

FILED
ST. CLAIR COUNTY
No. 02-L-0645
AUG 17 2006
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C. J. [Signature]
CIRCUIT CLERK

- A. At all relevant times Hilton owned and managed hotel properties in North America, including the Hilton Properties. Walter Hotel Corporation independently owns and/or operates a hotel under brand names owned by Hilton, pursuant to the terms of franchise license agreements between the Walter Hotel Corporation and Hilton.
- B. Each of the Hilton Properties charged Resort Fees at various times. Two Hilton Properties discontinued charging Resort Fees in 2001, and a third discontinued charging Resort Fees in 2003. Walter Hotel Corporation's facility, the Hilton Palm Springs, also previously charged Resort Fees.
- C. The Resort Fees charged at and by the Hilton Properties and Walter Hotel Corporation are the subjects of litigation between the Parties more fully described

below. Hilton contends that its policy and practice was and is to provide notice of the existence and nature of Resort Fees to guests at the time of check-in as an optional package that would not be charged unless and until a guest agreed to the purchase. Hilton contends that it took diligent and reasonable steps to enforce that policy and practice.

- D. On October 1, 2002, an action entitled *Thomas Maulding v. Hilton Hotels Corporation*; Cause No. 02-L-645 was filed in the Circuit Court of St. Clair County, Illinois (the "Maulding Action"). In the Second Amended Complaint Plaintiff Maulding contends that Hilton and certain of its franchisees allegedly participated in a scheme to deceive guests as to the actual room rate by failing to provide advance notice of the Resort Fee at the time of reservation and/or misrepresented the nature of the Resort Fee all in violation of the Illinois Consumer Fraud statute and the companion Consumer Fraud Statutes of multiple states. The Maulding Action is filed on behalf of the named plaintiff, the general public, and all others similarly situated. On June 23, 2003, following hearing, the Circuit Court certified a multi-state class defined as follows:

"All persons who reserved a room at a Hilton brand hotel, who were promised room rates by Hilton, and who incurred charges, including but not limited to a Resort Fee that were not optional and that were not disclosed by Hilton at the time reservations were made."

Lead Class Counsel were appointed by the Illinois Court in its Order of June 23, 2003. Thereafter on May 18, 2004 the Illinois Court modified its June 23, 2003 Order to exclude international hotels and the states of Mississippi and Montana.

- E. On July 30, 2002, an action entitled *Matthew Pecci v. Hilton Hotels Corporation*, Case No. BC278600, was filed in the Superior Court for the State of California, County of Los Angeles (the "Pecci Action"). In his First Amended Complaint, Plaintiff Pecci asserted claims for breach of contract, violations of California Business and Professions Code Sections 17200 and 17500 (the "UCL"), violation of the Consumers Legal Remedies Act and California Civil Code Section 1750 *et seq.*, fraud and deceit, and promise without intent to perform. The gravamen of the Pecci Action is that Hilton allegedly failed to provide guests advance notice of the Resort Fee at the time of reservation and/or misrepresented the nature of the Resort Fee. The First Amended Complaint is filed on behalf of the named plaintiff, the general public, and all others similarly situated. Pecci is a member of the class certified in the Maulding Certified Class. The Pecci Action remains pending.
- F. On October 9, 2003, an action entitled *Lee Hsu v. Hilton Hotels Corporation and Walter Hotel Corporation*, Cause No. BC30384, was filed in the Superior Court for the State of California, County of Los Angeles (the "Hsu Action"). Plaintiff Hsu asserted claims for breach of contract, violations of California Business and

Professions Code Sections 17200 and 17500, violation of the Consumers Legal Remedies Act and California Civil Code Section 1750 *et seq.*, fraud and deceit, and promise without intent to perform. The gravamen of Hsu's complaint is that Hilton allegedly failed to provide guests advance notice of the Resort Fee at the time of reservation and/or misrepresented the nature of the Resort Fee. The complaint is filed on behalf of the named plaintiff, the general public, and all others similarly situated. Hsu is a member of the class certified in the Maulding Certified Class. The Hsu Action remains pending.

