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16 *Attorneys for Plaintiffs and the Certified Classes*

17 **UNITED STATES DISTRICT COURT**
18 **NORTHERN DISTRICT OF CALIFORNIA**
19 **SAN JOSE DIVISION**

20 ABDUL NEVAREZ and PRISCILLA NEVAREZ,
on behalf of themselves and all others similarly
21 situated, and SEBASTIAN DEFRANCESCO,
22 Plaintiffs,
23 vs.
24 FORTY NINERS FOOTBALL COMPANY, LLC,
a Delaware limited liability company, et al.,
25 Defendants.
26

Case No.: 5:16-cv-07013-LHK (SVK)

**STIPULATION AND [PROPOSED] ORDER
REGARDING CLAIMS REVIEW PROCESS
AND DISTRIBUTION DEADLINES**

Dept: Courtroom 8
Before: Hon. Lucy H. Koh

1 **THIS STIPULATION** is hereby entered into by and between Plaintiffs Abdul Nevarez,
2 Priscilla Nevarez, and Plaintiff Sebastian DeFrancesco on behalf of themselves and all others similarly
3 situated, and Defendants Forty Niners Football Company LLC, Forty Niners SC Stadium Company
4 LLC, Forty Niners Stadium Management Company LLC, the City of Santa Clara and the Santa Clara
5 Stadium Authority (collectively referred to as the “Parties”), by and through their respective counsel of
6 record, as follows:

7 **WHEREAS**, the Settlement Agreement (ECF No. 372-2) provides that by October 26, 2020
8 (“[n]o later than thirty (30) days after the completion of the Claims Determination process,” September
9 26, 2020, which is 90 days after the March 30, 2020 Settlement Notice Date), “the Settlement
10 Administrator shall cause the distribution of damages awards ... to Eligible Claimants.” *See* ECF No.
11 375-2 at § VIII.A.3.

12 **WHEREAS**, the Settlement Agreement contemplates that in reviewing submitted claims,
13 Settlement Administrator KCC will: *first* “review all Claim Forms to determine if the form is filled out
14 completed and is signed properly,” notify the claimant of incomplete or unsigned claims, and give the
15 claimant thirty (30) days to cure the deficiency, *see* ECF No. 375-2 § VII.F (Settlement, Review of
16 Claim Forms); and *second* “conduct an assessment of all Claim Forms to determine whether they
17 present valid claims in accordance with the terms and provisions of [the Settlement] Agreement”
18 (“Validity Review”), *see id.* § VII.G (Settlement, Approval of Claims). If “the Settlement
19 Administrator is unable to determine the validity of the claim,” KCC will notify the claimant in writing
20 and the claimant will be given thirty (30) days “to supplement or amend their Claim Form or provide
21 such other information supporting the validity of [their] claim,” *see id.* § VII.H (Settlement, Disputed
22 Claims).

23 **WHEREAS**, upon review of all claims received, KCC has alerted the Parties of a significant
24 number of claims submitted online by individuals outside California who were not previously known
25 to the Parties (*i.e.*, had not been identified in the Forty Niner Defendants’ records and had not
26 previously contacted Class Counsel regarding the case).

1 **WHEREAS**, the Parties have conferred and agree that it is in the Damages Class Members’
2 best interest to ensure the Settlement Administrator’s review for validity is careful, defined, and
3 thorough in order to avoid dilution of the damages awards owed to legitimate Damages Class
4 Members.

5 **NOW, THEREFORE, IT IS HEREBY STIPULATED** as follows:

6 Subject to the Court’s approval, the Parties agree that the claim-validity review procedures and
7 award-distribution deadline shall be modified slightly, as outlined below:

8 1. By September 4, 2020, KCC shall complete the Validity Review and request by letter
9 any information it believes is necessary to determine the validity of vague or suspect claims, including
10 but not limited to the following:

11 a. The event description(s) and/or date(s) provided on the completed Claim Form
12 do not match (even approximately, *i.e.* within correct month and year) Defendants’ records of Stadium
13 events and the dates they occurred during the Damages Class Period;

14 b. The barrier description does not contain any of the agreed-upon key terms
15 related to the physical or ticketing access barriers challenged in the case and addressed by the
16 Settlement;

17 c. The claimant is an individual previously unknown to the Parties, *i.e.* not listed in
18 Defendants’ records or Class Counsel’s records of class member communications; and whose claim
19 exhibits one of the following indicia of potential fraud:

20 i. The claimant is an individual who appears in the Settlement
21 Administrator’s records of “frequent [class-action claim] filers”; or

22 ii. the claimant resides outside California (based on the mailing address in
23 their completed claim form), submitted an electronic claim form on the Settlement Website, and their
24 claim meets one or more of the following criteria:

25 (1) the claim is one of two or more submitted from the same Internet
26 Protocol Address;

1 (2) the claim is one of two or more submitted from the same mailing
2 address with the same name or variations of the same name;

3 (3) the claim is one of two or more submitted with the same name
4 and variations of the same address; or

5 (4) the claim is one of two or more submitted with the same Social
6 Security number.

