



**SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NASSAU**

CLAIR AWAD and SHANE MANNION,  
individually and on behalf of all others similarly  
situated,

Plaintiffs,

v.

FANDANGO MEDIA, LLC,

Defendant.

Index No. 610563/2024

**CLASS ACTION SETTLEMENT AGREEMENT**

This Agreement (“Agreement” or “Settlement Agreement”) is entered into by and among (i) Plaintiffs Clair Awad and Shane Mannion (“Class Representatives”); (ii) the Settlement Class (as defined herein); and (iii) Defendant Fandango Media, LLC (“Defendant” or “Fandango”).

The Settlement Class and Class Representatives are collectively referred to as the “Plaintiffs” unless otherwise noted. The Class Representatives and the Defendant are collectively referred to herein as the “Parties.” This Agreement is intended by the Parties to fully, finally and forever resolve, discharge, and settle the Released Claims (as defined herein), upon and subject to the terms and conditions of this Agreement, and subject to the final approval of the Court.

**RECITALS**

A. On December 22, 2023, Plaintiff Mannion filed a putative class action in the United States District Court for the Southern District of New York. The material allegations of the complaint centered on Defendant’s alleged failure to timely disclose a convenience fee for the online purchase of tickets to movie theaters in New York state, in alleged violation of New York Arts and Cultural Affairs Law (“ACAL”) § 25.07(4).

B. From the outset of the federal action, Fandango asserted that Plaintiff Mannion lacked the ability to allege a concrete injury, and thereby lacked standing to pursue his claims in federal court under Article III of the Constitution based upon, for example, the undisputed fact that Fandango's online platforms clearly and conspicuously disclosed the convenience fee prior to a user's decision to purchase movie tickets and the undisputed fact that Plaintiff Mannion is a repeat purchaser on Fandango's online platforms. Accordingly, Fandango contested the federal court's subject-matter jurisdiction over Mannion's claims against Fandango.

C. From the outset of the case, the Parties have engaged in settlement discussions and, to that end, agreed to participate in a private mediation on June 14, 2024 with the Honorable Diane M. Welsh (Ret.), formerly of the Eastern District of Pennsylvania and now with JAMS. Notably, Fandango changed the purchase flow for its online platforms effective on March 12, 2024.

D. On March 12, 2024, the Parties to the federal action submitted a joint letter to the federal court in which the Parties informed the federal court that they had agreed to mediate the matter with Judge Welsh. The federal court stayed the federal action accordingly.

E. Prior to the mediation, the Parties exchanged informal discovery, including on issues such as the size and scope of the putative class and the amount of convenience fees Defendant collected during the relevant period. Given that this information would have been, in large part, the same information that would have been produced in formal discovery related to issues of class certification and summary judgment, the Parties had sufficient information to assess the strengths and weaknesses of their respective claims and defenses.

F. On June 14, 2024, the Parties conducted a full-day mediation before Judge Welsh. At the conclusion of the mediation, the Parties reached an agreement on all material terms of a class action settlement and executed a term sheet.

G. On June 17, 2024, Plaintiff Mannion voluntarily dismissed the federal action without prejudice, and that same day, the Class Representatives filed this case in the Supreme Court of the State of New York, County of Nassau.

H. Defendant believes that the claims asserted in the Action against it have no merit and that it would have prevailed on a motion to compel arbitration, a motion to dismiss, a motion for summary judgment, and/or would have ultimately prevailed at trial, and that the Class Representatives would not have been able to certify a class under the requirements of CPLR 901. Defendant has denied, and continues to deny, any wrongdoing whatsoever, and has expressly denied, and continues to deny, that it committed, or attempted to commit, any wrongful or unlawful act or violation of law or duty alleged in the Action. Defendant has opposed, and will continue to oppose, certification of a litigation class in this Action. Nonetheless, taking into account the uncertainty and risks inherent in any litigation, Defendant has concluded that it is desirable and beneficial that the Action be fully and finally settled and terminated in the manner and upon the terms and conditions set forth in this Agreement.

I. The Class Representatives believe that the claims asserted in the Action against Defendant have merit and that they would have prevailed at summary judgment and/or trial. Nonetheless, the Class Representatives and Class Counsel (defined below) recognize that Defendant has raised factual and legal defenses that present a risk that the Class Representatives may not prevail. The Class Representatives and Class Counsel also that recognize the expense and delay associated with continued prosecution of the Action against Defendant through a motion to compel arbitration, a motion to dismiss, a class certification motion, summary judgment, trial, and any subsequent appeals. The Class Representatives and Class Counsel also have taken into account the uncertain outcome and risks of litigation, especially in complex class actions, as well as the difficulties inherent in such litigation. Therefore, the Class

Representatives believe it is desirable that the Released Claims be fully and finally compromised, settled, and resolved with prejudice. Based on its evaluation, Class Counsel has concluded that the terms and conditions of this Agreement are fair, reasonable, and adequate to the Settlement Class, and that it is in the best interests of the Settlement Class to settle the claims raised in the Action pursuant to the terms and provisions of this Agreement.

NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED by and among the Class Representatives, the Settlement Class, and each of them, and Defendant, by and through their undersigned counsel that, subject to final approval of the Court after a hearing or hearings as provided for in this Settlement Agreement, in consideration of the benefits flowing to the Parties from the Agreement set forth herein, that the Action and the Released Claims shall be finally and fully compromised, settled, and released, and the Action shall be dismissed with prejudice, upon and subject to the terms and conditions of this Agreement.

**AGREEMENT**

**1. DEFINITIONS.**

As used in this Settlement Agreement, the following terms have the meanings specified below:

**1.1 “Action”** means *Awad v. Fandango Media, LLC*, Index No. 610563/2024, pending in the Supreme Court of the State of New York, County of Nassau.

**1.2 “Approved Claim”** means a Claim Form submitted by a Settlement Class Member that is: (a) submitted timely and in accordance with the directions on the Claim Form and the provisions of the Settlement Agreement; (b) fully and truthfully completed by a Settlement Class Member with all of the information requested in the Claim Form; (c) signed by the Settlement Class Member, physically or electronically; and (d) approved by the Settlement Administrator pursuant to the provisions of this Agreement.

**1.3 “Alternate Judgment”** means a form of final judgment that may be entered by the Court herein, but in a form other than the form of Judgment provided for in this Agreement and where none of the Parties elects to terminate this Settlement by reason of such variance.

**1.4 “Claim Form”** means the document to be submitted by Settlement Class Members selecting a compensation option pursuant to this Settlement Agreement. The Claim Form will be available at the Settlement Website and the contents of the Claim Form will be substantially in the form attached hereto as Exhibit A, as approved by the Court.

**1.5 “Claims Deadline”** means the date by which all Claim Forms must be postmarked or received to be considered timely and will be set as a date no later than thirty (30) days after the Final Approval Hearing. The Claims Deadline will be clearly set forth in the Preliminary Approval Order as well as in the Notice and the Claim Form.

**1.6 “Class Counsel”** means Philip L. Fraietta and Stefan Bogdanovich of Bursor & Fisher, P.A.

**1.7 “Class Representatives”** means the named Plaintiffs in this Action, Clair Awad and Shane Mannion.

**1.8 “Convenience Fee”** means any convenience fee in connection with online purchases made on Fandango’s website, mobile phone application, and/or any online platform owned or operated by or on behalf of Defendant for tickets to movie theaters in New York state. The typical convenience fee paid by a Class Member during the class period was \$1.89 per ticket.

**1.9 “Court”** means the Supreme Court of the State of New York, County of Nassau.

**1.10 “Days”** means calendar days unless business days are specified, except that when computing any period of time prescribed or allowed by this Settlement Agreement, the day of the act, event or default from which the designated period of time begins to run shall not be

included. When computing any period of time prescribed or allowed by this Settlement Agreement, the last day of the period so computed shall be included, unless it is a Saturday, Sunday or federal or State of New York legal holiday, in which event the period runs until the end of the next day which is not a Saturday, Sunday or federal or State of New York legal holiday.

**1.11 “Defendant”** means Fandango Media, LLC.

**1.12 “Defendant’s Counsel”** means Manatt, Phelps & Phillips, LLP.

**1.13 “Effective Date”** means the date ten (10) days after which all of the events and conditions specified in Paragraph 9.1 have been met and have occurred.

**1.14 “Fandango at Home”** means the Fandango at Home streaming platform, formerly known as Vudu, and currently at the website [www.vudu.com](http://www.vudu.com) and on the Fandango at Home application, which allows users to rent or purchase movies or television shows for viewing on the Fandango at Home website or applications.

**1.15 “Fandango at Home Voucher”** means a Fandango Promo Code of \$10.00 USD for use to rent or purchase movies or television shows for viewing on the Fandango at Home website or applications whose aggregate price plus taxes thereon does not exceed \$10.00. The face value of the Fandango at Home Vouchers shall be subject to the Settlement Cap. The Fandango at Home Voucher shall expire no earlier than one (1) year after the date of issue. Fandango at Home Vouchers and any movies or television shows rented or purchased are subject to Fandango’s Promo Code Policy,<sup>1</sup> the Fandango at Home Policy,<sup>2</sup> and Fandango’s other applicable Terms and Policies.<sup>3</sup> So long as the aggregate price of all movies and/or television show purchases and/or rentals plus applicable taxes in sum do not exceed \$10.00, then the

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<sup>1</sup> <https://www.fandango.com/policies/promo-code-policy>

<sup>2</sup> <https://www.fandango.com/policies/vudu-policy>

<sup>3</sup> <https://www.fandango.com/policies/terms-and-policies>

consumer will not have to expend any funds to purchase and/or rent such movies and/or shows. No refunds or exchanges will be given on rentals or purchases made using the Fandango at Home Voucher.

**1.16 “Fee Award”** means the amount of attorneys’ fees, costs, and expenses awarded by the Court to Class Counsel, which will be paid by Defendant pursuant to the terms set forth herein.

**1.17 “Final”** means one business day following the latest of the following events: (i) the date upon which the time expires for filing or noticing any appeal of the Court’s Final Judgment approving the Settlement Agreement; (ii) if there is an appeal or appeals, other than an appeal or appeals solely with respect to the Fee Award, the date of completion, in a manner that finally affirms and leaves in place the Final Judgment without any material modification, of all proceedings arising out of the appeal or appeals (including, but not limited to, the expiration of all deadlines for motions for reconsideration or petitions for review and/or *certiorari*, all proceedings ordered on remand, and all proceedings arising out of any subsequent appeal or appeals following decisions on remand); or (iii) if there is an appeal that involves the fee award in addition to other issues, the date of final dismissal of any appeal or the final dismissal of any proceeding on *certiorari*.

