

Grace E. Parasmol (State Bar No. 308993)
gparasmol@parasmoliebermanlaw.com
Yitzchak H. Lieberman (State Bar No. 277678)
ylieberman@parasmoliebermanlaw.com
PARASMO LIEBERMAN LAW
7119 West Sunset Boulevard, Suite 808
Los Angeles, California 90046
Telephone: (646) 509-3913

Zack Broslavsky (State Bar No. 241736)
Jonathan A. Weinman (State Bar No. 256553)
BROSLAVSKY & WEINMAN, LLP
1500 Rosecrans Avenue, Suite 500
Manhattan Beach, California 90266
Phone: (310) 575-2550

*Attorneys for Plaintiff Daniel Blanco, individually,
and on behalf of a class of similarly situated individuals*

SUPERIOR COURT FOR THE STATE OF CALIFORNIA

COUNTY OF SAN DIEGO

DANIEL BLANCO, individually, and on
behalf of a class of similarly situated
individuals,

Plaintiffs,

v.

SEAWORLD PARKS AND
ENTERTAINMENT, INC., a Delaware
corporation, SEA WORLD, LLC, a
Delaware limited liability company, and
DOES 1-5, inclusive,

Defendants.

No. 37-2023-00008529-CU-BT-CTL

*Assigned to the Hon. Gregory W. Pollack,
Dept. 71*

**UNOPPOSED MOTION FOR
PRELIMINARY APPROVAL OF CLASS
SETTLEMENT; MEMORANDUM OF
POINTS AND AUTHORITIES IN
SUPPORT**

Date: April 18, 2025
Time: 9:30 a.m.

Action Filed: February 28, 2023
Trial Date: Not Set

1 TO THE COURT, ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

2 PLEASE TAKE NOTICE THAT on April 18, 2025, at 9:30 a.m. in Department 71 of this
3 Court, on the fifth floor of the Hall of Justice located at 330 West Broadway, San Diego, California
4 92101, before the Honorable Gregory W. Pollack or whomever may sit in his stead, Plaintiff Daniel
5 Blanco (“Blanco”) shall, and hereby does, move the Court: (1) for conditional class certification of the
6 proposed Settlement Class under Code of Civil Procedure section 382; (2) for preliminary approval of
7 the Settlement under California Rules of Court, rule 3.769(c), consistent with the attached proposed
8 order; (3) to approve the proposed notice plan to the proposed Settlement Class; (4) to conditionally
9 appoint Parasmo Lieberman Law, Broslavsky & Weinman, LLP and Preston Law Offices as
10 Settlement Class Counsel; (5) to conditionally appoint Plaintiff Daniel Blanco as Settlement Class
11 Representative; (6) to appoint Epiq Class Action & Claims Solutions, Inc. as Settlement Administrator;
12 and (7) to schedule a hearing for final approval of the settlement.

13 Blanco brings this motion on the grounds that (1) this settlement was reached through arm’s-
14 length bargaining; (2) Blanco’s investigation and discovery are sufficient to allow counsel and the
15 court to act intelligently; (3) Blanco’s counsel is experienced in similar litigation; (4) the resulting
16 settlement is fair, reasonable, and adequate; (5) the proposed notice to the Settlement Class is adequate
17 and satisfies due process; and (6) conditional certification of the proposed Settlement Class is fair and
18 proper under Code of Civil Procedure section 382. Pursuant to the terms of the settlement, the Court
19 should direct Plaintiff Blanco and Defendants (together, the “Parties”) to send notice of the settlement
20 to the Settlement Class and set the hearing for final approval of the settlement, so that any objections to
the settlement might be heard.

21 This Motion is based upon the argument above, the supporting Memorandum of Points and
22 Authorities, the attached Declarations of Grace E. Parasmo, Zack Broslavsky, Ethan Preston, Daniel
23 Blanco, and Cameron R. Azari, the complete file and records in this action, any oral argument and
24 other evidence presented at the hearing on this matter, evidence of which the Court may or must take
25 judicial notice, and any other evidence that the Court may wish to consider. Defendants do not oppose
26 this motion.

27 Dated: March 26, 2025

By: Grace E. Parasmo
Grace E. Parasmo (State Bar No. 308993)
gparasmo@parasmoliebermanlaw.com
Yitzchak H. Lieberman (State Bar No. 277678)

1 ylieberman@parasmoliebermanlaw.com
2 PARASMO LIEBERMAN LAW
3 7119 W. Sunset Blvd., #808
4 Los Angeles, California 90046
5 Telephone: (646) 509-3913

6 Zack Broslavsky (State Bar No. 241736)
7 Jonathan A. Weinman (State Bar No. 256553)
8 BROSLAVSKY & WEINMAN, LLP
9 1500 Rosecrans Ave., Suite 500
10 Manhattan Beach, California 90266
11 Phone: (310) 575-2550

12 Ethan Preston (State Bar No. 263295)
13 ep@eplaw.us
14 PRESTON LAW OFFICES
15 4054 McKinney Avenue, Suite 310
16 Dallas, Texas 75204
17 Telephone: (972) 564-8340
18 Facsimile: (866) 509-1197

19 *Attorneys for Plaintiff Daniel Blanco, on his own*
20 *behalf, and behalf of all others similarly situated*
21
22
23
24
25
26
27
28

TABLE OF CONTENTS

I.	INTRODUCTION.....	1
II.	SUMMARY OF ACTION	1
	A. Plaintiff's Automatic Renewal Law Claims.....	1
III.	SUMMARY OF THE SETTLEMENT TERMS	3
	A. The Proposed Settlement Class	3
	B. Settlement Consideration and Automatic Payments to the Settlement Class.....	3
	C. Release By Plaintiff and the Settlement Class	4
IV.	THE COURT SHOULD PRELIMINARILY APPROVE THE SETTLEMENT.....	4
	A. This Settlement Is Entitled to a Presumption of Fairness.....	5
	B. The Risks and Expense of Further Litigation Support Preliminary Approval	6
	C. The Amount Offered in the Settlement	7
	D. Sufficient Investigation and Discovery Was Conducted Prior to Settlement.....	9
	E. Skilled and Experienced Counsel Support the Settlement	9
	F. The Reaction of the Class.....	9
V.	THE COURT SHOULD APPROVE THE NOTICE PLAN	9
	A. The Content of the Notice is Adequate	9
	B. The Manner of Giving Notice Satisfies Due Process.....	10
VI.	THE COURT SHOULD CONDITIONALLY CERTIFY THE SETTLEMENT CLASS.....	11
	A. The Settlement Class is Sufficiently Ascertainable and Numerous	12
	B. The Class Represents a Well-Defined Community of Interests	12
	1. Class Issues Predominate	13
	2. Blanco Is Typical of the Settlement Class.....	13
	3. Blanco and His Counsel Are Adequate Representatives of the Settlement Class	14
	4. There are Substantial Benefits of Class Certification.....	15
VII.	THE COURT SHOULD ENTER THE PRELIMINARY APPROVAL ORDER.....	15

