

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

CHERYL HOOK, DAVID SEMAN,
BARBARA BROWN, LARRY ONDAKO
and JULIA ONDAKO, individually and on
behalf of all others similarly situated,

Plaintiffs,

v.

NEMACOLIN WOODLANDS, INC., a
Pennsylvania corporation, d/b/a,
NEMACOLIN WOODLANDS RESORT;
NEMACOLIN, INC., a Pennsylvania
corporation; and NWL, CO., a Pennsylvania
corporation,

Defendants.

Case No.: 2:21-cv-00387-MPK

Magistrate Judge Maureen P. Kelly

**ORDER PRELIMINARILY APPROVING
AMENDED SETTLEMENT AND PROVIDING FOR NOTICE**

WHEREAS, the above-entitled action is pending before this Court (the “Action”);

WHEREAS, Plaintiffs Cheryl Hook, David Seman, Barbara Brown, Larry Ondako, and Julia Ondako (“Plaintiffs”) and Defendants Nemacolin Woodlands, Inc., Nemacolin, Inc., and NWL Co. (“Nemacolin” or “Defendants,” collectively, the “Parties”) have made an application, pursuant to Federal Rule of Civil Procedure 23(e), for an order approving settlement of this Action, in accordance with the Amended Settlement Agreement and Release (the “Agreement”), which, together with the exhibits annexed thereto, sets forth the terms and conditions for a proposed settlement of the Action and for dismissal of the Action with prejudice upon the terms and conditions set forth therein; and the Court having read and considered the Agreement and the exhibits annexed thereto;

WHEREAS, all defined terms herein have the same meanings as set forth in the Agreement;

WHEREAS, on Thursday, **January 19, 2023**, a hearing was held on the motion of Plaintiff to (1) conditionally certify the Settlement Class for purposes of the Settlement; (2) preliminarily approve the parties' proposed class action settlement; (3) appoint Plaintiffs Cheryl Hook, David Seman, Barbara Brown, Larry Ondako, and Julia Ondako as the Class Representatives, their counsel Hook & Hook as Class Counsel, and Settlement Services, Inc. as Settlement Administrator; (4) set the deadlines for written exclusions or objections to the Agreement; (5) approve the form of Notice to the Settlement Class; and (6) schedule a hearing on the final approval of the Agreement for **April 13, 2023 at 1:30 p.m.** (the "Preliminary Approval Motion").

NOW, THEREFORE, IT IS HEREBY ORDERED:

1. Nature of Action. Plaintiffs allege that Defendants wrongfully terminated Nemaocolin Woodlands Resort "lifetime" 400 Club Memberships. Defendants dispute and deny all of Plaintiffs' claims and deny any allegations of liability in the operative Complaint in this action.

2. Settlement. Plaintiffs Cheryl Hook, David Seman, Barbara Brown, Larry Ondako, and Julia Ondako (the "Class Representatives"), individually and as Class Representatives on behalf of the Class, and Defendants Nemaocolin Woodlands, Inc., Nemaocolin, Inc., and NWL, CO. have negotiated a potential settlement to the Action to avoid the expense, uncertainties, and burden of protracted litigation, and to resolve the Released Claims (as defined in the Agreement) between the Parties.

3. Review. At the preliminary approval stage, the Court's task is to evaluate whether the settlement is within the "range of reasonableness." *See In re Nat'l Football League Players Concussion Injury Litig.*, 821 F.3d 410, 437 (3d Cir. 2016), *as amended* (May 2, 2016);

4 NEWBERG ON CLASS ACTIONS § 11.26 (4th ed. 2010). In determining whether class action settlements should be approved, “[c]ourts judge the fairness of a proposed compromise by weighing the plaintiff’s likelihood of success on the merits against the amount and form of the relief offered in the settlement. [Citation omitted] ... They do not decide the merits of the case or resolve unsettled legal questions.” *Carson v. American Brands, Inc.*, 450 U.S. 79, 88 n.14 (1981).

To determine whether to approve a class action settlement the district court must consider whether (1) the settlement is the product of arm’s-length, informed negotiation; (2) the settlement falls firmly within the range for approval, *i.e.* is fair, adequate, and reasonable and is without obvious deficiencies; (3) the settlement does not grant improper treatment to certain members of the class; and (4) the proceedings are sufficiently advanced to allow for adequate evaluation of a proposed settlement that would account for litigation risks. *In re NFL Players’ Concussion Injury Litigation*, 301 F.R.D. at 198 (citing *In re Linerboard Antitrust Litig.*, 292 F.Supp.2d 631, 638 (E.D. Pa. 2003). Settlement negotiations that involve arm’s length, informed bargaining with the aid of experienced counsel support a preliminary finding of fairness. *See Manual for Complex Litigation*, Third, § 30.42 (West 1995) (“A presumption of fairness, adequacy, and reasonableness may attach to a class settlement reached in arms’-length negotiations between experienced, capable counsel after meaningful discovery.”) (internal quotation marks omitted).

