

IN THE CIRCUIT COURT OF THE 17TH JUDICIAL CIRCUIT
IN AND FOR BROWARD COUNTY, FLORIDA

CASE NO. CACE19022989 DIVISION 13 JUDGE Michael Robinson

Jennifer Orsi

Plaintiff(s) / Petitioner(s)

v.

SP Plus Corporation, et al

Defendant(s) / Respondent(s)

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**ORDER CERTIFYING SETTLEMENT CLASS AND PRELIMINARILY
APPROVING CLASS ACTION SETTLEMENT AND NOTICE OF FAIRNESS
HEARING**

This matter came before the Court upon the Parties' Joint Motion for Preliminary Approval of Proposed Class Action Settlement. Having reviewed the record, conducted a hearing on May 28, 2021, and being otherwise fully advised in the premises, it is:

ORDERED that the Joint Motion for Preliminary Approval of Proposed Class Action Settlement is GRANTED as follows:

Preliminary Approval of the Proposed Settlement

1. The Court has jurisdiction over the subject matter of this Action, and over the parties and the Settlement Class (as defined below).
2. The Court preliminarily approves the proposed settlement as set forth in the Settlement Agreement, including its Exhibits. Capitalized terms not otherwise defined in this Order shall have the same meanings as given them in the Settlement Agreement.
3. The Court finds that:
 - a. The proposed settlement resulted from extensive arm's-length negotiations,

including a formal mediation before Rodney Max, Esq., which, after months of follow up sessions both with and without Mr. Max, resulted in a signed settlement agreement to compromise and settle all claims asserted in the Action, and which was concluded only after Class Counsel had duly investigated the issues raised by Plaintiff's claims;

- b. The proposed settlement of the Action makes available valuable consideration commensurate with the harm alleged by Plaintiff; and
- c. The proposed settlement is sufficiently fair, reasonable and adequate that notice of certification of the Settlement Class and of preliminary approval of the proposed settlement shall be given as set forth in the Settlement Agreement and that a final hearing on the proposed settlement shall be held.

Certification of the Settlement Class

4. For purposes of settlement of this action, and pursuant to Florida Rule of Civil Procedure 1.220(b)(3), the following Class is certified for purposes of settlement only:

all persons who purchased parking from Broward County at the Airport, at any time during the Class Period, and who paid by using a personal credit or debit card (not a business credit or debit card) at a location that printed customer receipts containing the expiration date or more than the last five digits of such credit or debit card number.

5. The Court further finds for purposes of the settlement of this action (and only for such purposes, and without an adjudication of the merits or a determination of whether a class should be certified if the settlement is not approved or does not otherwise become final), that the requirements of the Florida Rules of Civil Procedure and any other applicable law have been met in that (a) the members of the Settlement Class are so numerous that separate joinder of each member is impracticable, (b) the claims or defenses of

representative parties raise questions of law or fact common to the questions of law or fact raised by the claims or defenses of each member of the Settlement Class, (c) the claims or defenses of the representative parties are typical of the claims or defenses of each member of the Settlement Class, (d) the representative parties can fairly and adequately protect and represent the interests of each member of the Settlement Class, and (e) the questions of law or fact common to the claims or defenses of the representative parties and the claims or defenses of each member of the Settlement Class predominate over any questions of law or fact affecting only individual members of the Settlement Class, and class representation is superior to other available methods for the fair and efficient adjudication of the controversy. In making the above findings, the Court also notes that, because this action is being settled rather than litigated, the Court need not consider manageability issues that might be presented in this case. See *Amchem Prods., Inc. v. Windsor*, 117 S. Ct. 2231, 2248 (1997).

