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**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

JENALE NIELSEN, individually and on behalf of others similarly situated,

Plaintiff,

vs.

WALT DISNEY PARKS AND RESORTS U.S., Inc., a Florida Corporation, and DOES 1 through 10, inclusive,

Defendants.

Case No.: 8:21-cv-02055-DOC-ADS

**ORDER GRANTING
PRELIMINARY APPROVAL OF
CLASS ACTION SETTLEMENT
[88]**

Judge: Hon. David O. Carter
Courtroom: 9D

Before the Court is Plaintiff’s Unopposed Motion for Preliminary Approval of Class Action Settlement (“Motion”). ECF No. 88. Plaintiff Jenale Nielsen (“Plaintiff”), individually and on behalf of the proposed Settlement Class, and Defendant Walt Disney Parks and Resorts U.S., Inc. (“Defendant”) (together with Plaintiff, the “Parties) have entered into a Class Action Settlement Agreement dated September 7, 2023 (the “Settlement Agreement”) that, subject to the Court’s approval and final hearing on the matter, will resolve this lawsuit.

The Court, having considered the Motion, the supporting memorandum of law, the parties’ Settlement Agreement, the proposed forms of notice to the

1 Settlement Class, the pleadings and the record in this Action, and the statements of
2 counsel and the parties, HEREBY ORDERS as follows:

3 1. Unless otherwise defined herein, all terms capitalized herein shall have
4 the same definitions ascribed to them as in the Settlement Agreement.

5 2. The Court retains continuing and exclusive jurisdiction over this
6 litigation, including Class Representative, Defendant, and Settlement Class
7 members, and all matters arising out of or connected with the settlement, including
8 the administration and enforcement of the Settlement Agreement.

9 **Preliminary Approval**

10 3. The Court has carefully reviewed all of the terms of the proposed
11 Settlement Agreement, all corresponding and supporting documents attached
12 thereto, Plaintiff's Motion and corresponding papers filed therewith, including the
13 declarations by counsel and Epic Systems, Inc. Based on its review of these
14 documents, the Court finds the Settlement Agreement to be fair, reasonable, and
15 adequate, and the result of vigilant, informed, non-collusive arms'-length
16 negotiations overseen by an experienced, highly qualified neutral mediator, the
17 Honorable Judge Jay Gandhi (Ret.). The Court further finds that the Settlement
18 Agreement is the result of substantial discovery and the parties' knowledge of the
19 strengths and weaknesses of the case. The relief provided by the Settlement
20 Agreement outweighs the substantial cost, delay, and risks presented by further
21 prosecution of the issues during pre-trial, trial, and possible appeal. Based on these
22 factors, the Court finds that the terms of the Settlement Agreement meets the criteria
23 for preliminary settlement approval, are fair, reasonable, and adequate, and fall
24 within the range of possible approval.

25 4. The Court hereby **GRANTS** preliminary approval of the Settlement
26 Agreement and all of the terms and conditions contained therein.

27 **Preliminary Certification of the Settlement Class**

1 5. The Court preliminarily certifies, for settlement purposes only pursuant
2 to Federal Rule of Civil Procedure 23(e), the Settlement Class defined in the
3 Settlement Agreement as follows:

4 **Settlement Class:**

5 All Persons who purchased a Dream Key.
6 Specifically excluded from the Settlement Class are (1) any Judge or Magistrate
7 Judge presiding over this Action and members of their families; (2) Defendant;
8 (3) Persons who properly execute and file a timely request for exclusion from the
9 class; and (4) the legal representatives, successors, or assigns of any such excluded
10 persons. The Settlement Class is estimated to include 103,435 individuals.

11 6. The Court preliminarily finds that the Settlement Class satisfies the
12 requirements of Federal Rule of Civil Procedure 23(a) for settlement purposes:
13 (1) the Settlement Class is sufficiently numerous that joinder of all members is
14 impracticable; (2) there are questions of law or fact common to the Settlement Class;
15 (3) the Class Representative’s claims are typical of the Settlement Class; and (4) the
16 Class Representative and her Counsel fairly and adequately protects the interests of
17 the Settlement Class.