The Court has carefully reviewed the Agreement, as well as the files, records, and proceedings to date in the Action. The Court has also reviewed the declarations of the Class Representatives in support of preliminary approval. The terms and conditions in the Agreement are hereby incorporated as though fully set forth in this Order, and, unless otherwise indicated, capitalized items in this Order shall have the meanings attributed to them in the Agreement.

4. **Jurisdiction.** This Court has jurisdiction over the subject matter of the Action and over all Parties to the Action, including all members of the Class, and venue in this Court is proper.

5. **Preliminary Approval.** Based on the review the Court has conducted, as set forth in Paragraph 3 hereof, the Court does hereby preliminarily approve the Agreement and the Settlement set forth therein as fair, reasonable, and adequate, subject to further consideration at the Final Approval Hearing described below. The Court finds on a preliminary basis that the Settlement as set forth in the Agreement falls within the range of reasonableness and was the product of informed, good-faith, arm's length negotiations between the Parties and their counsel, and therefore meets the requirements for preliminary approval. The Court finds and concludes that the assistance of an experienced mediator in the settlement process supports the finding that the Settlement is non-collusive.

6. **Settlement Class.** The Court conditionally certifies, for settlement purposes only and pursuant to the terms and conditions of the Agreement (and for no other purpose and with no other effect upon the Action, including no effect upon the Action should the Agreement not receive Final Approval or should the Effective Date not occur), a Class of all natural, living persons in the United States who obtained a Nemaocolin Resort 400 Club Membership during the period beginning January 1, 1989 and ending on March 23, 2021, who did not sell, transfer, terminate, cancel, or otherwise relinquish his or her Nemaocolin Resort 400 Club Membership in any way, and which sale, transfer, termination, cancellation, or other relinquishment of his or her Nemaocolin Resort 400 Club Membership is evidenced by documentation maintained by Nemaocolin. The Class expressly excludes officers and directors of the Nemaocolin Defendants; family members of the officers and directors of the Nemaocolin Defendants; any parents, subsidiaries, affiliates, of the Nemaocolin Defendants; and any entity in which the Nemaocolin Defendants have a controlling

interest; any natural, living person who sold, transferred, terminated, cancelled, or otherwise relinquished his or her Nemaocolin Resort 400 Club Membership; any person deceased as of December 14, 2022 who had a Nemaocolin Resort 400 Club Membership; all judges assigned to hear any aspect of this litigation, as well as their immediate family members; all persons and entities that have released the Released Claims described herein prior to the Court's preliminary approval of the Settlement Class; and government entities; and any person who timely and validly excludes himself or herself from the Settlement Class in accordance with the procedures approved by the Court.

7. Designation of Class Representatives and Class Counsel. The Court finds and concludes that the Class Representatives have claims typical of and are adequate representatives of the Settlement Class they propose to represent. The Court hereby appoints Cheryl Hook, David Seman, Barbara Brown, Larry Ondako, and Julia Ondako as the Class Representatives for the Settlement Class. The Court finds and concludes that Joy D. Llaguno of Hook & Hook PLLC has extensive experience and expertise in prosecuting class actions. The Court hereby appoints Joy D. Llaguno and the lawyers of Hook & Hook PLLC as Class Counsel.

8. Final Approval Hearing. A hearing (the "Final Approval Hearing") shall be held before this Court on **April 13, 2023, at 1:30 p.m.**, in Courtroom 9C at the Joseph F. Weis, Jr. United States Courthouse located at 700 Grant St., Pittsburgh, PA 15219, to determine and set forth, among other things: (i) whether the proposed Settlement of the Action on the terms and conditions set forth in the Agreement is fair, reasonable, and adequate to the Class and should be approved by the Court; (ii) whether the Settlement Class should be bound by the Release set forth in the Agreement; (iii) the amount of fees and expenses that should be awarded to Class Counsel and any award to the Class Representatives for their representation and service to the Class; (iv)

to consider any Settlement Class Member's objections to the Settlement and/or any application of Class Counsel for payment or reimbursement of attorney's fees, costs, and expenses and any application for an award to the Class Representative; (v) to rule upon such other matters as the Court may deem appropriate; and (vi) whether a judgment granting approval of the Settlement should be entered. The Court may hold the Final Approval Hearing by video conference or telephone. The Parties shall include the date of the Final Approval Hearing in the Notice to be mailed to the Settlement Class.