TABLE OF AUTHORITIES

Page(s)

Federal Cases

<i>Barani v. Wells Fargo</i> (S.D. Cal. Apr. 9, 2014 No. 12CV2999-GPC (KSC)) 2014 WL 1389329	9
<i>Californians for Disability Rights, Inc. v. California Dep't. of Transp.</i> (N.D. Cal. 2008) 249 F.R.D. 334	14
<i>Davis v. Birchbox, Inc.</i> , No. 3:15-cv-00498-BEN-BGS (S.D.Cal. 2016)	8
<i>Davis v. Birchbox, Inc.</i> (S.D. Cal. Oct. 17, 2016, No. 15-00498)	8
<i>Eisen v. Carlisle & Jacquelin</i> (1974) 417 U.S. 156	11
<i>Jordan v Washington Post</i> (N.D. Cal, July 29, 2020), No. 3:20-cv-05218-WHO ECF 56 & 57	8
<i>Mullane v. Central Hanover Trust</i> (1950) 339 U.S. 306	11
<i>Phillips Petroleum Co. v. Shutts</i> (1985) 472 U.S. 797	9
<i>Robinson v. OnStar, LLC</i> (S.D. Cal. Jan. 22, 2020, No. 15-CV-1731 JLS (MSB)) 2020 WL 364221	7

State Cases

<i>7-Eleven Owners for Fair Franchising v. Southland Corp.</i> (2000) 85 Cal.App.4th 1135	7
<i>Basurco v. 21st Century Ins.</i> (2003) 108 Cal.App.4th 110	15
<i>Brinker Restaurant Corp. v. Superior Court</i> (2012) 53 Cal.4th 1004	11, 12, 13
<i>Capitol People First v. Department of Dev. Servs.</i> (2007) 155 Cal.App.4th 676	6, 14
<i>In re Cellphone</i> (2009) 180 Cal.App.4th 1110	4

1	<i>In re Cellphone Fee Termination Cases</i>	
2	(2010) 186 Cal.App.4th 1380	9, 10
3	<i>Chavez v. Netflix, Inc.</i>	
4	(2008)162 Cal.App.4th 43	10, 11
5	<i>Clark v. Am. Residential Servs. LLC</i>	
6	(2009) 175 Cal.App.4th 785	4
7	<i>Fireside Bank v. Superior Court</i>	
8	(2007) 40 Cal.4th 1069.....	13
9	<i>Gargir v. SeaWorld Inc.,</i>	
10	Case No. 37-2015-00008175-CU-MC-CTL (Cal. Sup. Ct. San Diego Cnty. October	
11	21, 2016).....	1, 8
12	<i>Luckey v. Superior Ct.</i>	
13	(2014) 228 Cal.App.4th 81	12
14	<i>Mayron v. Google LLC</i>	
15	(2020) 54 Cal.App.5th 566.....	7
16	<i>McGhee v. Bank of Am.</i>	
17	(1976) 60 Cal.App.3d 442	14
18	<i>Morgan v. Wet Seal, Inc.</i>	
19	(2012) 210 Cal.App.4th 1341	13
20	<i>Noel v. Thrifty Payless, Inc.</i>	
21	(2019) 7 Cal.5th 955.....	11, 12
22	<i>Richmond v. Dart Indus., Inc.</i>	
23	(1981) 29 Cal.3d 462	14
24	<i>Rose v. City of Hayward</i>	
25	(1981) 126 Cal. App. 3d 926	12
26	<i>Sav-on Drug Stores, Inc. v. Superior Court</i>	
27	(2004) 34 Cal.4th 319.....	13
28	<i>Seastrom v. Neways, Inc.</i>	
	(2007) 149 Cal.App.4th 1496	13
	<i>Sharp v. Next Entm't, Inc.</i>	
	(2008) 163 Cal.App.4th 410.....	13
	<i>Simons v. Horowitz</i>	
	(1984) 151 Cal.App.3d 834	13
	<i>In re Tobacco II Cases</i>	
	(2009) 46 Cal.4th 298.....	11, 12

1	<i>Wershba v. Apple Computer, Inc.</i>	
2	(2001) 91 Cal.App.4th 224	7, 14

State Statutes

4	Cal. Bus. & Prof. Code, § 17200, et seq. (UCL)	2, 7
5	Cal. Bus. & Prof. Code, § 17602	2
6	Cal. Bus. & Prof. Code, § 17602(a)(1)	2
7	Cal. Bus. & Prof. Code, § 17602(a)(2)	2
8	Cal. Bus. & Prof. Code, § 17602(a)(4)	2
9	Cal. Bus. & Prof. Code, § 17602(d)(1)	2
10	Cal. Bus. & Prof. Code, § 17603	2
11	Cal. Code. Civ. Proc., § 382	11
12	California Automatic Renewal Law (Bus. & Prof. Code, §§ 17600-17606)	<i>passim</i>
13	California False Advertising Law (Bus. & Prof. Code, §§ 17500, et seq.)	2, 7

Rules

15	Cal. Rules of Court, Rule 3.766	9
16	Cal. Rules of Court, Rule 3.766(d)	10
17	Cal. Rules of Court, Rule 3.769(c)	4, 9
18	Cal. Rules of Court, Rule 3.769(d)	11
19	Cal. Rules of Court, Rule 3.769(f)	4, 10
20	Cal. Rules of Court, Rule 3.769(g)	4
21	Cal. Rules of Court, Rule 3.776(b)	10

1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I. INTRODUCTION**

3 Plaintiff Daniel Blanco (“Plaintiff” or “Blanco”) moves for preliminary approval of a class
4 settlement for approximately 141,358 California consumers who purchased an Annual Pass to
5 SeaWorld San Diego through the SeaWorld San Diego website or mobile application and were
6 automatically charged renewal fees after the expiration of the initial one year term.¹ Under the
7 Agreement, SeaWorld will establish a non-reversionary, settlement fund of \$1.5 million, which after
8 deduction of amounts the Court may approve for notice and administration costs, attorneys’ fees and
9 expenses, and the Class Representative’s service award, will be divided, on a pro rata basis, amongst
10 all Settlement Class Members who do not exclude themselves. Defendants do not oppose the Motion.