**1.18 “Final Approval Hearing”** means the hearing before the Court where the Parties will request the Final Judgment to be entered by the Court approving the Settlement Agreement, the Fee Award, and the Service Awards to the Class Representatives.

**1.19 “Final Judgment”** means the Final Judgment and Order to be entered by the Court approving the Agreement after the Final Approval Hearing.

**1.20 “Notice”** means the notice of this proposed Class Action Settlement Agreement and Final Approval Hearing, which is to be sent to the Settlement Class substantially in the

manner set forth in this Agreement, is consistent with the requirements of Due Process, CPLR 904, and is substantially in the form of Exhibits A, B, and C hereto.

**1.21 “Notice Date”** means the date by which the Notice set forth in Paragraph 4.1 is complete, which shall be no later than thirty (30) days after the Court’s Preliminary Approval Order.

**1.22 “Objection/Exclusion Deadline”** means the date by which a written objection to this Settlement Agreement or a request for exclusion submitted by a Person within the Settlement Class must be made, which shall be designated as a date no later than sixty (60) days after the Notice Date and no sooner than fourteen (14) days after papers supporting the Fee Award are filed with the Court and posted to the settlement website listed in Paragraph 4.1(c), or such other date as ordered by the Court.

**1.23 “Person”** means, without limitation, any individual, corporation, partnership, limited partnership, limited liability company, association, joint stock company, estate, legal representative, trust, unincorporated association, government or any political subdivision or agency thereof, and any business or legal entity and their spouses, heirs, predecessors, successors, representatives, or assigns. “Person” is not intended to include any governmental agencies or governmental actors, including, without limitation, any state Attorney General office.

**1.24 “Plaintiffs”** means the Class Representatives and the Settlement Class Members.

**1.25 “Preliminary Approval”** means the Court’s certification of the Settlement Class for settlement purposes, preliminary approval of this Settlement Agreement, and approval of the form and manner of the Notice.

**1.26 “Preliminary Approval Order”** means the order preliminarily approving the Settlement Agreement, certifying the Settlement Class for settlement purposes, and directing

notice thereof to the Settlement Class, which will be agreed upon by the Parties and submitted to the Court in conjunction with Plaintiffs' motion for preliminary approval of the Agreement.

**1.27 “Released Claims”** means any and all actual, alleged, potential, filed, known or unknown, fixed or contingent, claimed or unclaimed, suspected or unsuspected, suits, claims, liens, demands, liabilities, rights, causes of action, contracts or agreements, extra contractual claims, statutory claims, damages, punitive, exemplary, statutory or multiplied damages, expenses, judgments, costs, attorneys' fees and or obligations (including “Unknown Claims,” as defined below), and all other legal responsibilities in any form or nature, whether in law or in equity, accrued or un-accrued, direct, individual or representative, of every nature and description whatsoever, including but not limited to, all claims relating to or arising out of the ACAL or other state, federal, local, statutory or common law or any other law, rule, ordinance, or regulation, whether past, present, or future, asserted or unasserted, against the Released Parties, or any of them, arising out of or in any way related to Convenience Fees in connection with electronic ticket sales on Fandango's website, mobile phone application, and/or any online platform owned or operated by or on behalf of Defendant from August 29, 2022 through and including March 11, 2024, including but not limited to all claims that were brought or could have been brought in the Action relating to any and all Releasing Parties.

**1.28 “Released Parties”** means Fandango Media, LLC and all of its current, former, and future parents, predecessors, successors, affiliates, assigns, subsidiaries, divisions, or related corporate entities, and all of their respective current, future, and former employees, officers, directors, partners, principals, members, shareholders, associates, assigns, agents, trustees, administrators, executors, insurers, underwriters, financial and investment advisors, lenders, auditors, attorneys, legal representatives, independent contractors, consultants, licensors, licensees, and customers.

**1.29 “Releasing Parties”** means the Class Representatives, those Settlement Class Members who do not timely opt out of the Settlement Class, and all of their respective present, future, or past heirs, executors, estates, administrators, predecessors, successors, assigns, parent companies, subsidiaries, associates, affiliates, employers, employees, agents, consultants, independent contractors, insurers, directors, managing directors, officers, partners, principals, members, attorneys, accountants, financial and other advisors, underwriters, shareholders, lenders, auditors, investment advisors, legal representatives, successors in interest, assigns and companies, firms, trusts, and corporations.

**1.30 “Service Award”** means any Court-approved awards to the Class Representatives, in their capacity as individual class representatives, as set forth in Paragraph 8.3.

**1.31 “Settlement Administration Expenses”** means the expenses incurred by the Settlement Administrator in providing Notice, establishing a settlement website, processing claims, responding to inquiries from members of the Settlement Class, providing compensation to Settlement Class Members for Approved Claims, mailing checks, and related services, paying taxes and tax expenses related to the Settlement (including all federal, state or local taxes of any kind and interest or penalties thereon, as well as expenses incurred in connection with determining the amount of and paying any taxes owed and expenses related to any tax attorneys and accountants). All Settlement Administration Expenses will be borne by Defendant.

**1.32 “Settlement Administrator”** means Epiq, or such other reputable administration company that has been selected jointly by the Parties and approved by the Court to perform the duties set forth in this Agreement, including but not limited to overseeing the distribution of Notice, as well as the processing and payment of any claims to the Settlement Class as set forth in this Agreement, handing all approved payments, and handling the determination, payment and

filing of forms related to all federal, state and/or local taxes of any kind (including any interest or penalties thereon) that may be owed on any income earned by the Settlement.

**1.33 “Settlement Cap”** means the gross amount of nine million dollars (\$9,000,000.00 USD) that shall represent Defendant’s maximum financial obligation under the Settlement. The following shall be subject to the Settlement Cap: (i) amounts paid for all Approved Claims, including cash payments from the Cash Payment Fund and the face value of the Fandango at Home Vouchers; (ii) any Fee Award approved by the Court; (iii) any Service Awards approved by the Court; and (iv) any Settlement Administration Expenses approved by the Court, including any taxes.

**1.34 “Settlement Class”** means all individuals in the United States who purchased electronic tickets and paid a convenience fee to any movie in any movie theater located within New York state from Fandango’s website, mobile phone application, and/or any other Fandango owned or operated online platform from August 29, 2022, to and through March 11, 2024. Excluded from the Settlement Class are (1) any Judge or Magistrate presiding over this Action and members of their families; (2) the Defendant, Defendant’s subsidiaries, parent companies, successors, predecessors, and any entity in which the Defendant or its parents have a controlling interest and their current or former officers, directors, agents, attorneys, and employees; (3) persons who properly execute and file a timely request for exclusion from the class; and (4) the legal representatives, successors or assigns of any such excluded persons.

**1.35 “Settlement Class Member”** means an individual who falls within the definition of the Settlement Class as set forth above and who has not submitted a valid request for exclusion.

**1.36 “Settlement Website”** means the dedicated website created and maintained by the Settlement Administrator, which will contain relevant documents and information about the

Settlement, including this Settlement Agreement, the long-form Notice and the Claim Form, as well as web-based forms for Settlement Class Members to submit electronic Claim Forms, and requests for exclusion from the Settlement.

**1.37 “Unknown Claims”** means claims that could have been raised in the Action and that any or all of the Releasing Parties do not know or suspect to exist, which, if known by him or her, might affect his or her agreement to release the Released Parties or the Released Claims or might affect his or her decision to agree, object or not to object to the Settlement. Upon the Effective Date, the Releasing Parties shall be deemed to have, and shall have, expressly waived and relinquished, to the fullest extent permitted by law, the provisions, rights and benefits of § 1542 of the California Civil Code, which provides as follows:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT A CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY.

Upon the Effective Date, the Releasing Parties also shall be deemed to have, and shall have, waived any and all provisions, rights and benefits conferred by any law of any state or territory of the United States, or principle of common law, or the law of any jurisdiction outside of the United States, which is similar, comparable or equivalent to § 1542 of the California Civil Code. The Releasing Parties acknowledge that they may discover facts in addition to or different from those that they now know or believe to be true with respect to the subject matter of this release, but that it is their intention to finally and forever settle and release the Released Claims, notwithstanding any Unknown Claims that they may have, as that term is defined in this Paragraph.

**2. SETTLEMENT RELIEF.****2.1 Payments to Settlement Class Members.**

(a) Settlement Class Members may elect to either:

- i. Do nothing and be bound by the settlement terms;
- ii. File a valid claim and receive a \$5.00 cash payment in the form of a check, or electronic payment via Venmo, PayPal, or Zelle, at the Settlement Class Member's election and be bound by the settlement terms;
- iii. File a valid claim and receive a \$10.00 Fandango at Home Voucher, which shall expire no earlier than one year from the date of issuance, and be bound by the settlement terms; or
- iv. Opt out of the settlement.

(b) Settlement Class Members wishing to receive a \$5.00 cash payment must make an election to receive cash by submitting a valid Claim Form to the Settlement Administrator. Settlement Class Members have until the Claims Deadline to submit a Claim Form for approval by the Settlement Administrator as an Approved Claim. Each Settlement Class Member who submits an Approved Claim for a cash payment will receive a \$5.00 payment in the form of a check, or electronic payment via Venmo, PayPal, or Zelle, at the Settlement Class Member's election. Payment to Settlement Class Members will be issued by the Settlement Administrator from the Cash Payment Fund (defined below) within 30 days of the Effective Date.

(c) Within fourteen (14) days of the Final Judgment, Defendant shall establish a fund containing its anticipated payment of any Approved Claims for Cash Payments (the "Cash Payment Fund"). Within ten (10) business days of the Effective Date, Defendant shall wire the

proceeds of the Cash Payment Fund to the Settlement Administrator for distribution to Settlement Class Members. Payments to all Settlement Class Members with Approved Claims shall be made within thirty (30) days after the Effective Date. Any uncashed checks or undistributed funds from the Cash Payment Fund shall revert to Defendant within 180 days of the Effective Date.

(d) Settlement Class Members wishing to receive a \$10.00 Fandango at Home Voucher must make an election to receive a voucher by submitting a valid Claim Form to the Settlement Administrator. Settlement Class Members have until the Claims Deadline to submit a Claim Form for approval by the Settlement Administrator as an Approved Claim. Each Settlement Class Member who submits an Approved Claim for a Fandango at Home Voucher will receive a voucher by email from the Settlement Administrator. In a timely manner, as requested by the Settlement Administrator, Defendant will provide the Settlement Administrator with promotional codes for each Settlement Class Member who submits an Approved Claim for the Fandango at Home Voucher. Fandango at Home Vouchers will be issued to Settlement Class Members within 30 days of the Effective Date.

(e) A maximum of one claim, submitted on a single Claim Form, may be submitted by each Settlement Class Member.