9. Class Notice. The Court approves the form, substance, and requirements of the Notice of Proposed Class Action Settlement (the "Notice"), annexed hereto as **Exhibit 1**. The Court further finds that the form, content, and mailing of the Notice, substantially in the manner and form set forth in Paragraph 9 of this Order, meets the requirements of Rule 23 of the Federal Rules of Civil Procedure and due process under the United States Constitution, and other applicable law. The Notice fairly, plainly, accurately, and reasonably informs potential Class Members of appropriate information about: (1) the nature of this action, the definition of the Settlement Class, the identity of Class Counsel, and the essential terms of the Settlement, including the plan for the monetary relief, motions for approval and for attorney's fees, and any other important documents in this case; (2) Plaintiffs' forthcoming application for the Service Award and Class Counsel's attorneys' fees and costs award; (3) this Court's procedures for final approval of the Settlement; (5) how to opt out or object to the Settlement; (6) how to obtain additional information regarding this Action and the Settlement, including instructions on how to access the case docket via PACER; and (7) the date of the Final Approval Hearing and that the date may change without further notice to the Settlement Class, and that members of the Settlement Class may check the settlement website or the Court's PACER site to confirm that the date has not been

changed. The Court further finds and concludes that the proposed plan for distributing the Notice likewise is a reasonable method calculated to reach all individuals who would be bound by the Settlement. Under this plan, prior to distributing the Notice and after receiving a Notice List from Defendants, the Settlement Administrator will update addresses. After the Settlement Administrator updates the Settlement Class's addresses, the Notices will be sent out via first-class mail. There is no additional method of distribution that is cost-effective and would be reasonably likely to notify potential members of the Settlement Class who may not receive notice under this proposed distribution plan. The Court hereby concludes that the proposed Notice and Notice plan are the best practicable under the circumstances and are reasonably calculated, under all the circumstances, to apprise potential members of the Settlement Class, the pendency of the Action, to apprise persons who would otherwise fall within the definition of the Class of their right to exclude themselves from the proposed Class, and to apprise members of the Settlement Class of their right to object to the proposed Settlement and their right to appear at the Final Approval Hearing. The Court further finds that the Notice constitutes due and sufficient notice to all persons entitled thereto.

10. Settlement Administrator. Pursuant to Rule 53(c) of the Federal Rules of Civil Procedure, the Court appoints Settlement Services, Inc. ("Settlement Administrator") to supervise and administer the notice procedure as more fully set forth below:

- a. A proposed Settlement schedule is appended to this Order as **Exhibit A**;
- b. No later than ten (10) days from the entry of this Order (the "Notice Mailing Date"), the Settlement Administrator shall cause a copy of the Notice, substantially in the form annexed as **Exhibit 1** hereto, to be mailed by first class U.S. mail to the last known mailing

address of each individual on the Notice List, after being updated by Defendants and the Settlement Administrator;

c. Following the mailing of the Notice, the Settlement Administrator shall provide counsel with written confirmation of the mailing and publication via website;

d. The Settlement Administrator has prepared the CAFA notice in conformity with 28 U.S.C. § 1715. The Court finds that Defendants' obligations under CAFA are satisfied.

e. The Settlement Administrator shall otherwise carry out its duties as set forth in this Agreement.

11. **Exclusion from the Class.** Any Class Member may, upon request, be excluded from the Class. Any such Class Member must submit a written Request to Opt Out, postmarked no later than fifteen (15) days before the Final Approval Hearing. To be valid, the Request to Opt Out must: (a) identify the case name and number; (b) identify the name, address and telephone number of the person requesting exclusion; (c) be personally signed by the person requesting exclusion; and (d) contain a statement that indicates a desire to be excluded from the Settlement Class, such as "I hereby request that I be excluded from the proposed Settlement Class in the Action," as set forth in Section 11 of the Agreement. Any Request to Opt Out purporting to opt out on behalf of anyone other than the individual signing the Request to Opt Out shall be void. All Class Members who submit valid, verified, and timely Requests to Opt Out in the manner set forth in this Paragraph shall have no rights under the Agreement and shall not be bound by the Agreement or any Final Judgment. A Class Member who desires to opt out must make timely affirmative written action pursuant to this Order and the Agreement, even if the person desiring to opt out of the Class (a) files or has filed a separate action against any of the Released Parties, or (b) is, or becomes, a putative class member in any other class action filed against any of the

Released Parties. Notwithstanding the foregoing, a Class Member shall have the right to revoke a properly and timely submitted request for exclusion if a notice of the Class Member's election to revoke his or her exclusion is sent to the Settlement Administrator, personally signed by the Class Member and containing a concise statement of the reasons for revoking his or her request for exclusion, and postmarked on or before the Opt-Out Deadline.

12. Copies of Requests to Opt Out. The Settlement Administrator shall provide Class Counsel and Defense Counsel with a list of all timely Requests to Opt Out within seven (7) days after the Opt Out Deadline.

13. Entry of Appearance. Any member of the Class who does not exclude themselves from the Settlement Class may enter an appearance in the Action, at their own expense, individually or through counsel of their own choice. If he or she does not enter an appearance, he or she will be represented by Class Counsel.

14. Binding Effect on Class. All Class Members who do not exclude themselves from the Settlement Class by properly and timely submitting a Request to Opt Out shall be bound by all determinations and judgments in the Action concerning the Settlement, whether favorable or unfavorable to the Class.