11 The Settlement is the product of an arms-length full day mediation before JAMS mediator,
12 Bruce Friedman Esq. The Settlement provides a substantial benefit to the Settlement Class Members
13 and compares favorably to other class settlements premised on violations of the California Automatic
14 Renewal Law (“ARL”) (Bus. & Prof. Code, §§ 17600-17606). Unlike other ARL class settlements,
15 here the Settlement is composed entirely of cash—*no coupons or vouchers*—and the Individual Class
16 Payments will be automatic; Settlement Class Members do not need to file a claim to receive a
17 settlement payment. The Settlement also compares favorably to a prior class action against SeaWorld
18 approved by this Court which also alleged violations of the ARL. (*See Gargir v. SeaWorld Inc.*, Case
19 No. 37-2015-00008175-CU-MC-CTL (Cal. Sup. Ct. San Diego Cnty. October 21, 2016)(the “Gargir
20 Action”) [\$500,000 settlement on behalf of 88,000 subscribers]).

21 The Parties and their counsel believe the Settlement to be in the best interests of the Settlement
22 Class Members, and Plaintiff respectfully requests that the Court find that the Settlement is fair,
23 adequate, and reasonable, and warrants preliminary approval.

24 **II. SUMMARY OF ACTION**

25 **A. Plaintiff’s Automatic Renewal Law Claims.**

26 SeaWorld Parks and Entertainment, Inc. and Sea World LLC (collectively “SeaWorld” or
27 “Defendants”) own and operate various amusement parks and water parks throughout the United

28 ¹ A copy of the Settlement Agreement (“SA” or “Agreement” or “Settlement”) is submitted as Exhibit 1 to the Declaration of Grace E. Parasmó (“Parasmó Decl.”).

1 States, including SeaWorld San Diego. (Compl. ¶ 1.) On SeaWorld San Diego’s website and mobile
2 application, consumers can purchase annual passes to SeaWorld San Diego, which automatically
3 renew after the initial one-year commitment period ends unless and until the consumer terminates his
4 or her annual pass. (Compl. ¶ 2.)

5 This action, filed on February 28, 2023, alleges that Defendants’ practice of automatically
6 renewing SeaWorld San Diego Annual Passes after the initial one-year commitment ended violated the
7 California Automatic Renewal Law (“ARL”) (Bus. & Prof. Code, §§ 17600-17606). Blanco alleges
8 that Defendants failed to provide “clear and conspicuous” notice of the autorenewal offer terms
9 (“Terms”) “in visual proximity [] to the request for consent to the offer[.]” (Bus. & Prof. Code, §
10 17602, subd. (a)(1).) (Compl. ¶¶ 32-36.) Blanco further alleges that Defendants charged Plaintiff and
11 Class Members’ credit or debit cards for an automatic renewal without first obtaining their affirmative
12 consent to the agreement containing the automatic renewal offer terms. (Bus. & Prof. Code, § 17602,
13 subd. (a)(2).) (*Id.* ¶¶ 37-38.) Blanco alleges that Defendants failed to provide purchasers of annual
14 passes with a reminder notice that their passes would renew 15 to 45 days before automatically
15 renewing their annual passes. (Bus. & Prof. Code, § 17602, subd. (a)(4).) (*Id.* ¶¶ 39-41.) Blanco also
16 alleges that the cancellation button on Defendants’ website did not function properly, obstructing or
17 delaying him and other consumers from terminating their annual passes. (Cal. Bus. & Prof. Code §
18 17602(d)(1)) (*Id.* ¶¶ 42-43.)

19 Blanco brought claims, on behalf of himself and a class of California consumers, for restitution
20 and injunctive relief under the Unfair Competition Law (“UCL”), Bus. & Prof. Code, § 17200, et seq.
21 and the California False Advertising Law (“FAL”), Bus. & Prof. Code, § 17500, et seq.) premised on
22 these alleged violations of the ARL. Blanco also asserted that because products received from a
23 business in violation of the Automatic Renewal Law, Cal. Bus. Prof. Code, §17602 constitute
24 unconditional gifts under Cal. Bus. Prof. Code, §17603, he and other similarly situated consumers
25 were entitled to a refund of the automatic renewal charges as a form of restitution. (Compl. ¶ 97.)
26 Defendants denied Plaintiff’s allegations.

27 ///

28 ///

1 **III. SUMMARY OF THE SETTLEMENT TERMS**

2 **A. The Proposed Settlement Class**

3 The proposed Settlement Class is defined as:

4 All persons with a California home or billing address on file with Defendants, who
5 purchased one or more Annual Passes to SeaWorld San Diego using the SeaWorld San
6 Diego website or mobile application on or after February 28, 2019 whose Annual Pass
7 automatically renewed after the initial twelve-month commitment ended on or before
8 February 28, 2025 and who did not receive a refund for the first auto-renewal charge.
9 Excluded from the Class are all employees of the Defendants, Named Plaintiffs' counsel,
10 and the judicial officers to whom this case is assigned. (SA § 1.25)

11 **B. Settlement Consideration and Automatic Payments to the Settlement Class**

12 If approved, Defendants will pay a total of \$1,500,000, composed entirely of cash, which
13 will be used to pay the expenses of settlement administration (including class notice), Settlement Class
14 Counsel's attorneys' fees and litigation expenses (as approved by the Court), a service payment to the
15 Settlement Class Representative (as approved by the Court), and the settlement payments to
16 Settlement Class Members who do not opt out from the Settlement ("Participating Class Members.")
17 (*Id.* at §§ 2.8 and 2.9.)