(f) In no event shall the total out-of-pocket costs paid by Defendant exceed the Settlement Cap. In the event that the total amount of Approved Claims, plus the Fee Award, the Settlement Administration Expenses (including taxes), and the Service Awards exceed the Settlement Cap, then the amount of each Approved Claim shall be reduced *pro rata*.

**2.2 Prospective Relief.** Plaintiffs acknowledge and agree that the current purchase flow on Fandango's website, mobile phone application, and any of its other online platforms for tickets to New York movie theaters complies with all applicable law. Defendant acknowledges

that the Action was the catalyst for the changed purchase flow. Defendant agrees to comply with ACAL § 25.07(4) unless and until it is amended, repealed, or otherwise invalidated.

### **3. RELEASE.**

**3.1** Upon the Effective Date, the Releasing Parties, and each of them, shall be deemed to have, and by operation of the Final Judgment shall have, fully, finally, and forever released, relinquished, and discharged all Released Claims against the Released Parties, and each of them to the fullest extent allowed by law. Further, upon the Effective Date, and to the fullest extent permitted by law, each Settlement Class Member, shall, either directly, indirectly, representatively, or in any capacity, be permanently barred and enjoined from filing, commencing, prosecuting, intervening in, or participating (as a class member or otherwise) in any lawsuit, action, or other proceeding in any jurisdiction (other than participation in the Settlement as provided herein) against any Released Party based on the Released Claims.

### **4. NOTICE TO THE CLASS.**

**4.1** The Notice Plan shall consist of the following:

(a) *Settlement Class List.* No later than fourteen (14) days after the Preliminary Approval Order, Defendant shall produce a confidential electronic list from its records that includes the last known email addresses, to the extent available, belonging to persons in the Settlement Class. This electronic document shall be called the “Class List,” and shall only be provided to the Settlement Administrator.

(b) *Direct Notice via Email.* No later than thirty (30) days after entry of the Preliminary Approval Order, the Settlement Administrator shall send Notice via email substantially in the form attached as Exhibit B to all Settlement Class Members for whom a last known email address is contained in the Class List. In the event the transmission of email notice results in any “bounce-backs,” the Settlement Administrator shall take reasonable steps,

if possible, to correct any issues that may have caused the “bounce-back” to occur and make a second attempt to re-send the email notice.

(c) *Settlement Website.* Within fourteen (14) days from entry of the Preliminary Approval Order, Notice shall be provided on a website at an available settlement URL ([www.fandangoticketfeesettlement.com](http://www.fandangoticketfeesettlement.com) or another URL agreed to by both Parties) which shall be obtained, administered and maintained by the Settlement Administrator and shall include the ability to file Claim Forms online. Copies of this Settlement Agreement, the long-form Notice, and other pertinent documents and Court filings pertaining to the Settlement (including the motion for attorneys’ fees upon its filing), shall be provided on the Settlement Website. The Notice provided on the Settlement Website shall be substantially in the form of Exhibit C hereto.

**4.2** The Notice shall advise the Settlement Class of their rights, including the right to be excluded from, comment upon, and/or object to the Settlement Agreement or any of its terms. The Notice shall specify that any objection to the Settlement Agreement, and any papers submitted in support of said objection, shall be considered by the Court at the Final Approval Hearing only if, on or before the Objection/Exclusion Deadline approved by the Court and specified in the Notice, the Person making the objection files notice of an intention to do so and at the same time (a) files copies of such papers he or she proposes to be submitted at the Final Approval Hearing with the Clerk of the Court, or alternatively, if the objection is from a Class Member represented by counsel, files any objection through the Court’s NYSCEF system, and (b) sends copies of such papers by mail, hand, or overnight delivery service to Class Counsel and Defendant’s Counsel.

**4.3** Any Settlement Class Member who intends to object to this Agreement must present the objection in writing, which must be personally signed by the objector, and must

include: (1) the objector's name and address; (2) an explanation of the basis upon which the objector claims to be a Settlement Class Member; (3) all grounds for the objection, including all citations to legal authority and evidence supporting the objection; (4) the name and contact information of any and all attorneys representing, advising, or in any way assisting the objector in connection with the preparation or submission of the objection or who may profit from the pursuit of the objection (the "Objecting Attorneys"); and (5) a statement indicating whether the objector intends to appear at the Final Approval Hearing (either personally or through counsel who files an appearance with the Court in accordance with the Local Rules).

**4.4** If a Settlement Class Member or any of the Objecting Attorneys has objected to any class action settlement where the objector or the Objecting Attorneys asked for or received any payment in exchange for dismissal of the objection, or any related appeal, without any modification to the settlement, then the objection must include a statement identifying each such case by full case caption and amount of payment received. Any challenge to the Settlement Agreement or the Final Judgment shall be pursuant to appeal under the New York Rules of Court and not through a collateral attack.

**4.5** A Settlement Class Member may request to be excluded from the Settlement Class by timely submitting a request for exclusion on the Settlement Website or sending a written request to the address identified in the Notice. Any such request for exclusion must be submitted on the Settlement Website or be postmarked on or before the Objection/Exclusion Deadline approved by the Court and specified in the Notice. To exercise the right to be excluded, a Person who would otherwise be a Settlement Class Member must timely submit a request for exclusion on the Settlement Website or send a written request for exclusion to the Settlement Administrator that contains his/her name and address, that he/she purchased electronic tickets and paid a convenience fee to any movie in any movie theater located within

New York state from Fandango’s website, mobile phone application, and/or any other Fandango owned or operated online platform from August 29, 2022, to and through March 11, 2024, and a statement that he or she wishes to be excluded from the Settlement Class for purposes of this Settlement. A request to be excluded that does not include all of this information, or that is sent to an address other than that designated in the Notice, or that is not postmarked within the time specified, shall be invalid, and the Person(s) serving such a request shall be a member(s) of the Settlement Class and shall be bound as a Settlement Class Member by this Agreement, if approved. Any member of the Settlement Class who validly elects to be excluded from this Agreement shall not: (i) be bound by any orders or the Final Judgment; (ii) be entitled to relief under this Settlement Agreement; (iii) gain any rights by virtue of this Agreement; or (iv) be entitled to object to any aspect of this Agreement. Any request for exclusion must be personally signed by each Person requesting exclusion. So-called “mass” or “class” opt-outs shall not be allowed. To be valid, a request for exclusion must be submitted on the Settlement Website by 11:59 p.m., Eastern Standard Time, on the date specified in the Notice, or be postmarked or received by the date specified in the Notice.

**4.6** The Final Approval Hearing shall be no earlier than ninety (90) days after the Notice described in Paragraph 4.1(b) is provided.

**4.7** Any Settlement Class Member who does not, in accordance with the terms and conditions of this Agreement, timely and validly seek exclusion from the Settlement Class, will be bound by all of the terms of this Settlement Agreement, including the terms of the Final Judgment to be entered in the Action and the Releases provided for in the Settlement Agreement, and will be barred from bringing any action against any of the Released Parties concerning the Released Claims.

**4.8** For the convenience of the Parties and Settlement Class Members, below is a schedule of all proposed deadlines:

EVENT	PROPOSED DEADLINE
Post Notice on Settlement Website	Within 14 days after Preliminary Approval Order
Deadline to Provide Settlement Administrator with Class List	No later than 14 days after Preliminary Approval Order
Notice Date	No later than 30 days after Preliminary Approval Order
Motion for Attorneys' Fees	52 days after Preliminary Approval Order
Objection/Exclusion Deadline	No later than 60 days after the Notice Date and no sooner than 14 days after papers supporting the Fee Award are filed with the Court and posted to the settlement website
Opposition to Motion for Final Approval	14 days before Final Approval Hearing
Opposition to Motion for Attorneys' Fees	21 days before Final Approval Hearing
Reply in Support of Motion for Attorneys' Fees	14 days before Final Approval Hearing
Final Approval Motion	21 days before Final Approval Hearing
Final Approval Hearing	No earlier than 90 days after Notice Date
Claims Deadline	30 days after Final Approval Hearing
Payment of Fee Award	10 business days after Final Judgment
Establishment of Cash Payment Fund	14 days after Final Judgment
Payment of Service Awards	10 business days after Effective Date
Cash Payment Fund Wired to Settlement Administrator	10 business days after Effective Date
Cash Payments Sent to Settlement Class Members	30 days after Effective Date
Vouchers Sent to Settlement Class Members	30 days after Effective Date
Expiration of Vouchers	1 year after issuance or Effective Date

## **5. SETTLEMENT ADMINISTRATION.**

**5.1** The Settlement Administrator shall, under the supervision of the Court, administer the relief provided by this Settlement Agreement by processing Claim Forms and disbursing cash in the Cash Payment Fund and the Fandango at Home Vouchers in a rational, responsive, cost effective, and timely manner, consistent with the terms of this Agreement. The terms of this Agreement, upon approval by the Court, shall at all times govern the scope of the services to be provided by the Settlement Administrator to administer the compensatory relief provided by the Settlement, and the terms of any separate contract or agreement entered into between the Settlement Administrator and Class Counsel, Defendant's Counsel, or the Defendant to administer the Settlement shall be consistent in all material respects with the terms of this Agreement. The Settlement Administrator shall maintain reasonably detailed records of its activities under this Agreement. The Settlement Administrator shall maintain all such records as are required by applicable law in accordance with its normal business practices and such records will be made available to Class Counsel and Defendant's Counsel upon request. The Settlement Administrator shall also provide reports and other information to the Court as the Court may require. The Settlement Administrator shall provide Class Counsel and Defendant's Counsel with regular reports at weekly intervals containing information concerning claims, opt-outs, objections, Notice, administration, and implementation of the Settlement Agreement. Should the Court request, the Parties shall submit a timely report to the Court summarizing the work performed by the Settlement Administrator, including a report of all amounts paid to Settlement Class Members. Without limiting the foregoing, the Settlement Administrator shall:

(a) Forward to Defendant's Counsel, with copies to Class Counsel (with the exception of the Class List), all original documents and other materials received in connection

with the administration of the Settlement, and all copies thereof, within thirty (30) days after the Claim Deadline;

(b) Provide Class Counsel and Defendant's Counsel with drafts of all administration related documents, including but not limited to Notices, follow-up class notices or communications with Settlement Class Members, telephone scripts, website postings or language or other communications with the Settlement Class, at least five (5) days before the Settlement Administrator is required to or intends to publish or use such communications, unless Class Counsel and Defendant's Counsel agree to waive this requirement in writing on a case by case basis;

(c) Receive requests to be excluded from the Settlement Class and other requests and promptly provide to Class Counsel and Defendant's Counsel copies thereof. If the Settlement Administrator receives any exclusion forms or other requests after the deadline for the submission of such forms and requests, the Settlement Administrator shall promptly provide copies thereof to Class Counsel and Defendant's Counsel;

(d) Provide weekly reports to Class Counsel and Defendant's Counsel, including without limitation, reports regarding the number of Claim Forms and requests for exclusion and/or objections received, and the categorization and description of Claim Forms rejected, in whole or in part, by the Settlement Administrator; and.