15. Objections. Any Class Member who does not timely and validly exclude themselves from the Settlement Class may appear and show cause, if he or she has any reason why the proposed Settlement of the Action should not be approved as fair, reasonable, and adequate, why a Final Judgment should not be entered thereon, why Attorneys' Fees and Expenses should not be awarded to Class Counsel, or why an award should not be made to the Class Representatives; provided, however, that no Class Member shall be heard or entitled to contest the approval of the terms and conditions of the proposed Settlement, or, if approved, the Final

Judgment to be entered thereon approving the same, or any attorney's fees and expenses to be awarded to Class Counsel or award made to the Class Representative, unless a written objection is sent to Class Counsel and Defense Counsel, and filed with the Clerk of this Court on or before fifteen (15) days before the Final Approval Hearing. To be valid, the written objection must include: (a) the case name and number; (b) the name, address, and telephone number of the Class Member objecting and, if represented by counsel, of his/her counsel; (c) a specific, clear and concise statement of the reasons or grounds for the objection, the facts supporting the objection, and/or the legal grounds and authority on which the objection is based; and (d) a statement of whether he/she intends to appear at the Final Approval Hearing, either with or without counsel.

Within seven (7) days of the Objection Deadline, the Settlement Administrator shall provide a report to the Court setting forth a list of Objections that meet the above guidelines. The Court shall have the ultimate determination of whether an Objection has been appropriately made. Any Class Member who does not make his or her objection in the manner provided in this Section shall be deemed to have waived such objection, shall not be permitted to object to any terms or approval of the Settlement at the Final Approval Hearing, and shall be foreclosed from making any objection to the fairness, reasonableness, or adequacy of the proposed Settlement, and to the award of Attorney's Fees and Expenses to Class Counsel and the payment of an Incentive Award to the Class Representative, unless otherwise ordered by the Court.

16. Appearance of Objectors at Final Approval Hearing. Any Settlement Class Member who files and serves a written objection in accordance with Paragraph 15 of this Order and in accordance with the terms and conditions of the Agreement may appear, in person or by counsel, at the Final Approval Hearing held by the Court, to show cause why the proposed Settlement would not be approved as fair, adequate, and reasonable, but only if the objector files

with the Clerk of the Court a notice of intention to appear at the Final Approval Hearing by the Objection Deadline (“Notice of Intention to Appear”). The Notice of Intention to Appear must include copies of any papers, exhibits, or other evidence that the objecting Settlement Class Member will present to the Court in connection with the Final Approval Hearing. Any Settlement Class Member who does not file a Notice of Intention to Appear in accordance with the deadlines and other specifications set forth in the Agreement and Class Notice shall not be entitled to appear at the Final Approval Hearing and raise any objections.

17. Service of Motion for Final Approval. The motion in support of final approval of the Settlement shall be filed and served no later than fourteen (14) days prior to the Final Approval Hearing.

18. Fees, Expenses, and Awards. Class Counsel’s application for Attorney Fees and Expenses and Service Awards to Class Representatives shall be filed and served no later than twenty (20) days prior to the Final Approval Hearing. At or after the Final Approval Hearing, the Court shall determine whether any application for Attorney Fees and Expenses, and any Service Award to the Class Representatives for their service to the Class, should be approved.

19. Releases. If the Settlement is finally approved, the Releasers shall release the Releasees from the Released Claims in accordance with the terms and conditions set forth more fully in the Agreement.

20. Continuance of Final Approval Hearing. The Court reserves the right to continue the date of the Final Approval Hearing without further notice to the Members of the Class, and retains jurisdiction to consider all further applications arising out of or connected with the proposed Settlement. The Court may approve the Settlement with such modifications as may be agreed to by the Parties, if appropriate, without further notice to the Class.

21. Stay of Proceedings. All proceedings in this Action are stayed until further Order of this Court, except as may be necessary to implement the Settlement or comply with the terms of the Agreement.

22. Preliminary Injunction. Pending final determination of whether the Settlement should be approved, and upon expiration of the Opt-Out Deadline, all Class Members who do not timely and validly exclude themselves from the Settlement Class, and each of them, and anyone who purports to act on their behalf, are preliminarily enjoined from directly or indirectly maintaining, commencing, prosecuting, or pursuing directly, representatively, or in any other capacity, any Released Claim subsumed and covered by the Release in the Agreement in any court, arbitration forum, tribunal, or administrative body.

23. No Merits Determination. By entering this Order, the Court does not make any determination as to the merits of this Action.

24. Authority. The Court hereby authorizes the Parties to take such further steps as necessary and appropriate to establish the means necessary to implement the terms of the Agreement.

25. Jurisdiction. The Court retains exclusive jurisdiction over the Action to consider all further matters arising out of or connected with the Agreement and the Settlement.

IT IS SO ORDERED.

DATED: January 19, 2023


THE HONORABLE MAUREEN P. KELLY
UNITED STATES MAGISTRATE JUDGE

EXHIBIT 1

NOTICE OF PROPOSED CLASS ACTION SETTLEMENT

A Federal Court authorized this Notice. This is not a solicitation from a lawyer.