18 The Settlement does not contemplate a claims process—instead each Settlement Class Member
19 will automatically receive their pro rata share of the Net Settlement Amount, estimated to be
20 approximately \$6.13. (SA §§ 2.9, 2.10, 3.2; *see infra*, sec. IV.C.) Participating Settlement Class
21 Members will have an opportunity to select how they want to receive the settlement payment, whether
22 by electronic means (via PayPal, Venmo, direct deposit/ACH, electronic MasterCard, or another
23 electronic method the Settlement Administrator deems effective) or a paper check. (*Id.* at § 3.2.d.)
24 However, if they do nothing (i.e., they don't select a payment method), Participating Settlement Class
25 Members will still receive a cash payment in the form of a digital Mastercard. (*Id.* at § 3.2.e.) After
26 distribution to Participating Settlement Members, any funds that remain (such as uncashed checks or
27 otherwise), will be deposited with California Controller's Unclaimed Property Fund for the benefit of
28 the Settlement Class Member who did not redeem their payment. (*Id.* at § 3.2.f.) If the Final
Settlement Date occurs, no portion of the Settlement Amount will revert to Defendants. (*Id.* at § 2.2.)

1 **C. Release By Plaintiff and the Settlement Class**

2 Any Settlement Class Member who wishes to be excluded from or object to the Settlement may
3 do so on or before the Exclusion/Objection Deadline. (*Id.* at §3.8.) Following the Final Settlement
4 Date, Blanco and all Settlement Class Members who have not timely requested exclusion from
5 the Settlement will be deemed to have released claims that have been pled in the operative complaint,
6 or that reasonably could have been asserted based on the factual allegations contained in the operative
7 complaint relating to or arising out of the automatic renewal and/or cancellation of annual passes
8 purchased through the SeaWorld San Diego website or mobile application which were automatically
9 renewed by Defendants during the Settlement Class Period, including federal claims. (*Id.* § 4.3.)

10 **IV. THE COURT SHOULD PRELIMINARILY APPROVE THE SETTLEMENT**

11 Approval of a class settlement is “[a] two-step process[.]” (*In re Cellphone* (2009) 180
12 Cal.App.4th 1110, 1118.) Plaintiff first seeks preliminary approval of the settlement, and the
13 court evaluates whether the proposed settlement is fair, reasonable, and adequate. (Cal. Rules of
14 Court, rule 3.769(c).) After preliminary approval, the class notice is disseminated and class members
15 submit any opt-outs or objections. (Cal. Rules of Court, rule 3.769(f).) When that process is complete,
16 the trial court conducts a final approval hearing. (Cal. Rules of Court, rule 3.769(g).)

17 “The settlement of a class action requires court approval to prevent fraud, collusion, or
18 unfairness to the class.” (*In re Cellphone, supra*, 180 Cal.App.4th at p. 1117 [citation omitted] (*In re*
19 *Cellphone*)). “The court must determine the settlement is fair, adequate, and reasonable. The purpose
20 of [this] requirement is the protection of those class members, including the named plaintiffs, whose
21 rights may not have been given due regard by the negotiating parties.” (*Ibid.* [citation, punctuation
22 omitted].) A settlement is presumed to be fair “where: (1) [it] is reached through arm’s-length
23 bargaining; (2) investigation and discovery are sufficient to allow counsel and the court to act
24 intelligently; (3) counsel is experienced in similar litigation; and (4) the percentage of objectors is
25 small.” (*In re Cellphone, supra*, 180 Cal.App.4th at p. 1118 [citation, punctuation omitted].)

26 The substantive factors relevant to final approval include:

27 [(1)] the strength of plaintiffs’ case, [(2)] the risk, expense, complexity and likely
28 duration of further litigation, [(3)] the risk of maintaining class action status through
 trial, [(4)] the amount offered in settlement, [(5)] the extent of discovery completed and
 the stage of the proceedings, [(6)] the experience and views of counsel, [(7)] the
 presence of a governmental participant, and [(8)] the reaction of the class members to

1 the proposed settlement.
2 (*Id.* at p. 1117.) These factors are “not exhaustive” and the Court’s analysis “should be tailored to each
3 case.” (*Clark v. Am. Residential Servs. LLC* (2009) 175 Cal.App.4th 785, 799 [cleaned up, citations
4 omitted].)

5 **A. This Settlement Is Entitled to a Presumption of Fairness**

6 The Court should presume the Settlement is fair. The lawsuit was filed over two years ago.
7 After fiercely litigating the case, the parties began to negotiate the Settlement when they mediated
8 with Bruce A. Friedman of JAMS on November 20, 2024. (Parasmo Decl. ¶ 20.) The record should
9 leave no doubt that the Settlement is anything other than arm’s length and hard fought.

10 Through discovery and their own independent investigation, Blanco’s counsel obtained
11 information regarding the facts and circumstances relating to Blanco’s factual allegations and
12 Defendants’ defenses, the requested relief and the composition of the Settlement Class. (Parasmo
13 Decl. ¶ 21.) Blanco served two rounds of written discovery, including document demands, special
14 interrogatories, and form interrogatories. (*Id.* at ¶ 22.) The first round was propounded in December
15 of 2023, and the second round in April of 2024. (*Id.*) Both rounds of discovery necessitated multiple
16 rounds of meeting and conferring. (*Id.*) In April of 2024, Blanco also served subpoenas on two of
17 Defendants’ vendors who documented the design, functionality and user experience of the SeaWorld
18 San Diego website and mobile application, triggering Defendants’ motions to quash. (*Id.*) Blanco
19 filed an *ex parte* application to compel Defendants to complete their document production, and
20 obtained an order requiring SeaWorld to produce all existing documents. (*Id.*; *see*, Court Order
21 entered July 18, 2024.) Blanco’s counsel also performed additional investigation by, *inter alia*,
22 speaking to other putative class members, doing their own investigation of the purchase flow for
23 annual passes on Defendants’ website and mobile application during the class period, and researching
24 Defendants’ vendors. (*Id.* at ¶ 24; Broslavsky Decl. ¶ 5.) Defendants also served their own discovery
25 on Blanco in October of 2023, which likewise resulted in multiple rounds of meeting and conferring.
26 (Parasmo Decl. ¶ 24.) And for purposes of mediation, the parties exchanged informal discovery
27 necessary to resolve the case on a class-wide basis, including the number of individuals whose annual
28 passes automatically renewed and the average renewal price, among other data points. (*Id.* at ¶ 25.)