18 7. The Court hereby appoints Jenale Nielsen as the Class Representative
19 of the Settlement Class.

20 8. The Court hereby appoints Cafferty Clobes Meriwether & Sprengel
21 LLP and Ventura Hersey & Muller, LLP as Settlement Class Counsel.

22 **Notice and Administration**

23 9. Pursuant to the Settlement Agreement, the parties have designated Epic
24 Systems, Inc. (“Epic”) as the Claims Administrator. Epic shall perform all duties
25 necessary for notice and administration as set forth in the Settlement Agreement.
26 Pursuant to the Settlement Agreement, Epic will make important documents, such
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1 as the Settlement Agreement and Address Update Form (which Settlement Class
2 members have the option to submit online), accessible on the settlement website.

3 10. The Court finds that the Class Notice plan as set forth in the Settlement
4 Agreement satisfies the requirements of due process and provides the best notice
5 practicable under the circumstances pursuant to Federal Rule of Civil Procedure
6 23(e)(1). The Class Notice plan is reasonably calculated to inform the Settlement
7 Class members of the nature of the litigation, the terms and conditions of the
8 Settlement Agreement, the right of Settlement Class members to object to the
9 Settlement Agreement or exclude themselves from the Settlement Class, including
10 instructions about the process for doing so, and the Final Approval Hearing details.
11 The Court approves the Class Notice plan, including the Claim Form, and directs the
12 Settlement Administrator and the parties to proceed with providing Notice to the
13 Settlement Class as set forth in the Settlement Agreement and this Order.

14 **Settlement Class Member Exclusions and Objections**

15 11. Settlement Class members who request to opt-out and exclude
16 themselves from the Settlement Class must do so by notifying the Settlement
17 Administrator in writing. To be valid, the opt-out request must be mailed to the
18 Settlement Administrator no later than 60 days after the Notice Date, must be in
19 writing and must state the name, address, and telephone number of the person
20 seeking exclusion, and must contain a signed statement unequivocally stating the
21 Settlement Class Member's intent to be excluded from the Settlement. Settlement
22 Class members who submit a valid and timely request for exclusion will not be
23 bound by the terms of the Settlement Agreement. Any Settlement Class member
24 who does not submit a timely request for exclusion in accordance with the
25 Settlement Agreement will be included in the Settlement and bound by the
26 Settlement Agreement upon entry of the Final Judgment and Order.

1 12. Settlement Class members who wish to object to the Settlement
2 Agreement must do so by submitting a written objection to the Settlement
3 Administrator, signed by the objector, in accordance with the procedures outlined in
4 the Class Notice and this Order, filed or postmarked no later than 60 days after the
5 Notice Date and must include the following information:

- 6 i) The name of this proceeding (*Nielsen v. Walt Disney Parks and*
7 *Resorts U.S., Inc.*, No. 8:21-cv-02055-DOC-ADS or similarly
8 identifying words such as Disney Dream Key Lawsuit);
- 9 ii) The objector’s name, address and telephone number;
- 10 iii) an explanation of the basis upon which the objector claims to be
11 a Settlement Class Member;
- 12 iv) all grounds for the objection, including all citations to legal
13 authority and evidence supporting the objection;
- 14 v) the name and contact information of any and all attorneys
15 representing, advising, or in any way assisting the objector in
16 connection with the preparation or submission of the objection
17 or who may profit from the pursuit of the objection (the
18 “Objecting Attorneys”); and
- 19 vi) a statement indicating whether the objector intends to appear at
20 the Final Approval Hearing (either personally or through counsel
21 who files an appearance with the Court in accordance with the
22 Local Rules).

23 13. Any Settlement Class member who does not timely submit a written
24 objection pursuant to the procedures outlined above and the procedures detailed in
25 the Class Notice and Settlement Agreement waives the right to object or be heard at
26 the Final Approval Hearing, shall be forever barred from making any objection to
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1 the Settlement Agreement, and will be bound by the Settlement Agreement upon
2 entry of the Final Judgment and Order.