If Nemaocolin Woodlands Resort (“Nemaocolin”) terminated your 400 Club Membership, then the proposed settlement of a class action lawsuit may affect your rights.

- This Notice explains what the class action is about, what the Settlement will be if it is approved by the United States District Court for the Western District of Pennsylvania, what benefits you may receive under the Settlement, and what to do if you want to (i) object to the Settlement; or (ii) not participate in the Settlement and instead “opt out” of the class action. These rights—**and the deadlines to exercise them**—are explained in this notice.
- The Court still has to decide whether to approve the Settlement. The relief provided to Settlement Class Members will be provided if the Court approves the Settlement and after appeals, if any, are resolved in favor of the Settlement. Please be patient.
- **Your legal rights may be affected whether you act or do not act. Read this notice carefully because it explains decisions you must make and actions you must take now.**

Your Legal Rights and Options in this Settlement	
DO NOTHING	You will receive the benefits conferred by the Settlement and will be bound by any orders or judgments relating to the Settlement approved by the Court.
EXCLUDE YOURSELF	You will be entitled to no benefits under the Settlement. This is the only choice that will allow you to sue Nemaocolin on your own regarding the claims discussed in this notice. An exclusion request must be in writing and postmarked on or before [DATE] .
OBJECT TO THE SETTLEMENT	You can write to the Court about why you do not agree with any aspect of the settlement. An objection must be in writing, filed, mailed, and postmarked on or before [DATE] .
GO TO THE HEARING	You can ask to speak to the Court about “fairness” of the Settlement, after you submit your objection. A Notice of Intention to Appear must be in writing, filed, mailed, and postmarked on or before [DATE] in addition to submitting a timely objection.

BASIC INFORMATION

1. Why did I get this notice and what is this lawsuit about?

A class action lawsuit entitled, *Hook, et. al. v. Nemaocolin Woodlands, Inc. et. al.* is pending against Defendants Nemaocolin Woodlands, Inc., Nemaocolin, Inc., and NWL, Co. (collectively, “Nemaocolin”), in the United States District Court for the Western District of Pennsylvania, Case No. 2:21 cv-00387 (the “Action”). The Complaint in the Action claims that Nemaocolin wrongfully terminated Nemaocolin Woodland Resort 400 Club memberships. Nemaocolin denies any wrongdoing and denies all allegations of liability in the Complaint. For more detailed information regarding the Action and Plaintiffs’ allegations, you may review a copy of Plaintiffs’ Complaint at Class Counsel’s website at www.hooklaw.com, or at the Court’s Public Access to Court Electronic Records (PACER) website at <https://www.pawd.uscourts.gov/case-info/cm-ecf-case-info>. You may also contact the Settlement Administrator at (850) 385 - 6216 or info@settlementservicesinc.com.

The Parties have now settled this lawsuit and a Settlement Administrator has issued this notice. In connection with the Settlement, Nemaocolin has agreed to make certain cash payments to members of the class. The Court ordered that you be sent this notice because the proposed settlement may apply to you and you have a right to know about it and all your options before the Court decides whether to approve the Settlement. You are receiving this notice because Nemaocolin’s records indicate that you may be Settlement Class Member.

2. Why is this a class action and who is involved?

In a class action, one or more people called “Class Representatives” sue on behalf of other people who have similar claims. All those people together are the “Class” or “Settlement Class Members.” The Class Representative and Settlement Class Members together are the “Plaintiffs,” and, in this case, Nemaocolin Woodlands, Inc., Nemaocolin, Inc., and NWL, Co. are the “Defendants.” One court resolves the issues for everyone in the Class.

3. Why is there a settlement?

The Court did not decide in either Plaintiffs’ or Nemaocolin’s favor and will not do so if the proposed Settlement is approved. The Settlement will end all the claims against Nemaocolin in the Action and avoid the uncertainties and costs of further litigation and any further trial. The Parties have agreed to this Settlement which was reached after extensive arm’s-length negotiations.

Plaintiffs and Nemaocolin have agreed to a settlement of this lawsuit after considering, among other things: (1) the substantial benefits to the proposed Settlement Class under the terms of the Amended Settlement Agreement; (2) the risks, costs, and uncertainty of protracted litigation, especially in actions such as these, as well as the difficulties and delays inherent in such litigation; and (3) the desirability of consummating the Amended Settlement Agreement promptly in order to provide effective relief to the proposed Settlement Class. Even if the case advanced to trial, Plaintiffs would face the risk of losing at trial and the risk that a Class might not be certified, as

well as the risk of appeals which could last one or more additional years even if Plaintiffs prevailed at trial.