7 2. By September 4, 2020, KCC will cause to be mailed a validity review letter to all
8 claimants who meet one or more of the above criteria, which shall:

9 a. For claims meeting criteria in Section 2.a above, notify the claimant that the
10 event described on their claim form does not match Defendants' records and provide the claimant the
11 opportunity to supplement the claim form with additional/corrected event information;

12 b. For claims meeting criteria in Section 2.b above, notify the claimant that the
13 physical or ticketing access barrier(s) described on their claim form does not match the Settlement
14 Administrator's records of key barriers and provide the claimant the opportunity to supplement the
15 claim form with additional/corrected barrier information;

16 c. For claims meeting criteria in Section 2.c above, notify the claimant that
17 additional documentation is requested to help establish the claimant's class membership and validate
18 their claim, and request that the claimant provide any of the following documentation or contact Class
19 Counsel if they have questions or do not have the requested documentation which may include, *inter*
20 *alia*, the following:

21 i. Ticket stub(s) or receipts or confirmation emails;

22 ii. Travel documentation showing that the claimant visited Santa Clara,
23 California around the event date;

24 iii. Receipts to Stadium or nearby concessions, bars, restaurants, gift shops,
25 etc.; or

26 iv. Photographs documenting the claimant's visit to the Stadium (along with
27 photo identification demonstrating the claimant is the individual in the photographs);
28

1 3. All letters sent as a result of the Validity Review shall contain a postage prepaid return
 2 envelope and shall notify claimants that responses must be postmarked or submitted electronically (to
 3 the Settlement Administrator’s case email address) by Monday, October 5, 2020;

4 4. Class Counsel will be available to answer claimant questions regarding the additional
 5 information or documentation requested; in the event the claimant is not able to provide the additional
 6 information or documentation requested, Class Counsel will conduct a short interview to help verify
 7 the claimant’s class membership and the validity of their claim and will share their impressions with
 8 the Settlement Administrator;

9 5. Class Counsel will not seek compensation for work related to claim processing and
 10 validation.

11 6. By November 20, 2020, the Settlement Administrator shall complete final review to
 12 determine validity of all claims;

13 7. By December 18, 2020, the Settlement Administrator shall cause the distribution of
 14 damages awards to eligible claimants with valid claims;

15 8. Except as provided herein, the Damages Allocation procedure shall not otherwise vary
 16 from the allocation procedures described in the Settlement Agreement, ECF No. 375-2, at § VII.A-B;

17 9. The claim review and distribution schedule shall be modified as described above and
 18 specifically as follows:

	Prior Deadline	Modified Deadline
Settlement Administrator’s completion of review of claims for validity	September 26, 2020	November 20, 2020
Damage Award distribution	October 26, 2020	December 18, 2020
Post-Distribution Accounting to be filed with Court	November 16, 2020	January 8, 2020

1 Dated: August 19, 2020

Respectfully submitted,

2 GOLDSTEIN, BORGEN, DARDARIAN & HO

3
4 /s/ Andrew P. Lee

Andrew P. Lee

5 Attorneys for Plaintiffs and the Certified Classes

6 Dated: August 19, 2020

RANKIN, SHUEY, RANUCCI, MINTZ, LAMPASONA &
7 REYNOLDS

8
9 /s/ Maria Lampasona

Maria Lampasona

10 Attorneys for Defendants

11 FORTY NINERS FOOTBALL COMPANY LLC, FORTY
12 NINERS SC STADIUM COMPANY, LLC, FORTY
13 NINERS STADIUM MANAGEMENT COMPANY, LLC
14 CITY OF SANTA CLARA, SANTA CLARA STADIUM
AUTHORITY

SIGNATURE ATTESTATION

15 The e-filing attorney hereby attests that concurrence in the content of the document and
16 authorization to file the document has been obtained from each of the other signatories indicated by a
17 conformed signature (/s/) within this e-file document.

18
19 Dated: August 19, 2020

/s/ Andrew P. Lee

Andrew P. Lee

20
21
22 **PURSUANT TO STIPULATION, IT IS SO ORDERED.**

23
24 Dated: _____

25 Hon. Lucy H. Koh

United States District Judge