6. In making these findings with respect to certification for settlement purposes of the Settlement Class, the Court has also considered, among other factors, (i) the interests of members of the Settlement Class in individually controlling the prosecution or defense of separate actions; (ii) the impracticability or inefficiency of prosecuting or defending separate actions; (iii) the extent and nature of any litigation concerning these claims already commenced; and (iv) the desirability of concentrating the litigation of the claims in a particular forum.
7. Plaintiff Jennifer Orsi is appointed Class Representative for the Class (as defined above) for the purpose of seeking approval of the settlement of this action and may be referred to herein as "Plaintiff" or "Class Representative."
8. Counsel for Plaintiff, Zeborsky Payne Shaw Lewenz, LLP, Consumer Law Organization, P.A., and Christopher W. Legg, P.A., are hereby appointed as Class Counsel for

purposes of representing the Class and seeking approval of the settlement of this Action.

9. The appointment of Angeion Group as Settlement Administrator is hereby approved for purposes of providing notice, administering requests for exclusion (“Opt-Out Exclusion Requests”), making claims payments, and otherwise administering the proposed settlement pursuant to the Settlement Agreement and the Order(s) of the Court. Plaintiff, the Class and their representatives, and Defendants and their representatives are authorized to share with the Settlement Administrator confidential and protected private business and personal information in connection with administration of this settlement. Such information shall remain confidential and private, and shall not be disclosed to any other person absent express authorization from the Court.

Fairness Hearing

10. A final hearing (the “Fairness Hearing”) shall be held on Thursday, October 7, 2021, (being not less than 120 days after entry of this Preliminary Approval Order) at 9:45 A.M. Eastern Standard Time **via ZOOM video conferencing: URL: <https://17thflcourts.zoom.us/j/571442299>; Meeting ID: 571 442 2999** to determine:

- a. Whether Class Counsel’s application for an award of attorneys’ fees and costs should be approved, and in what amount;
- b. Whether the named Plaintiff’s application for an incentive award should be approved, and in what amount; and
- c. Whether a Final Approval Order should be entered
 - i. Confirming as final this Court’s Preliminary Approval of this settlement;
 - ii. Confirming that the settlement is fair, reasonable, and adequate to the Class and its

- members and may be dismissed under Florida Rule of Civil Procedure 1.220(e);
- iii. Finding that the form and method of distribution of the Class Notice complied with the Preliminary Approval order, Florida Rules of Civil Procedure 1.220(d)(2) and 1.220(e), and due process in providing notice to members of the Class;
 - iv. Permanently enjoining the commencement or prosecution by any Class member of any claim covered or to be covered by the Settlement Agreement and the settlement it contemplates;
 - v. Directing the Settlement Administrator to complete the claims process and distribute the Settlement Consideration, following the end of the Claims Period, to each member of the Class who timely submits a valid qualifying claim; and
 - vi. Directing entry of a judgment complying with Florida Rule of Civil Procedure 1.220(d)(3) dismissing the Action with prejudice and without costs.

Settlement Administration

11. Pursuant to the terms of the Settlement Agreement, the Settlement Administrator shall establish a Settlement Website for information and submission of claims, establish a toll-free number to be used exclusively for purposes of this settlement, administer claims for Settlement Consideration by Class members, and receive copies of Opt-Out Exclusion Requests from the Class, and, if the settlement is finally approved, pay the Settlement Consideration to Class members who submitted qualifying claims, all as provided in the Settlement Agreement. With respect to Class Notice the Settlement Administrator shall, within ten (10) business days after entry of this Preliminary Approval order, begin to provide notice to the Class as further provided in the Settlement Agreement. All Class Notices shall be distributed within forty-five (45) days after entry of this Preliminary

Approval order.