For the Defendants (who deny all allegations of liability and deny that any Class Members were damaged) the principal reason for the Settlement is to eliminate the burden, expense, uncertainty and risk of further litigation. The proposed Settlement does not suggest that Nemacolin has or has not done anything wrong, or that Plaintiffs and the proposed Class would or would not win their case if it were to go to trial

WHO IS IN THE SETTLEMENT

4. How do I know if I am part of the Settlement?

You are a member of the Settlement Class if you obtained a Nemacolin Resort 400 Club Membership during the period beginning January 1, 1989 and ending on March 23, 2021, and you did not sell, transfer, terminate, cancel, or otherwise relinquish your Nemacolin Resort 400 Club Membership in any way, and which sale, transfer, termination, cancellation, or other relinquishment of your Nemacolin Resort 400 Club Membership is evidenced by documentation maintained by Nemacolin. If you are not sure if you are a member of the Settlement Class, then please contact the Settlement Administrator.

WHAT YOU GET FROM THE SETTLEMENT

5. What does the Settlement provide?

Under the Settlement, Nemacolin has agreed to pay Ten Million Dollars (\$10,000,000.00) to settle the claims asserted in this Action (the “Settlement Fund”) for: (1) payments to Settlement Class Members, (2) service awards to Settlement Class Representatives of up to twenty-five thousand dollars (\$25,000.00), and (3) Class Counsel’s attorney’s fees not to exceed 30% (\$ 3,000,000) of the Settlement Fund and out-of-pocket costs not to exceed twenty-five thousand dollars (\$25,000.00). The “Net Settlement Fund” is the amount remaining from the Settlement Fund after deducting the Court-approved amounts for Class Representative service awards, attorney’s fees, and reimbursement of costs. Your payment will be calculated from the Net Settlement Fund in proportion to the number of Settlement Class Members who are eligible for cash payment.

Nemacolin has also agreed to pay the Settlement Administrator’s costs associated with implementing the Settlement estimated at \$20,250.00.

If the proposed Settlement is approved, then all Settlement Class Members will receive a cash payment. If the settlement is not approved, then Settlement Class Members will not get any benefits of the Settlement and the parties will go back to Court for further proceedings, possibly including a trial.

**IF ELIGIBLE, YOU DO NOT NEED TO DO ANYTHING TO
RECEIVE THESE BENEFITS**

6. When would I receive my benefits?

Once the deadlines for opting out of or objecting to the Settlement set forth below have passed, the Court will hold a Final Approval Hearing approximately thirty (30) days after the Opt-Out Deadline to decide whether to approve the Settlement.

If the judge approves the Settlement and there are no appeals, then checks for the cash payment benefits under the Settlement will be mailed to Settlement Class Members no later than forty-five (45) days after the entry of the Final Order (the “First Distribution”). Any unclaimed cash payments from checks that are not cashed within ninety (90) days of their issuance shall be redistributed to Settlement Class Member that cashed their initial check (the “Second Distribution”). However, because it is always possible for there to be unexpected delays or appeals, it is possible that these benefits will be delayed by a year or more, or that an appeals court will determine that the benefits may not be conferred. If you have any questions regarding the status of the Settlement, you may contact the Settlement Administrator at (850) 385 - 6216 or info@settlementservicesinc.com. If your contact information changes, please submit your new contact information to the Settlement Administrator or Class Counsel.

7. What am I giving up for these benefits?

In exchange for the benefits described in this Notice, and if the Court grants final approval of the Settlement, all Settlement Class Members who have not opted-out by the opt-out deadline are giving up (also called “releasing”) their right to sue Nemaclin for claims related to their cancellation of 400 Club memberships. You will be enjoined and barred from initiating, prosecuting, continuing, or participating in any lawsuit or other proceeding related to cancellation of 400 Club memberships, including any right to assert or seek reinstatement of alleged benefits of 400 Club memberships, whether as a direct or representative action, against Nemaclin if those claims are included among those released in the Settlement. As part of this Settlement, the Court has preliminarily enjoined all members of the Settlement Class and/or their representatives (who opt in to the Settlement) from maintaining, commencing, prosecuting, or pursuing directly, representatively, or in any other capacity any Released Claim related to cancellation of 400 Club memberships as members of the Settlement Class or otherwise against Nemaclin (or against any of their related parties or affiliates).

Upon final approval of the Settlement, the parties will ask the Court to make this injunction permanent. All members of the Settlement Class will be bound by this permanent injunction. The Amended Settlement Agreement, which provides more information about the Release, is available at Class Counsel’s website at <https://www.hooklaw.com>, and the Court’s Public Access to Court Electronic Records (PACER) website at <https://www.pawd.uscourts.gov/case-info/cm-ecf-case-info>, or you may contact the Settlement Administrator at (850) 385 - 6216 or info@settlementservicesinc.com to request a copy.