(e) Make available for inspection by Class Counsel or Defendant's Counsel the Claim Forms received by the Settlement Administrator at any time upon reasonable notice.

**5.2** Defendant, the Released Parties, and Defendant's Counsel shall have no responsibility for, interest in, or liability whatsoever with respect to: (i) any act, omission, or determination by Class Counsel, or the Settlement Administrator, or any of their respective designees or agents, in connection with the administration of the Settlement or otherwise;

(ii) the management, investment, or distribution of the cash payment; (iii) the payment of the cash payment to Settlement Class Members or the implementation, administration, or interpretation thereof; (iv) the distribution or receipt of Fandango at Home Vouchers; (v) the determination, administration, calculation, or payment of any claims; (vi) the payment or withholding of any Taxes, Tax Expenses, or costs incurred in connection with the taxation of the cash payments or the filing of any federal, state, or local returns; or (vii) any data breach or any common law or statutory claims related to breach of privacy related to unauthorized access to records maintained by the Settlement Administrator for the purpose of effectuating the terms of this Settlement Agreement.

**5.3** All taxes and tax expenses, if any, shall be timely paid by the Settlement Administrator and reimbursed by Defendant pursuant to this Agreement and without further order of the Court. Such tax expenses shall be subject to the Settlement Cap. Any tax returns prepared for the Settlement (as well as the election set forth therein) shall be consistent with this Agreement and in all events shall reflect that all taxes on the income earned by the Settlement shall be paid out of the Settlement as provided herein. The Released Parties shall have no responsibility or liability for the acts or omissions of the Settlement Administrator or its agents with respect to the payment of taxes or tax expenses.

**5.4.** The Settlement Administrator will be responsible for reviewing all claims to determine their validity. The Settlement Administrator shall be obliged to employ reasonable procedures to screen claims for abuse or fraud and deny Claim Forms where there is evidence of abuse or fraud. The Settlement Administrator will reject any claim that does not comply in any material respect with the instructions on the Claim Form or the terms of Paragraphs 1.2 and/or 1.3, above, or is submitted after the Claims Deadline. Each claimant who submits an invalid Claim Form to the Settlement Administrator must be given a notice of the Claim Form's

deficiency and an opportunity to cure the deficiency within twenty-one (21) days of the date of the notice. The Settlement Administrator may contact any Person who has submitted a Claim Form to obtain additional information necessary to verify the Claim Form. Defendant has the right to audit the claims process for evidence of fraud or error.

**5.5** Defendant's Counsel and Class Counsel shall have the right to challenge the acceptance or rejection of a Claim Form submitted by Settlement Class Members and to obtain and review supporting documentation relating to such Claim Form. The Settlement Administrator shall follow any agreed decisions of Class Counsel and Defendant's Counsel as to the validity of any disputed submitted Claim Form. To the extent Class Counsel and Defendant's Counsel are not able to agree on the disposition of a challenge, the disputed claim shall be submitted to the Honorable Diane M. Welsh of JAMS for binding determination.

**5.6** In the exercise of its duties outlined in this Agreement, the Settlement Administrator shall have the right to reasonably request additional information from the Parties or any Settlement Class Member.

## **6. TERMINATION OF SETTLEMENT.**

**6.1** Subject to Paragraphs 9.1-9.3 below, Defendant or the Class Representatives on behalf of the Settlement Class, shall have the right but not the obligation to terminate this Agreement by providing written notice of the election to do so ("Termination Notice") to all other Parties hereto within twenty-one (21) days of any of the following events: (i) the Court's refusal to grant Preliminary Approval of this Agreement in any material respect; (ii) the Court's refusal to grant final approval of this Agreement in any material respect; (iii) the Court's refusal to enter the Final Judgment in this Action in any material respect; (iv) the date upon which the Final Judgment is modified or reversed in any material respect by the presiding Court, the Appellate Division, Second Department, the Court of Appeals or the Supreme Court; or (v) the

date upon which an Alternate Judgment, as defined in Paragraph 9.1(d) of this Agreement is modified or reversed in any material respect by the presiding Court, the Appellate Division, Second Department or the Court of Appeals or the Supreme Court.

**6.2** Subject to Paragraphs 9.1-9.4 below, Defendant shall have the right, but not the obligation, in its sole discretion, to terminate this Agreement by providing written notice to Class Counsel within twenty-five (25) days of the following events: (i) individuals comprising more than one thousand (1,000) Settlement Class Members in total have timely and validly opted out of and/or objected to the Agreement; or (ii) individuals comprising more than two hundred (200) Settlement Class Members file or threaten to file any actions (e.g., individual lawsuits, class actions, arbitrations, etc.) against Defendant related to the Released Claims at any time prior to the Preliminary Approval Order.

**6.4 Confirmatory Discovery.** Defendant represented that it collected \$13,732,123.99 in convenience fees from purchasers to New York movie theaters from August 29, 2022, to and through March 11, 2024. Simultaneous with the execution of this Agreement, Defendant has provided an affidavit from an appropriate representative with knowledge attesting to the same.

## **7. PRELIMINARY APPROVAL ORDER AND FINAL APPROVAL ORDER.**

**7.1** Promptly after the execution of this Settlement Agreement, Class Counsel shall submit this Agreement together with its Exhibits to the Court and shall move the Court for Preliminary Approval of the settlement set forth in this Agreement; certification of the Settlement Class for settlement purposes only; appointment of Class Counsel and the Class Representatives; and entry of a Preliminary Approval Order, which order shall set a Final Approval Hearing date and approve the Notice for dissemination substantially in the form of Exhibits A, B, and C hereto. The Preliminary Approval Order shall also authorize the Parties,

without further approval from the Court, to agree to and adopt such amendments, modifications and expansions of the Settlement Agreement and its implementing documents (including all exhibits to this Agreement) so long as they are consistent in all material respects with the terms of the Settlement Agreement and do not limit or impair the rights of the Settlement Class or materially expand the obligations of Defendant.

**7.2** At the time of the submission of this Agreement to the Court as described above, Class Counsel shall request that, after Notice is given, the Court hold a Final Approval Hearing and finally approve the Settlement of the Action as set forth herein.

**7.3** After Notice is given, Plaintiffs shall request and seek to obtain from the Court a Final Judgment, which will (among other things):

(a) find that the Court has personal jurisdiction over all Settlement Class Members and that the Court has subject matter jurisdiction to approve the Agreement, including all exhibits thereto;

(b) approve the Settlement Agreement and the proposed settlement as fair, reasonable, and adequate as to, and in the best interests of, the Settlement Class Members; direct the Parties and their counsel to implement and consummate the Agreement according to its terms and provisions; and declare the Agreement to be binding on, and have *res judicata* and preclusive effect in all pending and future lawsuits or other proceedings maintained by or on behalf of Plaintiffs and Releasing Parties;

(c) find that the Notice implemented pursuant to the Agreement (1) constitutes the best practicable notice under the circumstances; (2) constitutes notice that is reasonably calculated, under the circumstances, to apprise the Settlement Class of the pendency of the Action, their right to object to or exclude themselves from the proposed Agreement, and to appear at the Final Approval Hearing; (3) is reasonable and constitutes due, adequate, and

sufficient notice to all persons entitled to receive notice; and (4) meets all applicable requirements of the CPLR, the Due Process Clauses of the United States and New York Constitutions, and the rules of the Court;

(d) find that the Class Representatives and Class Counsel adequately represent the Settlement Class for purposes of entering into and implementing the Agreement;

(e) dismiss the Action (including all individual claims and Settlement Class Claims presented thereby) on the merits and with prejudice, without fees or costs to any party except as provided in the Settlement Agreement;

(f) incorporate the Release set forth above, make the Release effective as of the date of the Effective Date, and forever discharge the Released Parties as set forth herein;

(g) permanently bar and enjoin all Settlement Class Members who have not been properly excluded from the Settlement Class from filing, commencing, prosecuting, intervening in, or participating (as class members or otherwise) in any lawsuit or other action in any jurisdiction based on the Released Claims;

(h) without affecting the finality of the Final Judgment for purposes of appeal, retain jurisdiction as to all matters relating to administration, consummation, enforcement, and interpretation of the Settlement Agreement and the Final Judgment, and for any other necessary purpose; and

(i) incorporate any other provisions, as the Court deems necessary and just.

## **8. CLASS COUNSEL'S ATTORNEYS' FEES AND REIMBURSEMENT OF EXPENSES; SERVICE AWARD.**

**8.1** Pursuant to CPLR 909 and ACAL § 25.33, Class Counsel shall make an application to the Court for an award of reasonable attorneys' fees and costs in an amount no more than 25% of the Settlement Cap (or \$2,250,000.00 USD). The Court shall determine the amount of reasonable attorneys' fees and costs. If approved by the Court, payment of the Fee

Award shall be made by Defendant separate and apart from Defendant's other payment obligations under this Agreement.

**8.2** The Fee Award shall be payable within ten (10) business days after entry of the Court's Final Judgment, subject to Class Counsel executing the Undertaking Regarding Attorneys' Fees and Costs (the "Undertaking") attached hereto as Exhibit D, and providing all payment routing information and tax I.D. numbers for Class Counsel. Payment of the Fee Award shall be made by Defendant by wire transfer to Class Counsel in accordance with wire instructions to be provided by Class Counsel, and completion of necessary forms, including but not limited to W-9 forms. Notwithstanding the foregoing, if for any reason the Final Judgment is reversed or rendered void as a result of an appeal(s), then any Persons or firms who shall have received the funds shall be severally liable for payments made pursuant to this subparagraph and shall return such funds to Defendant within fourteen (14) business days. Additionally, should any parties to the Undertaking dissolve, merge, declare bankruptcy, become insolvent, or cease to exist prior to the final payment to Class Members, those parties shall execute a new undertaking guaranteeing repayment of funds within fourteen (14) days of such an occurrence.

**8.3** Subject to Court approval, the Class Representatives may be paid Service Awards by the Defendant, in addition to any settlement benefit as a result of being a Settlement Class Member pursuant to this Agreement, and in recognition for their efforts on behalf of the Settlement Class, in the amount of no more than \$5,000.00 each. The Court shall determine the amount of the Service Award. Such awards will be paid by Defendant (in the form of checks to the Class Representatives that are sent care of Class Counsel) within ten (10) business days of the Effective Date.