1 The investigation and discovery are sufficient to allow counsel and the Court to act intelligently. (*Id.* at
2 ¶ 26.) Finally, counsel are experienced consumer class action attorneys and have served as lead
3 counsel or class counsel in numerous certified classes. (*Id.* at ¶¶5, 8; Preston Decl. ¶ 3; Broslavsky
4 Decl. ¶ 3.) Counsel support the Settlement and based on the risks and costs for continued litigation,
5 believe it is in the best interests of the Settlement Class. (Parasmo Decl. ¶¶ 27-34; Preston Decl. ¶ 4;
6 Broslavsky Decl. ¶ 6.)

7 **B. The Risks and Expense of Further Litigation Support Preliminary Approval**

8 While Blanco is confident in the merits of his substantive claims and class certification of
9 similarly-situated consumers, Defendants have denied liability and vigorously defended this case
10 throughout the litigation. Further litigation entails a number of risks that support settlement.
11 *First*, Defendants maintain that the purchase process for Annual Passes complied with the ARL
12 throughout the Settlement Class Period. Plaintiffs acknowledge the risk that the Court or a jury could
13 find that Defendants’ automatic renewal disclosures were “clear and conspicuous” as that term is
14 defined in the ARL. *Second*, Defendants contend they were not required to provide email reminders to
15 Blanco and other consumers whose annual passes renewed on a month-to-month basis. *Third*, even
16 were Plaintiffs to show that Defendants violated certain provisions of the ARL, Defendants would
17 assert a good faith defense. In fact, the ARL itself provides a safe harbor: “If a business complies with
18 the provisions of this article in good faith, it shall not be subject to civil remedies.” (Bus. & Prof., §
19 17604, subd. (b).) If Defendants were successful on any of their various defenses, Plaintiffs and
20 Settlement Class Members would recover nothing. While Blanco and Proposed Class Counsel contend
21 they would prevail on the merits at trial, they cannot discount the possibility of failure against this
22 backdrop. Moreover, even if Blanco prevailed at trial, Defendants could and would challenge any
23 victory at trial through appeal.

24 Absent the Settlement, there is no guarantee that Blanco would certify a class on a contested
25 motion, nor is there any guarantee that class action status could be maintained through trial and appeal.
26 For example, there may have been differences in the wording and placement of the automatic renewal
27 terms during the class period that the Court would find to be material and could preclude certification.
28 Further, the Defendants contend that whether the cancellation mechanism employed by SeaWorld was

1 functioning at the time consumers attempted to cancel their annual passes would require an
2 individualized inquiry that would preclude class certification. Blanco is also mindful that at least one
3 court has denied certification of a class where, as here, plaintiff and the class sought a full refund of the
4 renewal price charged under the “gift provision” of the ARL. (*See, e.g., Robinson v. OnStar, LLC*
5 (S.D. Cal. Jan. 22, 2020, No. 15-CV-1731 JLS (MSB)) 2020 WL 364221, at *23.) In addition,
6 whether the ARL’s gift provision applies to SeaWorld’s annual passes (as opposed to tangible goods
7 only) has not yet been definitively determined by a California appellate court. (*Mayron v. Google LLC*
8 (2020) 54 Cal.App.5th 566, 576 [“we need not reach the issue of whether the gift provision applies
9 only to tangible goods...”]) Blanco denies that these issues would have prevented him from certifying
10 a class, but they might have complicated that task. While Blanco vigorously disputes the merits of
11 these positions, litigating class discovery further will entail significant delay, expense, and judicial
12 resources.

13 Absent the Settlement, there is no guarantee that Blanco would prevail on the merits and
14 achieve any monetary recovery. Blanco’s ability to obtain any restitution on a class-wide basis under
15 the UCL and FAL was uncertain, especially given Defendants’ contention that some putative class
16 members continued to visit SeaWorld after the automatic renewal of their annual passes. The
17 Settlement eliminates these risks and uncertainties. The proposed Settlement is necessarily a
18 compromise—but nonetheless provides a substantial benefit to the Settlement Class while eliminating
19 the risk, expense, delay, and uncertainty of continued litigation. Accordingly, the proposed Settlement
20 is within range of obtaining final approval and the instant Motion should be granted: “the merits of the
21 underlying class claims are not a basis for upsetting the settlement of a class action; the operative word
22 is ‘settlement.’” (*7-Eleven Owners for Fair Franchising v. Southland Corp.* (2000) 85 Cal.App.4th
23 1135, 1150 [citations omitted].) “The proposed settlement is not to be judged against a hypothetical or
24 speculative measure of what might have been achieved had plaintiffs prevailed at trial.” (*Wershba v.*
25 *Apple Computer, Inc.* (2001) 91 Cal.App.4th 224, 246 [same].)

26 **C. The Amount Offered in the Settlement**

27 The monetary settlement consideration is \$1,500,000. (SA § 2.1.) The Settlement provides that
28 the Court may award up to thirty-three and a third of that amount in attorneys’ fees (\$500,000), plus

1 actual litigation expenses not to exceed \$20,000, and a service payment to the Settlement Class
2 Representative not to exceed \$10,000, all subject to Court approval. (*Id.* at § 2.8.) Total notice and
3 administration expenses are expected to be \$102,541.² After these deductions, the Net Settlement
4 Amount (\$867,459) will be distributed to Participating Class Members (who do not timely exclude
5 themselves from the Settlement) on a pro rata basis. (*Id.* at § 2.8.) As of March 14, 2025, Defendants
6 have identified 141,358 Settlement Class Members. (*Id.* at § 3.2.b.) If the foregoing amounts are
7 awarded by the Court, and there are no opt-outs, each Participating Settlement Class Member will
8 receive approximately \$6.13.

9 The monetary relief provides a substantial benefit to the Settlement Class and compares
10 favorably against other ARL class settlements, including settlements where class members have only
11 received credits that could be used as a discount on future purchases from the defendant (and not
12 cash). For example, in *Davis v. Birchbox, Inc.*, No. 3:15-cv-00498-BEN-BGS (S.D.Cal. 2016), class
13 members received only credits (no cash) that could be used as a discount on future purchases from the
14 defendant.³ In *Williamson v. McAfee, Inc.*, the court approved a settlement where the class members
15 received credit by default, unless they filed a special form electing cash. ((N.D. Cal., Feb. 3, 2017, No.
16 5:14-CV-00158-EJD) 2017 WL 6033070, at *1.)⁴

17 In this case, by contrast, all the consideration is paid in cash, not credits, so Participating
18 Settlement Class Members are not required to spend more money with Defendants to benefit from the
19 Settlement. And the Settlement here provides for direct and automatic distribution of cash to the
20 Participating Class Members as efficiently as possible, and the amount paid reflects a reasonable
21 portion of their damages from the ARL violations. In fact, the Settlement is estimated to result in
22 more monetary relief per class member than achieved by the class settlement approved by this Court in
23

24 ² The Settlement Administration Payment may exceed this estimate based on unknown factors such as
25 the number of Participating Settlement Class Members and their payment method preferences. For
flexibility, the Settlement caps this payment at \$150,000. (Parasmo Decl. ¶ 37)

26 ³ (Parasmo Decl. Ex. 2, Order Granting Final Approval, ECF 57.)