3 **Final Approval Hearing**

4 14. The Court will hold a Final Approval Hearing on February 20, 2024, at
5 8:30 a.m., in Courtroom 10 A of the United States District Court for the Central
6 District of California, Ronald Reagan Federal Building and United States
7 Courthouse, 411 West Fourth Street, Santa Ana, CA, 92701-4516.

8 15. At the Final Approval Hearing, the Court will review, and rule on, the
9 following issues:

- 10 i) Whether this matter should be finally certified as a class action
11 for settlement purposes under Fed. R. Civ. P. 23(a) and (b)(3);
12 ii) Whether the settlement should be approved as fair, reasonable,
13 and adequate under Fed. R. Civ. P. 23(e);
14 iii) Whether this lawsuit should be dismissed with prejudice
15 pursuant to the terms of the Settlement Agreement;
16 iv) Whether the Settlement Class members should be bound by the
17 releases set forth in the Settlement Agreement;
18 v) Whether the application of Class Counsel for an award of
19 attorneys' fees, costs, and expenses and service awards should be
20 approved under Fed. R. Civ. P. 23(h); and
21 vi) Any other issues the Court deems appropriate.

22 16. Settlement Class members do not need to attend the Final Approval
23 Hearing, nor take any other action to indicate their approval of the proposed
24 Settlement Agreement. However, any Settlement Class members who wish to be
25 heard must appear at the Final Approval Hearing. The Final Approval Hearing may
26 be postponed, adjourned, transferred, or continued without further notice to the
27 Settlement Class members.
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1 **Settlement Administration Timeline, Injunction, and Termination**

2 17. To facilitate the timely administration of this case, the Court hereby sets
3 the following schedule:

Event	Deadline
Defendant to provide Settlement Class member data to the Claims Administrator	14 days after entry of this Order: October 31, 2023
Last day for Settlement Administrator to email Settlement Notice to Settlement Class Members (the “Notice Date”)	30 days after entry of this Order: November 15, 2023
Last day for Settlement Administrator to mail Settlement Notice to Settlement Class Members	14 days from the Notice Date: November 29, 2023
Last day for Settlement Class Members to submit Address Update Forms	60 Days from the Notice Date: January 15, 2024
Deadline to Submit Motion for Attorneys’ Fees, Costs and Service Awards	At Least 14 Days Before the Objection Deadline: January 1, 2024
Deadline to Object and Comment on Settlement	60 Days from the Notice Date: January 15, 2024
Deadline to Submit Request for Exclusion	60 Days from the Notice Date: January 15, 2024

Event	Deadline
Final Approval Hearing	February 20, 2024

18. All proceedings and deadlines in this matter, except those required to implement this Order and the Settlement Agreement, are hereby stayed and suspended until further order from the Court.

19. In the event that the Settlement Agreement is terminated pursuant to the terms of the Settlement Agreement, (1) the Settlement Agreement and this Order shall become null and void and shall be without prejudice to the rights of the parties, shall have no further force or effect, and shall not be used in this litigation or any other proceedings for any purpose other than as necessary to enforce the terms of the Settlement Agreement that survived termination, (2) this litigation will revert to the status that existed before the Settlement Agreement was executed, and (3) no term(s) or draft(s) of the Settlement Agreement or any part of the settlement discussions, negotiations, or documentation of any kind, related to the Settlement Agreement, whatsoever, shall (a) be admissible into evidence for any purpose in this litigation or in any other action or proceeding other than as may be necessary to enforce the terms of the Settlement Agreement that survived termination, (b) be deemed an admission or concession by any settling party regarding the validity of any of the Released Claims or the propriety of certifying any class against Defendant, or (c) be deemed an admission or concession by any of the parties regarding the truth or falsity of any facts alleged in the litigation or the availability or lack of availability of any defense to the Released Claims.

IT IS SO ORDERED.

DATED: October 16, 2023



HON. DAVID O. CARTER
UNITED STATES DISTRICT JUDGE