "Domain Web," at <https://publicrecords.alameda.courts.ca.gov/prs> and click on the "Case Number Search" hyperlink at the top. Where it says "Case Number," type "RG17851208" leaving the case type as General Civil. Your browser will be directed to information regarding this case. You may view the Court's docket from here, including but not limited to documents filed with the Court (see the "Register of Actions" tab), ruling and orders, and other information.**

You also can contact Class Counsel:

Eric A. Grover, Esq.  
KELLER GROVER, LLP  
1965 Market Street  
San Francisco, California 94103  
Telephone: 415-543-1305  
Facsimile: 415-543-7861  
eagrover@kellergrover.com

Scot Bernstein, Esq.  
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101 Parkshore Drive, Suite 100  
Folsom, California 95630  
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swampadero@sbernsteinlaw.com

**PLEASE DO NOT CALL THE COURT, THE COURT CLERK'S OFFICE, DEFENDANTS OR DEFENDANTS' COUNSEL WITH ANY QUESTIONS RELATED TO THE SETTLEMENT.**