**8.4** The Fee Award and Service Awards shall be in addition to the other benefits provided to the Settlement Class under this Agreement and shall not derogate in any way from payments owed to Settlement Class Members.

**9. CONDITIONS OF SETTLEMENT, EFFECT OF DISAPPROVAL, CANCELLATION OR TERMINATION.**

**9.1** The Effective Date of this Settlement Agreement shall not occur unless and until each of the following events occurs and shall be the date upon which the last (in time) of the following events occurs:

- (a) The Parties and their counsel have executed this Agreement;
- (b) The Court has entered the Preliminary Approval Order;
- (c) The Court has entered an order finally approving the Agreement,

following Notice to the Settlement Class, as provided in the CPLR, and has entered the Final Judgment, or a judgment consistent with this Agreement in all material respects; and

(d) The Final Judgment has become Final, as defined above, or, in the event that the Court enters an Alternate Judgment, such Alternate Judgment becomes Final.

**9.2** If any of the conditions specified in Paragraph 9.1 are not met, or in the event that this Agreement is not approved by the Court, or the Settlement set forth in this Agreement is terminated or fails to become effective in accordance with its terms, then this Settlement Agreement shall be canceled and terminated subject to Paragraph 6.1, unless Class Counsel and Defendant's Counsel mutually agree in writing to proceed with this Agreement. If any Party is in material breach of the terms hereof, any other Party, provided that it is in substantial compliance with the terms of this Agreement, may terminate this Agreement on notice to all of the Parties and Settlement Class Members. Notwithstanding anything herein, the Parties agree that the Court's failure to approve, in whole or in part, the Fee Award to be requested by Class Counsel and/or the Service Awards to be requested for the Class Representatives, as set forth in

Paragraph 8 above, shall not prevent the Agreement from becoming effective, nor shall it be grounds for termination.

**9.3** If this Agreement is terminated or fails to become effective for the reasons set forth in Paragraphs 6.1-6.2 and/or 9.1-9.2 above, the Parties shall be restored to their respective positions in the Action as of the date of the signing of this Agreement. In such event, any Final Judgment or other order entered by the Court in accordance with the terms of this Agreement shall be treated as vacated, *nunc pro tunc*, and the Parties shall be returned to the *status quo ante* with respect to the Action as if this Agreement had never been entered into.

**9.4** Stay and Bar of Other Proceedings. All proceedings in the Action will be stayed following preliminary approval of the Settlement, except as may be necessary to implement the Settlement or comply with the terms of the Settlement. Pending determination of whether the Settlement should be granted final approval, the Parties agree not to pursue in the Action any claims or defenses otherwise available to them in the Action, and no Settlement Class Member, either directly, on a representative basis, or in any other capacity, may commence or prosecute against any of the Released Parties any action or proceeding asserting any of the Released Claims.

## **10. MISCELLANEOUS PROVISIONS.**

**10.1** The Parties (a) acknowledge that it is their intent to consummate this Settlement Agreement; and (b) agree, subject to their fiduciary and other legal obligations, to cooperate to the extent reasonably necessary to effectuate and implement all terms and conditions of this Agreement, to exercise their reasonable best efforts to accomplish the foregoing terms and conditions of this Agreement, to secure final approval, and to defend the Final Judgment through any and all appeals. Class Counsel and Defendant's Counsel agree to cooperate with one another in seeking Court approval of the Settlement Agreement, entry of the Preliminary Approval

Order, and the Final Judgment, and promptly to agree upon and execute all such other documentation as may be reasonably required to obtain final approval of the Agreement.

**10.2** The Parties intend this Settlement Agreement to be a final and complete resolution of all disputes between them with respect to the Released Claims by the Class Representatives, the Settlement Class and each or any of them, on the one hand, against the Released Parties, and each or any of the Released Parties, on the other hand. Accordingly, the Parties agree not to assert in any forum that the Action was brought by the Class Representatives or defended by Defendant, or each or any of them, in bad faith or without a reasonable basis.

**10.3** The Parties have relied upon the advice and representation of counsel, selected by them, concerning their respective legal liability for the claims hereby released. The Parties have read and understand fully the above and foregoing agreement and have been fully advised as to the legal effect thereof by counsel of their own selection and intend to be legally bound by the same.

**10.4** Whether or not the Effective Date occurs, or the Settlement Agreement is terminated, neither this Agreement nor the settlement contained herein or any term, provision or definition therein, nor any act or communication performed or document executed in the course of negotiating, implementing or seeking approval pursuant to or in furtherance of this Agreement or the settlement:

(a) is, may be deemed, or shall be used, offered or received in evidence in any civil, criminal or administrative proceeding in any court, administrative agency, arbitral proceeding or other tribunal against the Released Parties, or each or any of them, as an admission, concession or evidence of, the validity of any Released Claims, the validity of a class certification, the truth of any fact alleged by the Class Representatives, the deficiency of any defense that has been or could have been asserted in the Action, the violation of any law or

statute, the definition or scope of any term or provision, the reasonableness of the settlement amount or the Fee Award, or of any alleged wrongdoing, liability, negligence, or fault of the Released Parties, or any of them;

(b) is, may be deemed, or shall be used, offered or received in evidence against any Released Party, as an admission, concession or evidence of any fault, or other wrongdoing, or any misrepresentation or omission with respect to any statement or written document approved or made by the Released Parties, or any of them;

(c) is, may be deemed, or shall be used, offered or received in evidence against the Released Parties, or each or any of them, as an admission or concession with respect to any liability, statutory violation, negligence, fault or wrongdoing by anyone in the settlement class as against any Released Parties, or supporting the certification of a litigation class, in any civil, criminal or administrative proceeding in any court, administrative agency or other tribunal. However, the Settlement, this Agreement, and any acts performed and/or documents executed in furtherance of or pursuant to this Agreement and/or Settlement may be used in any proceedings as may be necessary to effectuate the provisions of this Agreement. Further, if this Settlement Agreement is approved by the Court, any Party or any of the Released Parties may file this Agreement and/or the Final Judgment in any action that may be brought against such Party or Parties in order to support a defense or counterclaim based on principles of *res judicata*, collateral estoppel, release, good faith settlement, judgment bar or reduction, or any other theory of claim preclusion or issue preclusion or similar defense or counterclaim;

(d) is, may be deemed, or shall be construed against Plaintiffs, the Settlement Class, the Releasing Parties, or each or any of them, or against the Released Parties, or each or any of them, as an admission or concession that the consideration to be given hereunder

represents an amount equal to, less than or greater than that amount that could have or would have been recovered after trial; and

(e) is, may be deemed, or shall be construed as or received in evidence as an admission or concession against the Class Representatives, the Settlement Class, the Releasing Parties, or each and any of them, or against the Released Parties, or each or any of them, that any of Plaintiffs' claims are with or without merit or that damages recoverable in the Action would have exceeded or would have been less than any particular amount.

**10.5** The Parties acknowledge that (a) any certification of the Settlement Class as set forth in this Agreement, including certification of the Settlement Class for settlement purposes in the context of Preliminary Approval, shall not be deemed a concession that certification of a litigation class is appropriate, or that the Settlement Class definition would be appropriate for a litigation class, nor would Defendant be precluded from challenging class certification in further proceedings in the Action or in any other action if the Settlement Agreement is not finalized or finally approved; (b) if the Settlement Agreement is not finally approved by the Court for any reason whatsoever, if the Court's approval is reversed or vacated on appeal, if this Settlement Agreement is terminated as provided herein, or if the Settlement set forth in this Settlement Agreement otherwise fails to become effective, then any certification of the Settlement Class will be void, the Parties and the Action shall be restored to the status quo ante, and no doctrine of waiver, estoppel or preclusion will be asserted in any litigated certification proceedings in the Action or in any other action, and this Settlement Agreement or any other settlement-related statement may not be cited regarding certification of the Class, or in support of an argument for certifying any class for any purpose related to this Action or any other proceeding; (c) no representations or agreements made by or entered into by Defendant in connection with the Settlement may be used by the Class Representatives, any person in the Settlement Class, or any

other person to establish any of the elements of class certification in any litigated certification proceedings, whether in the Action or any other judicial proceeding, (d) Defendant's agreement as to certification of the Settlement Class is solely for the purposes of effectuating the Settlement and no other purpose; and (e) Defendant retains all of its objections, arguments, and defenses with respect to class certification and any other issue, and reserves all rights to contest class certification and any other issue if the Settlement set forth in this Agreement does not result in entry of Final Judgment, if the Court's approval is reversed or vacated on appeal, if this Settlement is terminated as provided herein, or if the Settlement set forth in this Settlement Agreement otherwise fails to become effective.

**10.6.** This Agreement constitutes a compromise with denial of any liability by Defendant. The Agreement, any related documents, and any negotiations relating to or supporting the Agreement shall not be construed as, or deemed to be, evidence of an admission, or a concession of liability or wrongdoing of any type or nature on the part of Defendant, or any of the Released Parties (defined above), with respect to any claim of fault, liability, wrongdoing or damage whatsoever, with respect to the Action or with respect to the certifiability of a litigation class. Moreover, this Agreement and Defendant's participation in the settlement process, shall not be used against Defendant in any manner whatsoever to the extent the settlement does not ultimately obtain final approval.

**10.7** No person or entity shall have any claim against the Class Representatives, Class Counsel, the Settlement Administrator or any other agent designated by Class Counsel, or the Released Parties and/or their counsel, arising from distributions made substantially in accordance with this Agreement. The Parties and their respective counsel and all other Released Parties shall have no liability whatsoever for the investment or distribution of payments and benefits subject to the Settlement Cap or the determination, administration, calculation, or payment of

any claim or nonperformance of the Settlement Administrator, the payment or withholding of taxes (including interest and penalties) owed in association with payments and benefits subject to the Settlement Cap, or any losses incurred in connection therewith.

**10.8.** All proceedings with respect to the administration, processing and determination of Claim Forms and settlement payments and the determination of all controversies relating thereto, including disputed questions of law and fact with respect to the validity of Claim Forms and settlement payments, shall be subject to the jurisdiction of the Court.

**10.9** The headings used herein are used for the purpose of convenience only and are not meant to have legal effect.

**10.10** The waiver by one Party of any breach of this Agreement by any other Party shall not be deemed as a waiver of any other prior or subsequent breaches of this Agreement.

**10.11** All of the Recitals and Exhibits to this Agreement are material and integral parts thereof and are fully incorporated herein by this reference.