THE LAWYERS REPRESENTING YOU

8. Do I have a lawyer in this case?

The Court has decided that the lawyers at the law firm Hook & Hook are qualified to represent you and Settlement Class Members. These lawyers have been designated as “Class Counsel” based on a determination that they are capable and experienced in handling complex class actions. You can contact Class Counsel at:

Joy D. Llaguno
HOOK & HOOK PLLC
430 East Oakview Drive, Suite 101
Waynesburg, PA 15370
Phone: 724-802-7144
Email: jllaguno@hooklaw.com

9. How will the lawyers be paid?

Plaintiffs will ask the Court to approve payment to Class Counsel of reasonable attorneys’ fees not to exceed 30% (\$3,000,000) of the Settlement Fund as reasonable compensation for the work performed in this lawsuit, and will continue to perform through settlement finalization, together with reimbursement of out-of-pocket costs and expenses in connection with the lawsuit in an amount not to exceed twenty-five thousand dollars (\$25,000.00). Class Counsel has been prosecuting the lawsuit on behalf of Plaintiffs and the Class on a contingency fee basis (that is, without being paid any money to date) and have been paying all litigation costs and expenses. The Court may award less than the requested amount.

EXCLUDING YOURSELF FROM THE SETTLEMENT

If you want to be able to bring an action against Nemaquin for the claims that are covered by the release defined in the Amended Settlement Agreement, you must timely and validly exclude yourself from the Class. This process is also sometimes referred to as “opting out.”

10. How do I opt out of the Settlement?

To exclude yourself from the Settlement, you must submit a Request to Opt Out to the Settlement Administrator. The Request to Opt Out must: (a) identify the case name and number; (b) identify the name address, and telephone number of the person requesting exclusion; (c) be personally signed by the person requesting exclusion; and (d) contain a statement that indicates a desire to be excluded from the Settlement, such as “I hereby request that I be excluded from the proposed Settlement Class in the Action.” Any Request to Opt Out purporting to opt out on behalf of anyone other than the individual signing the Request to Opt Out shall be void. ***You cannot exclude yourself or opt out by telephone or by e-mail.*** Your exclusion must be postmarked no later than [DATE] and must be mailed to:

**Hook v. Nemaocolin Woodlands, Inc.
Settlement Services, Inc.
2032D Thomasville Road
Tallahassee, FL 32308**

If you ask to be excluded, you will **not** receive any settlement benefits, and you **cannot object** to the settlement.

However, if you request for exclusion is late or deficient, you will be considered a part of the Settlement Class, you will be bound by the settlement and by all other orders and judgments in this lawsuit, and you will not be able to participate in any other lawsuits based on the claims in this case.

OBJECTING TO THE SETTLEMENT

If you remain in the class, you can tell the Court you do not agree with the settlement or some part of it.

11. How do I tell the Court I do not like the Settlement?

If you are a Class Member (and you have not timely and validly opted out), you can ask the Court to deny approval of the Settlement by filing an objection. **You cannot ask the Court to order a different settlement; the Court can only approve or reject the settlement.** If the Court denies approval, no settlement benefits will be conferred and the lawsuit will continue. If that is what you want to happen, you must object.

Any objection to the proposed Settlement must be in writing. If you file a timely written objection, you may, but are not required to, appear at the Final Approval Hearing, either in person or through your own attorney. If you appear through your own attorney, you are responsible for hiring and paying that attorney.

To object, you must send your written objection to Class Counsel and Defendants' Counsel, and file the written objection with the Clerk of Court on or before **[DATE]**. All written objections must include: (a) the case name and number; (b) the name, address, telephone number of the member of the 400 Club Settlement Class objecting and, if represented by counsel, of his/her counsel; (c) a specific, clear and concise statement of the reasons or grounds for the objection, the facts supporting the objection, and/or the legal grounds and authority on which the objection is based; and (d) a statement of whether he/she intends to appear at the Final Approval Hearing, either with or without counsel.

Your objection, and all supporting papers and briefs, must be mailed or delivered such that it is **postmarked** by each of the following no later than **[DATE]**:

<p><i>Class Counsel</i> Joy D. Llaguno Hook & Hook PLLC 430 East Oakview Drive, Suite 101 Waynesburg, PA 15370</p>	<p><i>Defendants' Counsel</i> William Blick Gordon & Rees LLC 707 Grant Street, Suite 3800 Pittsburgh, PA 15219</p>
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Your objection, and all supporting papers and briefs, must also be filed with the Court at the address below no later than **[DATE]**.

Clerk of the Court
U.S. District Court for the Western District of Pennsylvania
Joseph F. Weis, Jr. United States Courthouse
700 Grant Street
Pittsburgh, PA 15219

Attendance at the Final Approval Hearing discussed below is not necessary; however, persons wishing to be heard orally at the hearing are required to indicate in their objection their intention to appear at the hearing, the identity of any witnesses they may call to testify, and the exhibits, if any, they intend to introduce into evidence. Any Class Member who does not object in the manner described in this Notice will not be able to make any objection to the Settlement.

THE COURT'S FINAL APPROVAL HEARING

The Court will hold a Final Approval Hearing to decide whether to approve the Settlement. You may attend and you may ask to speak, but you do not have to.