27 ⁴ (*See also Jordan v Washington Post* (N.D. Cal, July 29, 2020, No. 3:20-cv-05218-WHO, ECF 56 &
28 57 [finally approved class settlement where the defendant automatically provided class members with
credit codes redeemable for free weeks of subscription services or a cash payment only if class
members filed a claim].)

1 the *Gargir* Action alleging that SeaWorld’s autorenewal of passes violated the ARL.

2 **D. Sufficient Investigation and Discovery Was Conducted Prior to Settlement**

3 Both Parties engaged in significant investigation and evaluation of the factual and legal
4 strengths and weaknesses of their respective cases, including the exchange of written discovery,
5 numerous documents, and class-and damages-related data. (Parasmo Decl. ¶¶ 21-26; see Section IV.A,
6 supra.) Accordingly, the Parties have a clear view of the strengths and weaknesses of their case
7 “sufficient information to make an informed decision about settlement.” (*Barani v. Wells Fargo* (S.D.
8 Cal. Apr. 9, 2014 No. 12CV2999-GPC (KSC)) 2014 WL 1389329, at *5.)

9 **E. Skilled and Experienced Counsel Support the Settlement**

10 The opinions of experienced and informed counsel supporting a settlement are entitled to
11 considerable weight in granting preliminary approval. (*Dunk, supra*, 48 Cal.App.4th at pp. 1801-02.)
12 Here, the Parties’ respective counsel each has class action consumer fraud litigation experience, and
13 each believes the Settlement is fair, adequate, and reasonable in light of the uncertainties regarding
14 recovery and restitution, potential class certification issues surrounding differences in the disclosures
15 made to consumers when they purchased annual passes, the Defendants’ cancellation mechanism, and
16 other potential individualized inquiries, and the risks inherent in further litigation. (Parasmo Decl. ¶¶ 5,
17 27-34; Broslavsky Decl. ¶¶ 3, 6; Preston Decl, ¶¶ 3-4.)

18 **F. The Reaction of the Class**

19 Following preliminary approval, notice of the Settlement will be given to the class, who will
20 have an opportunity to object or opt out of the Settlement. The Settlement Administration and counsel
21 will report on the reaction of the class at the final approval hearing.

22 **V. THE COURT SHOULD APPROVE THE NOTICE PLAN**

23 **A. The Content of the Notice is Adequate**

24 Here, class notice is necessary because the Settlement releases monetary claims and will bind
25 Settlement Class Members who do not opt-out. (*Phillips Petroleum Co. v. Shutts* (1985) 472 U.S. 797,
26 811-12; Cal. Rules of Court, rules 3.766, 3.769(c).) The Settlement provides for email summary
27 notice to the Settlement Class linking to a settlement website containing the long form notice. (S.A.,
28 Exs. C and D). Directing class members to a website with the full notice is a “‘perfectly acceptable’

1 manner of giving notice.” (*In re Cellphone Fee Termination Cases* (2010) 186 Cal.App.4th 1380,
2 1390 (*In re Cellphone II*) [cleaned up].)

3 The content of the class notice is adequate. “The summary notice and long-form notice
4 together provide[] all of the detail required by statute or court rule, in a highly accessible form.”
5 (*Chavez v. Netflix, Inc.* (2008)162 Cal.App.4th 43, 58.) The long form notice provides an explanation
6 of the proposed settlement and procedures for Settlement Class Members to follow in filing written
7 objections to it and in arranging to appear at the settlement hearing and state any objections to the
8 proposed settlement. (S.A., Ex. C) (Cal. Rules of Court, rule 3.769(f).) It also satisfies Rule 3.776(b)
9 because it provides (1) a brief explanation of the case, including the basic contentions or denials of the
10 parties; (2) a statement that the court will exclude the member from the class if the member so requests
11 by a specified date; (3) a procedure for the member to follow in requesting exclusion from the class;
12 (4) a statement that the judgment, whether favorable or not, will bind all members who do not request
13 exclusion; and (5) a statement that any member who does not request exclusion may, if the member so
14 desires, enter an appearance through counsel. (*In re Cellphone II, supra*, 186 Cal.App.4th at 1390
15 [quoting Cal. Rules of Court, rule 3.766(d)].)

16 The notice also includes “the total amount of the common fund recovery, the nature of the
17 costs and fees to be deducted from the common fund, and the fact that the balance of the fund would
18 be allocated among" Participating Settlement Class Members on a *pro rata* basis. (*See Id.* at p. 1393
19 [notice provided “aggregate amount available to all claimants [] and the formula for determining one’s
20 recovery” sufficed, “Nothing more specific is needed,” citation omitted].) Finally, the notices also
21 apprise Settlement Class Members that if they do not opt-out and the Final Effective Date occurs, they
22 will receive another email allowing them to select a method (electronic or paper check) for how their
23 payment will be transmitted, and if they don’t select a payment method, they will get a digital
24 MasterCard. (Exs. C and D.)

25 **B. The Manner of Giving Notice Satisfies Due Process**

26 “The trial court has virtually complete discretion as to the manner of giving notice to class
27 members.” *In re Cellphone II, supra*, 186 Cal. App. 4th at 1390 (cleaned up). Here, all Settlement
28 Class Members “conducted business with defendant over the Internet, and can be assumed to know

1 how to navigate between the summary notice and the Web site.” (*Chavez v. Netflix, Inc.*, 162 Cal.
2 App. 4th 43, 58 (2008)). Thus, “[u]sing the capability of the Internet in that fashion [i]s a sensible and
3 efficient way of providing notice.” (*Id.*).