**10.12** This Agreement and its Exhibits set forth the entire agreement and understanding of the Parties with respect to the matters set forth herein, and supersede all prior negotiations, agreements, arrangements and undertakings with respect to the matters set forth herein. No representations, warranties or inducements have been made to any Party concerning this Settlement Agreement or its Exhibits other than the representations, warranties and covenants contained and memorialized in such documents. This Agreement may be amended or modified only by a written instrument signed by or on behalf of all Parties or their respective successors-in-interest.

**10.13** Except as otherwise provided herein, each Party shall bear its own costs.

**10.14** The Class Representatives represent and warrant that they have not assigned any claim or right or interest therein as against the Released Parties to any other Person or Party and that they are fully entitled to release the same.

**10.15** Each counsel or other Person executing this Settlement Agreement, any of its Exhibits, or any related settlement documents on behalf of any Party hereto, hereby warrants and represents that such Person has the full authority to do so and has the authority to take appropriate action required or permitted to be taken pursuant to the Agreement to effectuate its terms. Class Counsel in particular warrants that they are authorized to execute this Settlement Agreement on behalf of Plaintiffs and the Settlement Class (subject to final approval by the Court after notice to all Settlement Class Members), and that all actions necessary for the execution of this Settlement Agreement have been taken.

**10.16** This Agreement may be executed in one or more counterparts. Signature by digital means, facsimile, or in PDF format will constitute sufficient execution of this Agreement. All executed counterparts and each of them shall be deemed to be one and the same instrument. A complete set of original executed counterparts shall be filed with the Court if the Court so requests.

**10.17** This Settlement Agreement shall be binding upon, and inure to the benefit of, the successors and assigns of the Parties hereto and the Released Parties.

**10.18** The Court shall retain jurisdiction with respect to implementation and enforcement of the terms of this Agreement, and all Parties hereto submit to the jurisdiction of the Court for purposes of implementing and enforcing the settlement embodied in this Agreement.

**10.19** This Settlement Agreement shall be governed by and construed in accordance with the laws of the State of New York.

**10.20** This Agreement is deemed to have been prepared by counsel for all Parties, as a result of arm's-length negotiations among the Parties. Because all Parties have contributed substantially and materially to the preparation of this Agreement, it shall not be construed more strictly against one Party than another.

**10.21** Where this Agreement requires notice to the Parties, such notice shall be sent to the undersigned counsel: Philip L. Fraietta, Bursor & Fisher, P.A., 1330 Avenue of the Americas, 32nd Floor, New York, NY 10019; Christine M. Reilly, Manatt, Phelps & Phillips, LLP, 2049 Century Park East, Suite 1700, Los Angeles, CA 90067.

**10.22** Plaintiffs and/or Class Counsel shall not, at any time, issue press releases or make other public statements regarding the Settlement or the Action (apart from filings with the Court as necessary to obtain Preliminary or Final Approval of the Settlement) unless Defendant agrees to such press releases or public statements in advance; provided that Class Counsel may post Court orders regarding the Action and brief summaries of those orders on their website(s) without permission from Defendant, so long as any reference in such order(s) to materials subject to any confidentiality obligations are properly redacted. This provision shall not prohibit Class Counsel from communicating with any person in the Settlement Class regarding the Settlement upon receipt of an inquiry from a Settlement Class member (subject to compliance with any and all applicable confidentiality obligations and this Settlement Agreement), provided that Class Counsel provides Defendant's Counsel with notice of such an inquiry.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK;  
SIGNATURE PAGES TO FOLLOW]

**IT IS SO AGREED TO BY THE PARTIES:**

Dated: Aug 16, 2024

**CLAIR AWAD**

By: *Clair Awad*  
Clair Awad (Aug 16, 2024 08:46 EDT)

Clair Awad, individually and as representative of the Settlement Class

Dated: Aug 16, 2024

**SHANE MANNION**

By: *Shane Mannion*  
Mannion, Shane (Aug 16, 2024 08:49 EDT)

Shane Mannion, individually and as representative of the Settlement Class

Dated: August 16, 2024

**FANDANGO MEDIA, LLC**

By: *Kerry Samovar*

Kerry Samovar  
Head of Legal and Business Affairs, Senior Vice President

**IT IS SO STIPULATED BY COUNSEL:**

Dated: August 16, 2024

**BURSOR & FISHER, PA**

By: *Philip L. Fraietta*

Philip L. Fraietta  
pfraietta@bursor.com  
BURSOR & FISHER, P.A.  
1330 Avenue of the Americas, 32nd Floor  
New York, New York 10019  
Tel: (646) 837-7150  
Fax: (212) 989-9163

Stefan Bogdanovich  
sbogdanovich@bursor.com  
BURSOR & FISHER, P.A.  
1990 North California Blvd., Suite 940  
Walnut Creek, CA 94596  
Tel: (925) 300-4455  
Fax: (925) 407-2700

*Proposed Class Counsel*

Dated: August 16, 2024

**MANATT, PHELPS & PHILLIPS, LLP**

By: Christine M. Reilly

Christine M. Reilly  
creilly@manatt.com  
MANATT, PHELPS & PHILLIPS, LLP  
2049 Century Park East, Suite 1700  
Los Angeles, CA 90067  
Tel: (310) 312-4000  
Fax: (310) 312-4224

Prana A. Topper  
ptopper@manatt.com  
MANATT, PHELPS & PHILLIPS, LLP  
7 Times Square  
New York, NY 10036  
Tel: (212) 790-4615  
Fax: (212) 536-1888

*Attorneys for Defendant*

**EXHIBIT A**

**Awad v. Fandango Media, LLC**

Supreme Court of the State of New York, County of Nassau

Index No. 610563/2024

**Settlement Claim Form**

**If you are a Settlement Class Member and wish to receive a cash payment or a voucher, your completed Claim Form must be postmarked on or before [REDACTED], or submitted online on or before [REDACTED].**

Please read the full notice of this settlement (available at [\[hyperlink\]](#)) carefully before filling out this Claim Form.

To be eligible to receive a \$5.00 cash payment or a \$10.00 voucher to Fandango at Home from the settlement obtained in this class action lawsuit, you must submit this completed Claim Form online or by mail.

**ONLINE:** Submit this Claim Form.

**MAIL:** [\[ADDRESS\]](#)

**PART ONE: CLAIMANT INFORMATION & PAYMENT METHOD ELECTION**

Provide your name and contact information below. It is your responsibility to notify the Settlement Administrator of any changes to your contact information after the submission of your Claim Form.

**FIRST NAME**

**LAST NAME**

**STREET ADDRESS**

**CITY**

**STATE**

**ZIP CODE**

**EMAIL ADDRESS**

**POTENTIAL CASH PAYMENT OR FANDANGO AT HOME VOUCHER:** You may be entitled to receive a **\$5.00** cash payment **or** a **\$10.00** Fandango at Home voucher if between August 29, 2022, to and through March 11, 2024, you paid a convenience fee to purchase electronic tickets to any movie in any movie theater located within New York state from Fandango’s website, mobile phone application, and/or any other Fandango owned or operated online platform. You may select only ONE option below:

\$5 Cash Payment

\$10 Fandango at Home Voucher

QUESTIONS? VISIT [\[hyperlink\]](#) OR CALL [\[NUMBER\]](#) TOLL-FREE

**PREFERRED PAYMENT METHOD (For Cash Payment Only):**

Venmo  Venmo Username: \_\_\_\_\_

PayPal  PayPal Email: \_\_\_\_\_

Zelle  Zelle Email: \_\_\_\_\_

Check  A check will be mailed to your mailing address above.

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**PART TWO: ATTESTATION UNDER PENALTY OF PERJURY**

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I declare under penalty of perjury under the laws of the United States of America that between August 29, 2022, to and through March 11, 2024 I paid a convenience fee to purchase electronic tickets to any movie in any movie theater located within New York state from Fandango’s website, mobile phone application, and/or any other Fandango owned or operated online platform, and that all of the information on this Claim Form is true and correct to the best of my knowledge. I understand that my Claim Form may be subject to audit, verification, and Court review.

**SIGNATURE**

**DATE**

**Please keep a copy of your Claim Form for your records.**

**EXHIBIT B**

From: FandangoTicketFeeSettlement@fandangoticketfeesettlement.com  
To: JonQClassMember@domain.com  
Re: Legal Notice of Class Action Settlement

**NOTICE OF PROPOSED CLASS ACTION SETTLEMENT**  
*Awad v. Fandango Media, LLC*, Index No. 610563/2024  
**(Supreme Court of the State of New York, County of Nassau)**

**Our Records Indicate You May Have Paid a Convenience Fee to Purchase Electronic Tickets To A Movie In A Movie Theater Located Within New York State From Fandango's Website, Mobile Phone Application, And/Or Any Other Fandango Owned Or Operated Online Platform From August 29, 2022, To And Through March 11, 2024. You May Be Entitled To A Payment From A Class Action Settlement.**

*A court authorized this notice. You are not being sued. This is not a solicitation from a lawyer.*

This notice is to inform you that a settlement has been reached in a class action lawsuit claiming that Defendant Fandango Media, LLC ("Defendant"), failed to timely disclose a convenience fee for online tickets to movie theaters in New York state, in alleged violation of New York Arts and Cultural Affairs Law ("ACAL") § 25.07(4). Defendant denies that it violated any law, but has agreed to the settlement to avoid the uncertainties and expenses associated with continuing the case.

**Am I a Class Member?** Our records indicate you may be a Class Member. Class Members are all individuals in the United States who paid a convenience fee to purchase electronic tickets to any movie in any movie theater located within New York state from Fandango's website, mobile phone application, and/or any other Fandango owned or operated online platform from August 29, 2022, to and through March 11, 2024.

**What Does The Settlement Provide?** If approved by the Court, Defendant will establish a Settlement Benefit Cap of \$9,000,000.00. All approved claims submitted by the Settlement Class, together with notice and administration expenses, approved attorneys' fees and costs to Class Counsel, and service awards to the Class Representatives will be subject to the Settlement Benefit Cap. To receive a payment, you must submit a timely and complete Claim Form by mail or online, submitted or postmarked **no later than [claims deadline]**. You may submit a valid Claim Form by accessing [hyperlink] for either (1) a \$5.00 cash payment; or (2) a \$10.00 voucher for Fandango at Home, at your election. The \$10.00 Fandango at Home voucher is a promotional code that can be used to rent or purchase movies or television shows for viewing on the Fandango at Home website or applications. If you elect a cash payment, it will be made by PayPal, Venmo, Zelle, or mailed check, at your election. Claim Forms must be submitted online by 11:59 p.m. EST on [DATE] or postmarked and mailed to [insert mailing address] by [DATE].

Defendant has also agreed to pay all approved claims to the Settlement Class, together with notice and administrative expenses, approved attorneys' fees and costs to Class Counsel, and service awards to the Class Representatives. Additionally, Defendant has changed the purchase flow for

tickets to New York theatres on its website and agrees to comply with ACAL § 25.07(4) unless and until it is amended, repealed, or otherwise invalidated.