- G. Similar claims against Hilton based on Resort Fees were asserted in *Aaron Rosenberg v. Hilton Hotels Corporation, Sandestin Beach Hotel, Ltd. d/b/a Hilton Sandestin Beach & Golf Resort*, Civil Action No. 03-17451CA 32 (in the Circuit Court of Dade County, Florida) and *Prager v. Hilton Hotels Corporation*, Case No. L-8-009-02, (in the Superior Court of New Jersey, Essex County). Both actions have been voluntarily dismissed by the plaintiffs in those actions.
- H. Class Counsel has obtained, through formal and informal discovery, extensive information regarding Hilton's policies and practices regarding, and the revenues generated from, Resort Fees. In addition, Class Counsel has conducted its own investigation into the underlying events and issues related to the subject matter of the Actions and has undertaken an extensive analysis of the legal principles applicable to Plaintiffs' claims and Hilton's and Walter Hotel Corporation's defenses thereto. Class Counsel has also confirmed the essential facts upon which this Agreement and Settlement are based.
- I. Further, Class Counsel has engaged in extensive arms-length negotiations with Hilton's Counsel, with a view toward achieving substantial benefits for Settlement Class Members while avoiding the cost, delay, and uncertainty of further litigation, trial, and appellate review. Class Counsel and Hilton's Counsel engaged in separate mediations before the Hon. John G. Davies, retired judge of the United States District Court for the Central District of California, and M. Ann Hatch, Esq. During the course of the negotiations, and in the course of the Actions, Hilton asserted that it had substantial defenses to the claims included in the Actions, including but not limited to the following:
 - (1) Hilton asserts that its policies and practices timely and adequately informed its guests of the Resort Fee, including the nature of the charge. If a guest did not receive accurate notice of the Resort Fee at check-in, Hilton contends that it was the result of non-actionable, unintended, *bona fide* human or technical errors.
 - (2) Hilton asserts that class treatment for trial purposes is improper because individual issues of fact and law will necessarily predominate over common issues, among other reasons, even if the class is further divided into subclasses.

- (3) Hilton asserts that Pecci cannot prevail on his UCL claims on behalf of the general public because he cannot establish that Hilton's guests were harmed by a common policy or course of conduct. Hilton asserts that individual guests who did not receive notice of the Resort Fee cannot hold Hilton liable under the UCL because the lack of notice resulted from non-actionable, unintended, and *bona fide* human or technical errors. The fact-intensive inquiry required to evaluate such claims precludes any form of collective adjudication as to liability on behalf of the general public. Hilton further contends that the manner in which it imposed the Resort Fee was not unlawful, unfair, deceptive, fraudulent, misleading, or wrongful in any way.
 - (4) Hilton asserts that Plaintiffs, the Certified Class, and the general public cannot prevail on the claim under breach of contract, the UCL, the Illinois Consumer Fraud Act, common law fraud, and/or promise without intent to perform because Hilton had established a policy and practice of providing notice of the Resort Fee at check-in as an optional package that would not be charged unless and until a guest agreed to the purchase, which it reasonably and diligently enforced. Hilton further asserts that Plaintiffs cannot establish that Hilton intended to mislead any guest as to the existence or nature of the Resort Fee or that Hilton reasonably should have known that its conduct would mislead any guest.
 - (5) Hilton asserts that Plaintiffs and the Certified Class cannot prevail on the California Consumer Legal Remedies Act (the "CLRA") claim because the CLRA does not apply to hotel lodging in general and does not apply to hotel stays for business or professional purposes or to organizational stays in particular. Hilton asserts that guests who did not receive notice of the Resort Fee cannot hold Hilton liable for damages under the CLRA because any lack of notice resulted from non-actionable, unintended, and *bona fide* human or technical errors notwithstanding Hilton's use of reasonable policies and procedures to avoid such errors.
 - (6) Hilton asserts that Plaintiffs and the Certified Class cannot prevail on any of the claims, asserted or not, because they are barred by the voluntary payment doctrine.
- J. As a consequence of the negotiations between the Parties, and of Class Counsel's investigation, analysis, and discovery, the Parties agree to settle the Actions under the terms and conditions memorialized in this Agreement, subject only to the option for Plaintiffs to withdraw from settlement, as set forth in Section 3.2, and the right of Hilton and/or Walter Hotel Corporation to withdraw from settlement, as set forth in Section 4.6, believing such settlement to be fair, reasonable, adequate, and in the best interests of Plaintiffs, the general public, and Settlement

Class Members. Although Plaintiffs and Class Counsel believe that the claims asserted in the Actions are meritorious, they have determined to execute this Agreement and urge approval by the Illinois Court of the Agreement after considering: (1) the substantial factual and legal defenses to the claims alleged in the Actions that are available to Hilton and Walter Hotel Corporation, which render the outcome of the Actions, if tried, uncertain; (2) the difficulties Plaintiffs would encounter establishing the elements of their claims at trial; (3) the substantial benefits that Settlement Class Members and the public will receive pursuant to the Agreement; (4) the fact that the Settlement ensures relief that is reasonably directed toward the Settlement Class Members in the most expeditious and efficient manner practicable, and thus much sooner than would be possible were the claims asserted to be litigated successfully through trial and appeal; (5) the fact that Hilton does not have the ability to give notice via direct mail to a significant number of Settlement Class Members, which has been confirmed through discovery efforts by Plaintiffs; and (6) the fact that the Agreement allows Settlement Class Members to exclude themselves from the Settlement Class should they desire to pursue individually the claims alleged in the Actions.