12. Having considered, among other factors, (a) the cost of giving Notice by various methods, (b) the resources of the parties, (c) the stake of each Settlement Class Member, and (d) the possibility that certain Settlement Class Members may desire to exclude themselves from the Settlement Class or appear individually, the Court finds that Notice given in the form and manner provided in this Order and the Settlement Agreement meets the requirements of the Florida Rules of Civil Procedure, including Rule 1.220, and due process, and is the best practicable Notice and is reasonably calculated, under the circumstances, to apprise the Settlement Class Members of (i) the pendency and nature of this action, (ii) the definition of the class certified; the class claims, issues, or defenses and the terms of the proposed settlement; (iv) the right to appear and object to the proposed settlement; (v) the right to exclude themselves from the Settlement Class; (vi) the time and manner for requesting exclusion from the Settlement Class; and (vii) that any judgment, whether favorable or not, will bind all Settlement Class Members who do not request exclusion. The Court further finds that the Class Notice is written in plain English and is readily understandable by Settlement Class Members. In sum, the Court finds that the proposed notice, texts and methodology are reasonable, that they constitute due, adequate and sufficient notice to all persons entitled to be provided with notice, and that they meet the requirements of the Florida Rules of Civil Procedure, the Constitutions of the United States (including the Due Process Clause) and Florida, and any other applicable rules or law.

Opting Out of the Settlement Class

13. Any Settlement Class Member who wishes to opt out of the Settlement Class and the

settlement must timely submit an Opt Out Exclusion Request in the manner set forth below.

- a. The Class member must serve on the Settlement Administrator by United States Mail or courier delivery for receipt not later than ninety (90) days after entry of this Preliminary Approval order, with a copy by United States Mail or courier delivery to the Court within such time, a written statement (the Opt Out Exclusion Request) asking to be excluded from the Class. Any member of the Class who so delivers such a statement to the Settlement Administrator and the Court by the date so specified in the Class Notice shall be excluded from the Class.
- b. The Opt Out Exclusion Request must state the Class member's full name, address, and credit card number used to purchase parking at the Airport in the Class Period, and affirmatively state that the Class member wishes to opt out of the proposed settlement of the Action and be excluded from the Class.
- c. The copy of the Opt Out Exclusion Request delivered to the Court, but not the copy delivered to the Settlement Administrator, shall redact the street address and all but the last four digits of the credit card number provided by the Class member.
- d. Any Class member who does not timely and properly opt out shall be bound by any order and judgment entered in the Action, whether favorable or unfavorable to such Class member or the Class.
- e. Any Class member who does not opt out may make a separate appearance, to object or otherwise, within the time specified in the Class Notice for objections.
- f. If an Opt-Out Exclusion Request does not comply with the requirements of this Order, it shall not be valid.

Objections

14. Any Class member who wishes to object to the Settlement Agreement, any of its terms, the settlement it contemplates, or any request for Attorneys' Fees or an incentive award for Plaintiff must do so as follows^[1]:

- a. The Class Member must serve on Class Counsel and Defendants' Counsel, by hand, mail, or courier delivery for receipt by Class Counsel and Defendants' Counsel not later than seventy-five (75) days after entry of this Preliminary Approval Order, and file with the Court, a copy of a written notice of objection, together with a copy of any memorandum of law and all evidence upon which the Class member intends to rely with respect to the objection.
- b. The objection must identify this case in substantially the form of "JENNIFER ORSI v. SP PLUS CORPORATION ET. AL., CASE NO. CACE19-22989"; state the Class member's full name, address, and credit card number used to purchase parking at the Airport in the Class Period; state whether the objector is represented by legal counsel and the name, telephone number, address, and bar number of any such counsel; state the names and addresses of any witnesses the objector may offer to support the objection; and affirmatively state the basis on which the Class member wishes to object. The copy of the objection filed with the Court, but not the copy served on Class Counsel and Defendants' Counsel, shall redact street addresses and all but the last four digits of the credit card number provided by the Class member.
- c. Any Class member who wishes to appear and object in person or through counsel on the Final Hearing Date must also serve and file at the same time as the filing of the written notice of objection a notice of intent to appear specifically identifying the Class member or counsel who will speak to such objection. No objector shall be heard if an appropriate notice has not been timely filed for such objector. No

objector shall introduce any evidence or argument not included in the objector's original filing.