**What are My Other Options?** You may exclude yourself from the Class by sending a letter to the settlement administrator no later than [objection/exclusion deadline]. If you exclude yourself, you cannot get a settlement benefit, but you keep any rights you may have to sue the Defendant over the legal issues in the lawsuit. You and/or your lawyer have the right to appear before the Court and/or object to the proposed settlement. Your written objection must be filed no later than [objection/exclusion deadline]. Specific instructions about how to object to or exclude yourself from the Settlement are available at [www.fandangoticketfeesettlement.com](http://www.fandangoticketfeesettlement.com). If you file a claim or do nothing, and the Court approves the Settlement, you will be bound by all of the Court's orders and judgments. In addition, any claims relating to convenience fees in connection with electronic ticket sales on Fandango's website, mobile phone application, and/or any online platform owned or operated by or on behalf of Defendant from August 29, 2022 through and including March 11, 2024, will be released.

**Who Represents Me?** The Court has appointed lawyers Philip L. Fraietta and Stefan Bogdanovich of Bursor & Fisher, P.A. to represent the class. These attorneys are called Class Counsel. You will not be charged for these lawyers. If you want to be represented by your own lawyer in this case, you may hire one at your expense.

**When Will the Court Consider the Proposed Settlement?** The Court will hold the Final Approval Hearing at [time] m. on [date] in Courtroom X at the Supreme Court of the State of New York, County of Nassau, 100 Supreme Court Drive, Mineola, New York 11501. At that hearing, the Court will: hear any objections concerning the fairness of the settlement; determine the fairness of the settlement; decide whether to approve Class Counsel's request for attorneys' fees and costs; and decide whether to award Class Representatives Clair Awad and Shane Mannion \$5,000 each for their service in helping to bring and settle this case. Defendant has agreed to pay Class Counsel reasonable attorneys' fees in an amount to be determined by the Court. Class Counsel may seek no more than \$2,250,000, but the Court may award less than this amount.

**How Do I Get More Information?** For more information, including the full Notice, Claim Form and Settlement Agreement go to [www.fandangoticketfeesettlement.com](http://www.fandangoticketfeesettlement.com), contact the settlement administrator at 1-\_\_\_-\_\_\_-\_\_\_ or Fandango Ticket Fee Settlement Administrator, [address], or call Class Counsel at 1-646-837-7150.

**EXHIBIT C**

**SUPREME COURT OF THE STATE OF NEW YORK, COUNTY OF NASSAU***Awad v. Fandango Media, LLC*, Index No. 610563/2024

**If You Paid A Convenience Fee To Purchase Electronic Tickets To a Movie In Any Movie Theater Located Within New York State From Fandango’s Website, Mobile Phone Application, And/Or Any Other Fandango Owned Or Operated Online Platform From August 29, 2022, To And Through March 11, 2024, You May Be Entitled To A Payment From A Class Action Settlement.**

*A court authorized this notice. You are not being sued. This is not a solicitation from a lawyer.*

- A Settlement has been reached in a class action lawsuit claiming that Defendant Fandango Media, LLC (“Defendant”) failed to timely disclose a convenience fee for online tickets to movie theaters in New York state, in alleged violation of New York Arts and Cultural Affairs Law (“ACAL”) § 25.07(4). Defendant denies that it violated any law, but has agreed to the settlement to avoid the uncertainties and expenses associated with continuing the case.
- You are included if you paid a convenience fee to purchase electronic tickets to any movie in any movie theater located within New York state from Fandango’s website, mobile phone application, and/or any other Fandango owned or operated online platform from August 29, 2022, to and through March 11, 2024.
- Read this notice carefully. Your legal rights are affected whether you act, or do not act.

<b>YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT</b>	
<b>SUBMIT A CLAIM FORM BY [DATE]</b>	This is the <b>only</b> way to receive a \$5.00 cash payment or \$10.00 voucher to Fandango at Home. You may file a claim here [ <a href="#">hyperlink</a> ] or mail your claim form to [ <a href="#">address</a> ]. You will also give up your rights to sue the Defendant about the claims in the case.
<b>EXCLUDE YOURSELF BY [DATE]</b>	You will receive no benefits, but you will retain any rights you currently have to sue the Defendant about the claims in this case.
<b>OBJECT BY [DATE]</b>	Write to the Court explaining why you do not like the Settlement.
<b>GO TO THE HEARING ON [DATE]</b>	Ask to speak in Court about your opinion of the Settlement.
<b>DO NOTHING</b>	You won’t get a share of the Settlement benefits and will give up your rights to sue the Defendant about the claims in this case.

These rights and options—**and the deadlines to exercise them**—are explained in this Notice.

**QUESTIONS? CALL (800) 000-0000 TOLL FREE, OR VISIT [WWW.FANDANGOTICKETFEESSETTLEMENT.COM](http://WWW.FANDANGOTICKETFEESSETTLEMENT.COM)**

## BASIC INFORMATION

### 1. Why was this Notice issued?

A Court authorized this notice because you have a right to know about a proposed Settlement of this class action lawsuit and about all of your options, before the Court decides whether to give final approval to the Settlement. This Notice explains the lawsuit, the Settlement, and your legal rights.

The case is called *Awad v. Fandango Media, LLC*, Index No. 610563/2024, pending in the Supreme Court of the State of New York, County of Nassau. The people who sued are called the Plaintiffs. The Defendant is Fandango Media, LLC.

### 2. What is a class action?

In a class action, one or more people called class representatives (in this case, Clair Awad and Shane Mannion) sue on behalf of a group or a “class” of people who have similar claims. In a class action, the court resolves the issues for all class members, except for those who exclude themselves from the Class.

### 3. What is this lawsuit about?

This lawsuit claims that Defendant failed to timely disclose a convenience fee for online tickets to movie theaters in New York state, in alleged violation of ACAL § 25.07(4). The Defendant denies it violated any law. The Court has not determined who is right or if Defendant violated the law. Rather, the Parties have agreed to settle the lawsuit to avoid the uncertainties and expenses associated with ongoing litigation.

### 4. Why is there a Settlement?

The Court has not decided whether the Plaintiffs or the Defendant should win this case. Instead, both sides agreed to a Settlement. That way, they avoid the uncertainties and expenses associated with ongoing litigation, and Class Members will get compensation sooner rather than after the completion of a trial, if at all.

## WHO'S INCLUDED IN THE SETTLEMENT?

### 5. How do I know if I am in the Settlement Class?

The Court decided that everyone who fits the following description is a member of the **Settlement Class**:

All individuals in the United States who paid a convenience fee to purchase electronic tickets to any movie in any movie theater located within New York state from Fandango's website, mobile

phone application, and/or any other Fandango owned or operated online platform from August 29, 2022, to and through March 11, 2024.

## THE SETTLEMENT BENEFITS

### 6. What does the Settlement provide?

**Compensatory Relief.** Settlement Class Members may submit a valid Claim Form by accessing [hyperlink] for either (1) a \$5.00 cash payment; or (2) a \$10.00 voucher for Fandango at Home, at their election. The \$10.00 Fandango at Home voucher is a promotional code that can be used to rent or purchase movies or television shows for viewing on the Fandango at Home website or applications.

Defendant has created a Settlement Benefit Cap totaling \$9,000,000.00. All payments for approved claims to the Settlement Class, together with notice and administrative expenses, approved attorneys' fees and costs to Class Counsel, and service awards to the Class Representatives will be subject to the Settlement Benefit Cap.

**Prospective Relief.** Additionally, Defendant has changed the purchase flow for tickets to New York theatres on its website and agrees to comply with ACAL § 25.07(4) unless and until it is amended, repealed, or otherwise invalidated.

A detailed description of the settlement benefits can be found in the Settlement Agreement, a copy of which is accessible on the Settlement Website by clicking [here](#). [insert hyperlink]

### 7. How much will my payment be?

You **must** submit a Claim Form (see instructions below) to receive a \$5.00 cash payment or a \$10.00 voucher to Fandango at Home, at your election.

You must provide proof of your Settlement Class membership when filing a claim by providing the unique Notice ID and Confirmation Code on the notice you received by e-mail. If for some reason you did not receive this information, but believe you are a Settlement Class Member, please call 1-XXX-XXX-XXXX to verify your identity and receive further information on how to file a claim.

### 8. When will I get my payment?

The hearing to consider the fairness of the settlement is scheduled for [Final Approval Hearing Date]. If the Court approves the settlement, you will receive an email with instructions for how to claim your \$5.00 cash payment or \$10.00 voucher to Fandango at Home, 30 days after the Settlement has been finally approved and/or after any appeals process is complete. If you elected a cash payment, your payment will be made in the form you elected (PayPal, Venmo, Zelle, or check), and all checks will expire

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and become void 180 days after they are issued. All Fandango at Home vouchers will expire no earlier than one (1) year after the date of issue.

## HOW TO GET BENEFITS

### 9. How do I get a payment?

Settlement Class Members may submit a valid Claim Form by accessing [\[hyperlink\]](#) for either (1) a \$5.00 cash payment; or (2) a \$10.00 voucher for Fandango at Home, at their election.

## REMAINING IN THE SETTLEMENT

### 10. What am I giving up if I stay in the Class?

If the Settlement becomes final, you will give up your right to sue the Defendant and other Released Parties for the claims being resolved by this Settlement. The specific claims you are giving up against the Defendant are described in the Settlement Agreement. You will be “releasing” the Defendant and certain of its affiliates, employees and representatives as described in Section 1.28 of the Settlement Agreement. Unless you exclude yourself (*see* Question 13), you are “releasing” the claims, regardless of whether you claim your settlement benefit or not. The Settlement Agreement is available through the “court documents” link on the website.

The Settlement Agreement describes the released claims with specific descriptions, so read it carefully. If you have any questions you can talk to the lawyers listed in Question 11 for free or you can, of course, talk to your own lawyer at your expense if you have questions.

## THE LAWYERS REPRESENTING YOU

### 11. Do I have a lawyer in the case?

The Court has appointed Philip L. Fraietta and Stefan Bogdanovich of Bursor & Fisher, P.A. to be the attorneys representing the Settlement Class. They are called “Class Counsel.” They believe, after conducting an extensive investigation, that the Settlement Agreement is fair, reasonable, and in the best interests of the Settlement Class. You will not be charged for these lawyers. If you want to be represented by your own lawyer in this case, you may hire one at your expense.

### 12. How will the lawyers be paid?

Class Counsel's attorneys' fees, costs, and expenses will be paid separately by Defendant and as awarded by the Court. Class Counsel is entitled to seek no more than \$2,250,000, but the Court may award less than this amount.