4 The Settlement provides that the Settlement Administrator will email the Email Notice to each
5 Settlement Class Member. (SA § 3.2.d.) For Email Notices that bounce back, at least two additional
6 attempts will be made. (*Id.*) The Settlement Administrator will also establish a Settlement Website
7 and will post the Long Form Class Notice on the website with links to important case documents. (*Id.*
8 at § 3.2.c.; Azari Dec. ¶ 21⁵.) The Settlement Administrator will also issue a press release via PR
9 Newswire’s California Newline with links to the Settlement Website and the toll-free telephone
10 number. (SA § 3.3; Azari Decl. ¶¶ 23-24.) The Notice Plan is consistent with other court-approved
11 notice plans, will actually inform the Settlement Class of their rights and options, is reasonably
12 calculated to do so, and satisfies the requirements of due process. (*Eisen v. Carlisle & Jacquelin*
13 (1974) 417 U.S. 156, 173 (citing *Mullane v. Central Hanover Trust* (1950) 339 U.S. 306, 315); Azari
14 Decl., ¶¶ 28-32.)

15 **VI. THE COURT SHOULD CONDITIONALLY CERTIFY THE SETTLEMENT CLASS**

16 The Court decides “certification of a provisional settlement class after the preliminary
17 settlement hearing.” (Cal. Rules of Court, rule 3.769(d).) The proposed class is appropriate for
18 certification. Section 382 provides for class certification “when the question is one of a common or
19 general interest, of many persons, or when the parties are numerous, and it is impracticable to bring
20 them all before the court.” (Code. Civ. Proc., § 382.) Class certification requires evidence of “an
21 ascertainable and sufficiently numerous class, a well-defined community of interest, and substantial
22 benefits from certification that render proceeding as a class superior to the alternatives.” (*Brinker*
23 *Restaurant Corp. v. Superior Court* (2012) 53 Cal.4th 1004, 1021 [citations omitted] (“*Brinker*”). See
24 also *In re Tobacco II Cases* (2009) 46 Cal.4th 298, 313.) The Settlement Class meets each of these
25 elements.

26
27
28 ⁵ See the concurrently filed Declaration of Cameron R. Azari (Senior Vice President at Epiq Class
Action and Claims Solutions, Inc., the Settlement Administrator) (“Azari Decl.”).

1 **A. The Settlement Class is Sufficiently Ascertainable and Numerous**

2 A class is ascertainable “when it is defined in terms of objective characteristics and common
3 transactional facts that make the ultimate identification of class members possible when that
4 identification becomes necessary.” (*Noel v. Thrifty Payless, Inc.* (2019) 7 Cal.5th 955, 980 (Noel).)
5 “Class members are ‘ascertainable’ where they may be readily identified ... by reference to official
6 records.” (*Rose v. City of Hayward* (1981) 126 Cal. App. 3d 926, 932, disapproved of on another
7 ground by *Noel, supra*, 7 Cal.5th 955).

8 Here, the estimated 141,358 Settlement Class Members are readily identifiable based on
9 Defendant’s records, and the Settlement Class is appropriately defined based on objective
10 characteristics. Therefore, the Settlement class is numerous, ascertainable, and appropriately defined.
11 Blanco does not need to do any more to demonstrate ascertainability, especially in a settlement
12 context. (*Luckey v. Superior Ct.* (2014) 228 Cal.App.4th 81, 93-94 [citation omitted] [“In some ways,
13 the court's review of certification of a settlement-only class is lessened; as no trial is anticipated in a
14 settlement-only class case, ‘the case management issues inherent in the ascertainable class
15 determination need not be confronted.’”])

16 **B. The Class Represents a Well-Defined Community of Interests**

17 The “community of interests” requirement has three elements: “(1) predominant common
18 questions of law or fact; (2) class representatives with claims or defenses typical of the class; and (3)
19 class representatives who can adequately represent the class.” (*Brinker, supra*, 53 Cal.4th at p. 1021
20 [citations omitted]. See also *In re Tobacco II Cases, supra*, 46 Cal.4th at 313.) The Settlement Class
21 satisfies each of these elements. Plaintiff contends that Defendants failed to provide adequate
22 reminders before they renewed each Settlement Class Members’ annual pass. The question of whether
23 Defendants’ automatic renewals violated the ARL is also common to each class member. All of the
24 Settlement Class Members were led through the same or materially the same sign-up process and
25 encountered the same allegedly deficient disclosures and authorizations in the same manner.⁸ (*See*
26 *Compl. ¶¶ 17-23.*)

1 **1. Class Issues Predominate**

2 Deciding whether common questions of law or fact predominate requires the Court to compare
3 common questions to individual questions:

4 The ultimate question the element of predominance presents is whether the issues which
5 may be jointly tried, when compared with those requiring separate adjudication, are so
6 numerous or substantial that the maintenance of a class action would be advantageous
7 to the judicial process and to the litigants. . . . A court must examine the allegations of
8 the complaint and supporting declarations . . . and consider whether the legal and
9 factual issues they present are such that their resolution in a single class proceeding
10 would be both desirable and feasible.

11 (*Brinker, supra*, 53 Cal.4th at pp. 1021-22 [citations, punctuation omitted]; quoted by *Morgan v. Wet*
12 *Seal, Inc.* (2012) 210 Cal.App.4th 1341, 1355.) Predominance is an inherently “comparative concept,”
13 which means that it does not require a complete absence of individual issues. (*Sav-on Drug Stores, Inc.*
14 *v. Superior Court* (2004) 34 Cal.4th 319, 334 (*Sav-On*)).

15 [The Supreme Court] long ago recognized that each class member might be required
16 ultimately to justify an individual claim does not necessarily preclude maintenance of a
17 class action. . . . [T]he necessity for class members to individually establish eligibility
18 and damages does not mean individual fact questions predominate. . . . *Individual issues*
19 *do not render class certification inappropriate so long as such issues may effectively be*
20 *managed.*

21 (*Ibid.* [citations, punctuation omitted; emphasis added].) The mere presence of individual issues alone
22 does not prevent class certification; rather, predominance only fails when the individual issues become
23 so prevalent that they are unmanageable. Here, the common issues of fact and law presented by the
24 Settlement Class heavily outweigh any individual issues.