12. When and where will the Court decide whether to approve the Settlement?

The Court will hold a Final Approval Hearing at **[TIME AND DATE]**, at the United States District Court for the Western District of Pennsylvania, at the Joseph F. Weis, Jr. U.S. Courthouse located 700 Grant St., Pittsburgh, PA 15219 before the Honorable Maureen P. Kelly, United States Magistrate Judge. Due to the ongoing COVID-19 pandemic, the fairness hearing may be conducted telephonically or virtually. At this hearing, the Court will consider whether the settlement is fair, reasonable, and adequate. If there are objections, the Court will consider them. The Court may also decide the amount of the service awards to the Class Representatives and whether to award Class Counsel attorneys' fees and expenses and reimburse for the costs incurred in prosecuting the lawsuit. After the hearing, the Court will decide whether to approve the Settlement. We do not know how long these decisions will take. The hearing may be postponed without further notice to the Class. If you plan to attend the hearing, you should check the Court's PACER site or contact the Settlement Administrator, to confirm that the date has not been changed.

13. Do I have to come to the hearing?

No. Class Counsel will represent you and will answer any questions Magistrate Judge Maureen P. Kelly may have, but you are welcome to come at your own expense. If you send a comment (including a timely and valid objection), you do not have to come to the Court to talk about it. As long as you submitted it on time, the Court will consider it. You may also pay your own lawyer to attend, but you are not required to do so.

14. May I speak at the hearing?

You may ask the Court for permission to speak at the Final Approval Hearing. To do so, you must include with your objection (*see* Section 11 above) a statement saying that it is your “Notice of Intention to Appear at the Fairness Hearing in *Cheryl Hook, et. al. v. Nemaocolin Woodlands, Inc. et. al.*, 2:21 cv-00387.” You must include your name, address, telephone number, and signature. Your Notice of Intention to Appear must be *postmarked* to Class Counsel and Defendants’ Counsel, and filed with the Clerk of Court, at the addresses listed in Section 11 not later than [DATE].

Persons who object and want to present evidence at the Final Approval Hearing must also include in their written objection the identity of any witness they may call to testify and exhibits they intend to introduce at the hearing. You cannot speak at the hearing if you excluded yourself from the Class or if you have not provided timely and valid written notice of your intention to speak at the Settlement Final Approval Hearing according to the procedures described above and in Section 11. You cannot speak at the hearing if you have opted out of the Settlement, because the case no longer affects you.

IF YOU DO NOTHING

15. What if I do nothing?

If you are a Class Member and do nothing, you will still be a part of the Settlement Class and will receive the benefits of the Settlement. However, you will not be able to initiate, prosecute, continue, or participate in any lawsuit or other proceeding, whether as a direct or representative action, against the Defendants about the Released Claims in this case. To start, continue or be a part of any other lawsuit or other proceeding against the Defendants about the Released Claims in this case you must exclude yourself from the Settlement Class (*see* Section 10).

GETTING MORE INFORMATION

16. Are there more details about the Settlement?

This Notice is intended to be a summary of the terms of the Settlement. The Amended Settlement Agreement, Complaint, and this Notice are all available on Class Counsel’s website at www.hooklaw.com, or by accessing the Court docket in this case through the Court’s Public Access to Court Electronic Records (PACER) system at <https://www.pawd.uscourts.gov/case-info/cm-ecf-case-info>. You may also obtain this information by contacting the Settlement

Administrator at (850) 385 - 6216 or info@settlementservicesinc.com, or by contacting Class Counsel via the information in Section 8.

PLEASE DO NOT TELEPHONE THE COURT OR THE COURT CLERK'S OFFICE TO INQUIRE ABOUT THIS SETTLEMENT.

Dated:

EXHIBIT A

SETTLEMENT SCHEDULE

Event	Date
Defendants to update and send Notice List to Settlement Administrator	January 26, 2023
Class Notice Mailing Date	January 31, 2023
Defendants to deposit Settlement Fund in Qualified Settlement Fund	February 20, 2023
Opt-Out Deadline	March 10, 2023
Objection Deadline	March 10, 2023
Motion for approval of Service Awards and Attorney Fees and Expenses	March 17, 2023
Final Approval Motion	March 30, 2023
Final Approval Hearing	April 13, 2023 at 1:30 p.m., Courtroom 9C
Settlement Administrator to provide list of Opt-Outs and Objections to the Court	April 6, 2023
Class Counsel and Nemaocolin to respond to any objections	April 10, 2023
Effective Date of Settlement Agreement	Date on which Final Approval and Judgment has been entered by the Court and any appeals period has expired
Settlement Administrator to calculate pro rata Cash Payment	Within 15 Days of the Effective Date
First Distribution to Settlement Class	20 Days after the Effective Date
Expiration of settlement checks issued during First Distribution	90 days after issuance
Second Distribution to Settlement Class	14 Days after expiration of the settlement checks from the First Distribution
Settlement Administrator to send counsel report on the status of settlement checks and distributions	120 Days after the Distribution Date

Settlement Administrator to remit Service Awards to Class Representatives	Within than 10 Days of the Effective Date
Settlement Administrator to remit Attorney Fees and Expenses to Class Counsel	Within 10 Days of the Effective Date
Filing of the Notice List with the Court under seal	Within 30 Days of the Effective Date