As approved by the Court, the Class Representatives will separately be paid a service award by Defendant for helping to bring and settle the case. The Class Representatives may seek up to \$5,000 each as a service award, but the Court may award less than this amount.

## EXCLUDING YOURSELF FROM THE SETTLEMENT

### 13. How do I get out of the Settlement?

To exclude yourself from the Settlement, you must submit a request for exclusion by 11:59 p.m. EST on [objection/exclusion deadline]. Requests for exclusion may be submitted either on the Settlement Website (via the online form accessible [here](#) [insert hyperlink]) or by mailing or otherwise deliver a letter (or request for exclusion) stating that you want to be excluded from the *Awad v. Fandango Media, LLC*, Index No. 610563/2024 settlement. Your letter or request for exclusion must also include (i) your name, (ii) your address, (iii) a statement that you paid a convenience fee to purchase electronic tickets to any movie in any movie theater located within New York state from Fandango's website, mobile phone application, and/or any other Fandango owned or operated online platform from August 29, 2022, to and through March 11, 2024, (iv) your signature, (v) the name and number of this case, and a (vi) statement that you wish to be excluded. If you choose to submit a request for exclusion by mail, you must mail or deliver your exclusion request, postmarked no later than [objection/exclusion deadline], to the following address:

Fandango Ticket Fee Settlement  
0000 Street  
City, ST 00000

### 14. If I don't exclude myself, can I sue the Defendant for the same thing later?

No. Unless you exclude yourself, you give up any right to sue the Defendant for the claims being resolved by this Settlement.

### 15. If I exclude myself, can I get anything from this Settlement?

No. If you exclude yourself, you will not receive any payment from the Settlement Fund. You will not receive a \$5.00 cash payment or a \$10.00 voucher for Fandango at Home.

## OBJECTING TO THE SETTLEMENT

QUESTIONS? CALL (800) 000-0000 TOLL FREE, OR VISIT [WWW.FANDANGOTICKETFEESSETTLEMENT.COM](http://WWW.FANDANGOTICKETFEESSETTLEMENT.COM)

**16. How do I object to the Settlement?**

If you are a Class Member, you can object to the Settlement if you do not like any part of it. You can give reasons why you think the Court should not approve it. The Court will consider your views. To object, you must file with the Court a letter or brief stating that you object to the Settlement in *Awad v. Fandango Media, LLC*, Index No. 610563/2024 and identify all your reasons for your objections (including citations and supporting evidence) and attach any materials you rely on for your objections. Your letter or brief must also include your name, your address, the basis upon which you claim to be a Class Member, the name and contact information of any and all attorneys representing, advising, or in any way assisting you in connection with your objection, and your signature. If you, or an attorney assisting you with your objection, have ever objected to any class action settlement where you or the objecting attorney has asked for or received payment in exchange for dismissal of the objection (or any related appeal) without modification to the settlement, you must include a statement in your objection identifying each such case by full case caption. You must also mail or deliver a copy of your letter or brief to Class Counsel and Defendant's Counsel listed below.

Class Counsel will file with the Court and post on this website its request for attorneys' fees by [two weeks prior to objection deadline].

If you want to appear and speak at the Final Approval Hearing to object to the Settlement, with or without a lawyer (explained below in answer to Question Number 20), you must say so in your letter or brief. File the objection with the Court (or mail the objection to the Court) and mail a copy of the objection to Class Counsel and Defendant's Counsel, at the addresses below, postmarked no later than [objection deadline].

Court	Class Counsel	Defendant's Counsel
The Honorable [NAME] Supreme Court of the State of New York, County of Nassau 100 Supreme Court Drive Mineola, New York 11501	Philip L. Fraietta Bursor & Fisher P.A. 1330 Avenue of the Americas, 32nd Floor New York, NY 10019	Christine M. Reilly Manatt, Phelps & Phillips, LLP 2049 Century Park East, Suite 1700 Los Angeles, CA 90067

**17. What's the difference between objecting and excluding myself from the Settlement?**

Objecting simply means telling the Court that you do not like something about the Settlement. You can object only if you stay in the Class. Excluding yourself from the Class is telling the Court that you don't want to be part of the Class. If you exclude yourself, you have no basis to object because the case no longer affects you.

**THE COURT'S FINAL APPROVAL HEARING**

QUESTIONS? CALL (800) 000-0000 TOLL FREE, OR VISIT [WWW.FANDANGOTICKETFEESSETTLEMENT.COM](http://WWW.FANDANGOTICKETFEESSETTLEMENT.COM)

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

The Court will hold the Final Approval Hearing at [redacted] on [date] in Courtroom X at the Supreme Court of the State of New York, County of Nassau, 100 Supreme Court Drive, Mineola, New York 11501. The purpose of the hearing will be for the Court to determine whether to approve the Settlement as fair, reasonable, adequate, and in the best interests of the Class; to consider the Class Counsel's request for attorneys' fees and expenses; and to consider the request for service awards to the Class Representatives. At that hearing, the Court will be available to hear any objections and arguments concerning the fairness of the Settlement.

The hearing may be postponed to a different date or time without notice, so it is a good idea to check for updates by visiting the Settlement Website at [www.fandangoticketfeesettlement.com](http://www.fandangoticketfeesettlement.com) or by calling (800) 000-0000. If, however, you timely objected to the Settlement and advised the Court that you intend to appear and speak at the Final Approval Hearing, you will receive notice of any change in the date of the Final Approval Hearing.

**19. Do I have to come to the hearing?**

No. Class Counsel will answer any questions the Court may have. But, you are welcome to come at your own expense. If you send an objection or comment, you do not have to come to Court to talk about it. As long as you filed and mailed your written objection on time, the Court will consider it. You may also pay another lawyer to attend, but it is not required.

**20. May I speak at the hearing?**

Yes. You may ask the Court for permission to speak at the Fairness Hearing. To do so, you must include in your letter or brief objecting to the settlement a statement saying that it is your "Notice of Intent to Appear in *Awad v. Fandango Media, LLC*, Index No. 610563/2024." It must include your name, address, telephone number and signature as well as the name and address of your lawyer, if one is appearing for you. Your objection and notice of intent to appear must be filed with the Court and postmarked no later than [objection deadline] and be sent to the addresses listed in Question 16.

**GETTING MORE INFORMATION****21. Where do I get more information?**

This Notice summarizes the Settlement. More details are in the Settlement Agreement. You can get a copy of the Settlement Agreement at [www.fandangoticketfeesettlement.com](http://www.fandangoticketfeesettlement.com). You may also write with questions to Fandango Ticket Fee Settlement, P.O. Box 0000, City, ST 00000. You can call the Settlement Administrator at (800) 000-0000 or Class Counsel at

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(646) 837-7150, if you have any questions. Before doing so, however, please read this full Notice carefully. You may also find additional information elsewhere on the case website.

**EXHIBIT D**

**SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NASSAU**

CLAIR AWAD and SHANE MANNION,  
individually and on behalf of all others similarly  
situated,

Plaintiffs,

v.

FANDANGO MEDIA, LLC,

Defendant.

Index No. 610563/2024

**STIPULATION REGARDING UNDERTAKING**  
**RE: ATTORNEYS' FEES, COSTS, AND EXPENSES**

Plaintiffs Clair Awad and Shane Mannion (“Plaintiffs”) and Fandango Media, LLC (“Defendant”) (collectively, “the Parties”), by and through and including their undersigned counsel, stipulate and agree as follows:

WHEREAS, Bursor & Fisher, P.A. (the “Firm”) desires to give an undertaking (the “Undertaking”) for repayment of the award of attorneys’ fees, costs, and expenses approved by the Court, and

WHEREAS, the Parties agree that this Undertaking is in the interests of all Parties and in service of judicial economy and efficiency.

NOW, THEREFORE, the undersigned counsel, as agent for his law firm, hereby submits his law firm to the jurisdiction of the Court for the purpose of enforcing the provisions of this Undertaking.

Capitalized terms used herein without definition have the meanings given to them in the Settlement Agreement.

By receiving any payments pursuant to the Settlement Agreement, the Firm and its shareholders, members, and/or partners submit to the jurisdiction of the Supreme Court of the State of New York, County of Nassau for the enforcement of and any and all disputes relating to or arising out of the reimbursement obligation set forth herein and the Settlement Agreement.

In the event that the Final Approval Order or any part of it is vacated, overturned, reversed, or rendered void as a result of an appeal, or the Settlement Agreement is voided, rescinded, or otherwise terminated for any other reason, the Firm shall, within fourteen (14) days repay to Defendant, based upon written instructions provided by Defendant's Counsel, the full amount of the attorneys' fees and costs previously paid to the Firm in connection with the settlement, including any accrued interest.

In the event the Final Approval Order is upheld, but the attorneys' fees, costs, and expenses awarded by the Court or any part of them are vacated, modified, reversed, or rendered void as a result of an appeal, the Firm shall within fourteen (14) days repay to the Defendant, based upon written instructions provided by Defendant's Counsel, the attorneys' fees and costs previously paid to the Firm by Defendant in the amount vacated or modified, including any accrued interest.

This Undertaking and all obligations set forth herein shall expire if no repayment obligations arise prior to or upon finality of all direct appeals of the Final Approval Order.

In the event the Firm fails to repay to Defendant any of the attorneys' fees and costs that are owed pursuant to this Undertaking, the Court shall, upon application of Defendant, and notice to the Firm, summarily issue orders, including but not limited to judgments and attachment orders against the Firm, and may make appropriate findings for sanctions for contempt of court. The Court may also award Defendant interest on any amount that was not

timely repaid by the Firm to Defendant. The Firm shall be responsible for Defendant's attorneys' fees and costs incurred in connection with enforcing this Undertaking.

The undersigned Scott A. Bursor stipulates, warrants, and represents that he has both actual and apparent authority to enter into this stipulation, agreement, and undertaking on behalf of the Firm.

This Undertaking may be executed in one or more counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument. Signatures by facsimile, PDF, or other electronic means shall be as effective as original signatures.

This Court retains jurisdiction to resolve any disputes that may arise under this Undertaking.

The undersigned declare under penalty of perjury under the laws of the United States that they have read and understand the foregoing and that it is true and correct.

IT IS SO STIPULATED THROUGH COUNSEL OF RECORD:

DATED: August 16, 2024

BURSOR & FISHER, P.A.



By: Scott A. Bursor, on behalf of Bursor & Fisher, P.A.  
Attorneys for Plaintiffs

DATED: August 16, 2024

MANATT, PHELPS & PHILLIPS, LLP



By: Christine M. Reilly, on behalf of Defendant Fandango Media, LLC