25 **2. Blanco Is Typical of the Settlement Class**

26 Blanco is a typical class member, and “has claims or defenses typical of the class.” (*Fireside*
27 *Bank v. Superior Court* (2007) 40 Cal.4th 1069, 1090.) “Typicality refers to the nature of the claim or
28 defense of the class representative, and not to the specific facts from which it arose or the relief
sought,” and rests on “whether other members have the same or similar injury, whether the action is
based on conduct which is not unique to the named plaintiffs, and whether other class members have
been injured by the same course of conduct.” (*Seastrom v. Neways, Inc.* (2007) 149 Cal.App.4th 1496,
1502.) Blanco is typical because he purchased his Annual Passes online, and Defendants later

1 automatically renewed them after the initial one-year. (Blanco Decl. ¶ 2)

2 **3. Blanco and His Counsel Are Adequate Representatives of the Settlement Class**

3 The class here has adequate representation. “The primary criterion for determining whether a
4 class representative has adequately represented a class is whether the representative, through qualified
5 counsel, vigorously and tenaciously protected the interests of the class.” (*Simons v. Horowitz* (1984)
6 151 Cal.App.3d 834, 846 [citation, punctuation omitted]. See also *Sharp v. Next Entm’t, Inc.* (2008)
7 163 Cal.App.4th 410, 432 (*Sharp*.) Hence, adequacy requires evidence that the class counsel are
8 “qualified to conduct the proposed litigation and the plaintiff’s interests are not antagonistic to the
9 interests of the class.” (*McGhee v. Bank of Am.* (1976) 60 Cal.App.3d 442, 450 (*McGee*.) Adequate
10 representation concerns “conflicts of interest between named parties and the class they seek to
11 represent[;] the class representative’s personal claim must not be inconsistent with the claims of other
12 members of the class.” (*Capitol People First v. Department of Dev. Servs.* (2007) 155 Cal.App.4th
13 676, 697 [citation, punctuation omitted]; see also *Richmond v. Dart Indus., Inc.* (1981) 29 Cal.3d 462,
14 478-79 [adequacy inquiry should “eliminate so far as possible the likelihood that the litigants are
15 involved in a collusive suit or that plaintiff has interests antagonistic to those of the remainder of the
16 class”] (*Richmond*.) That said, “[o]nly a conflict that goes to the very subject matter of the litigation
17 will defeat a party’s claim of representative status. Most differences in situation or interest among class
18 members should not bar class suit.” (*Wershba, supra*, 91 Cal.App.4th at 238 [quoting *Richmond*,
19 *supra*, 29 Cal.3d 462, 470; punctuation omitted].) There is no such conflict between Blanco and any
20 other member of the class: they all have an interest in recovery from Defendants’ ARL violations. (*Id.*
21 at pp. 238-39 [no conflict where representative and other class members “suffered a common alleged
22 wrong”; contrasted with situation where class members’ interests were “diametrically opposed” to
23 class representative].) Blanco has also actively participated in this lawsuit and provided information,
24 evidence and documents that contributed to the settlement. (Blanco Decl. ¶¶ 3-6.)

25 Blanco’s counsel are also adequate. (See also *Richmond, supra*, 29 Cal.3d at p. 478 [class
26 plaintiff’s attorney must be “qualified, experienced and generally able to conduct the proposed
27 litigation”; citation omitted].) “Adequate representation is usually presumed in the absence of contrary
28 evidence.” (*Californians for Disability Rights, Inc. v. California Dep’t. of Transp.* (N.D. Cal. 2008)

1 249 F.R.D. 334, 349 [citation omitted]. See also *McGhee*, *supra*, 60 Cal.App.3d at p. 450 [finding
2 adequacy where there was “no indication that [plaintiffs’] attorneys [were] not qualified to act as
3 attorneys for the class”].) Here, Blanco’s counsel are highly qualified and experienced in litigating
4 consumer class actions, and have tenaciously litigated this case. (Parasmo Decl. ¶¶ 5, 11-12, 17;
5 Preston Decl. ¶ 3; Broslavsky Decl. ¶ 3.) The Settlement Class has adequate representation.

6 **4. There are Substantial Benefits of Class Certification**

7 “[A] class action should not be certified unless substantial benefits accrue both to litigants and
8 the courts. . . .” (*Basurco v. 21st Century Ins.*, (2003) 108 Cal.App.4th 110, 117, internal quotation
9 marks omitted.) Generally, “a class action is proper where it provides small claimants with a method of
10 obtaining redress and when numerous parties suffer injury of insufficient size to warrant individual
11 action.” (*Id.* at pp. 120–121, internal quotation marks omitted.) Here, there are an estimated 141,358
12 Settlement Class Members. It would be inefficient for the Court to hear and decide the same issues
13 separately and repeatedly for each Settlement Class Member. Further, it would be cost prohibitive for
14 each Settlement Class Member to file suit individually, as each member would have the potential for
15 little to no monetary recovery. Therefore, a class action provides substantial benefits to both the
16 litigants and the Court in this case.

17 **VII. THE COURT SHOULD ENTER THE PRELIMINARY APPROVAL ORDER**

18 The Court should enter the preliminary approval order to (1) conditionally certify the
19 Settlement Class for settlement purposes (2) appoint Blanco as Settlement Class Representative, his
20 counsel as Settlement Class Counsel, and Epic as the Settlement Administrator; (3) grant preliminary
21 approval to the Settlement; and (4) approve the notice to the Settlement Class under the Settlement,
22 and (5) schedule a final fairness hearing.

23
24 Dated: March 26, 2025

By: Grace E. Parasmo
Grace E. Parasmo (State Bar No. 308993)
gparasmo@parasmoliebermanlaw.com
Yitzchak H. Lieberman (State Bar No. 277678)
ylieberman@parasmoliebermanlaw.com
PARASMO LIEBERMAN LAW
7119 W. Sunset Blvd., #808
Los Angeles, California 90046
Telephone: (646) 509-3913

1 Zack Broslavsky (State Bar No. 241736)
2 Jonathan A. Weinman (State Bar No. 256553)
3 BROSLAVSKY & WEINMAN, LLP
4 1500 Rosecrans Ave., Suite 500
5 Manhattan Beach, California 90266
6 Phone: (310) 575-2550

7 Ethan Preston (State Bar No. 263295)
8 ep@eplaw.us
9 PRESTON LAW OFFICES
10 4054 McKinney Avenue, Suite 310
11 Dallas, Texas 75204
12 Telephone: (972) 564-8340
13 Facsimile: (866) 509-1197

14 *Attorneys for Plaintiff Daniel Blanco, on his own*
15 *behalf, and behalf of all others similarly situated*
16
17
18
19
20
21
22
23
24
25
26
27
28