- d. Any objections filed or served late shall be deemed a nullity. Any Class member who does not object as provided above shall be deemed to have waived all objections to the Settlement Agreement and the settlement it contemplates.
- e. Plaintiff and Defendants shall have the right to respond not later than seven (7) days prior to the Final Hearing Date to any timely objection by any Class member.
- f. Service on Class Counsel and Defendants' Counsel for purposes of objections shall be sufficient if given as required to:

Counsel for Defendants:

Ben Crego
Broward County Attorney's Office
115 S. Andrews Avenue, Suite 423
Ft. Lauderdale, Florida 33301

Counsel for Broward County

Christopher E. Knight, Esq.
Fowler White Burnett, P.A.
1395 Brickell Ave., 14th Floor
Miami, Florida 33131

Counsel for HUB Parking Technology USA, Inc.

Steven H. Gistenson
Dykema Gossett PLLC
10 South Wacker Drive, Suite 2300
Chicago, Illinois 60606

Counsel for SP Plus Corporation

Class Counsel:

Jordan A. Shaw, Esq.
Zebersky Payne Shaw Lewenz LLP 110 S.E. 6th Street, Suite 2900
Fort Lauderdale, Florida 33301

Counsel for Plaintiff and the Class

Other Provisions

- g. This Order shall become null and void *ab initio*, and shall be without prejudice to the rights of the parties, all of whom shall be restored to their respective positions existing immediately before this Court entered this Order, if (a) the proposed settlement is not finally approved by the Court, or does not become final pursuant to the terms of the Settlement Agreement; or (b) the proposed settlement is terminated in accordance with the Settlement Agreement or does not become effective as required by the terms of the Settlement Agreement for any other reason. In such event, the proposed settlement and Settlement Agreement shall become null and void and be of no further force and effect, and neither the Settlement Agreement nor the Court's orders or findings therein, including this Order, shall be used or referred to for any purpose whatsoever in this or any other action or proceeding, except that the confidentiality obligations in paragraph 9 shall continue unless separately ordered otherwise by this Court.
15. This Order shall not be construed or used as an admission, concession, declaration or finding by or against Defendant of any fault, wrongdoing, breach or liability, or of the appropriateness of certifying a class for litigation purposes. Nor shall this Order be construed or used as an admission, concession, declaration or finding by or against

Plaintiff or the members of the Class that their claims lack merit or that the relief requested in their pleadings is inappropriate, improper or unavailable, or as a waiver by any party of any defenses or claims he, she, or it may have. Other than for purposes of enforcing this Order or the Settlement Agreement and the settlement, if finally approved, neither this Order nor the Settlement Agreement (or any communications or proceedings in connection therewith) shall be offered or received in evidence in this action or any other action or proceeding, or be used or asserted in any way as an admission, concession or evidence of any matter whatsoever.

16. No discovery with regard to the Settlement Agreement or the proposed settlement and its administration shall be permitted by any Settlement Class Member or any other person, other than as may be directed by this Court upon a proper showing for seeking such discovery by motion properly filed with this Court, noticed and served in accordance with the governing rules of procedure.
17. Pending the determination of whether the proposed settlement should be finally approved, Plaintiff and each Settlement Class Member, and any person purportedly acting on behalf of any Settlement Class Member(s), are hereby enjoined from commencing, pursuing, maintaining, enforcing or prosecuting, either directly or indirectly, any claim asserted in the Complaint, or any claims arising from the allegations of the Complaint in any judicial, administrative, arbitral, or other forum, provided that this injunction shall not apply to the claims of any class Members who have timely and validly requested to be excluded from the Class. Such injunction shall remain in force on a preliminary basis until final approval or until such time as the Parties notify the Court that the Settlement has been terminated. This injunction is necessary to protect and effectuate the Settlement, this Order, and this Court's authority regarding the Settlement, and is ordered in aid of this Court's jurisdiction and to protect its judgments.

18. The Court may continue or adjourn the Fairness Hearing without further written notice.

[1] Class counsel will file a brief in support of its request for attorneys' fees and costs within ten (10) days of the date of this Order.

DONE and **ORDERED** in Chambers, at Broward County, Florida on 06-03-2021.



CACE19022989 06-03-2021 8:44 PM

Hon. Michael Robinson

CIRCUIT JUDGE

Electronically Signed by Michael Robinson

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