Hilton and Walter Hotel Corporation deny any and all claims of wrongdoing or liability that were asserted, or could have been asserted, in the Actions. At the same time, Hilton recognizes that the expense, inconvenience, and distraction of defending the Actions through motions for class certification and/or decertification, multiple trials and appeals would be substantial, and that the outcome of such continued litigation is inherently uncertain. Without admitting any wrongdoing or liability whatsoever, or waiving any of its rights or defenses, Hilton and Walter Hotel Corporation nevertheless agree to the terms of the Agreement and to class treatment of Plaintiffs' claims for the purposes of settlement only in order to effectuate an efficient, cost-effective, prompt, and fair resolution of this matter, subject to the terms and conditions memorialized herein.

The Parties have not negotiated fees to be paid Class Counsel but believe that the matter is best left to the discretion of the Court. The Parties reserve the right to appeal any award of attorney's fees.

NOW, THEREFORE, in consideration of the mutual promises and respective agreements and conditions contained in this Agreement, and intending to be mutually bound thereby, the Parties hereby agree, subject to the approval of the Illinois Court, that the claims in the Actions shall be settled and resolved on the following terms and conditions:

1. DEFINITIONS AND RULES OF CONSTRUCTION

Capitalized terms used in this Agreement shall have the meanings defined below. Each definition applies equally to both the singular and plural forms of the term defined. The words "shall" and "will" are used interchangeably throughout this Agreement. The use of either connotes a mandatory requirement and does not connote a different degree, right, or obligation for either Party. Use of the word "any" includes within its meaning

the word "all" and *vice versa*. Use of a pronoun includes the feminine, masculine, or gender-neutral pronouns as appropriate when taken in context and *vice versa*. The determination of the terms and conditions of this Agreement has been by mutual agreement of the Parties as advised by their own counsel. This Agreement shall be construed according to the fair intent of the language of the Agreement, taken as a whole, and not for or against any Party.

1.1 "Actions" collectively means the Pecci Action, the Hsu Action, and the Maulding Action.

1.2 "California Court" means the Superior Court for the State of California, County of Los Angeles.

1.3 "Certified Class" means "All persons who reserved a room at a Hilton brand hotel, who were promised room rates by Hilton, and who incurred charges, including but not limited to a Resort Fee that were not optional and that were not disclosed by Hilton at the time reservations were made," excluding international hotels (meaning any hotels outside the 50 United States and District of Columbia) and the states of Mississippi and Montana.

1.4 "Class Counsel" are:

Paul M. Weiss, Esq.
Tod A. Lewis
FREED & WEISS LLC
111 West Washington Street, Suite 1331
Chicago, Illinois 60602

Bradley M. Lakin, Esq.
Richard J. Burke, Esq.
THE LAKIN LAW FIRM, P.C.
300 Evans Avenue, P.O. Box 229
Wood River, Illinois 62095-0229

Jodee Favre
FAVRE LAW OFFICE, LLC
121 East Main
Belleville, Illinois 62220

Malik R. Diab
Phillip A. Bock
DIAB & BOCK, LLC
20 N. Wacker Dr., Suite 1741
Chicago, Illinois 60606

Gregory A. Blue
MORGENSTERN JACOBS & BLUE, LLC
885 Third Avenue, Suite 3020
New York, NY 10022

1.5 “Class Notice” means the notice to be provided to Intended Class Notice Recipients pursuant to Section 2.2.

1.6 “Discount Period” means for each of the Participating Hotels the time period during which the Fluid Recovery Compensation to Settlement Class, described in Section 2.3, is offered. This Discount Period shall commence upon the Settlement Effective Date and end for each Hotel when that Participating Hotel has fully provided its required share of the Fluid Recovery Compensation.

1.7 “Final Settlement Hearing” means the hearing to obtain final Illinois Court approval of the terms and conditions of the proposed settlement of the Actions, including written objections, if any, at a time and on a date set by the Illinois Court. The Parties agree that they will request that the Illinois Court set this hearing on a date no later than 90 days after the entry of the Preliminary Approval Order.

1.8 “Final Settlement Order and Judgment” or “Final Order” means orders and judgments entered by the Illinois Court as follows:

1.8.1 giving final approval to the terms of this Agreement as fair, adequate, and reasonable as to Plaintiffs within the meaning of 735 ILCS 5/2-801, *et seq.*;

1.8.2 finding that the notice required in the Court’s Preliminary Approval Order has been provided;

1.8.3 finding this Agreement is made in good faith;

1.8.4 providing for the orderly performance and enforcement of the terms and conditions of the Agreement;

1.8.5 dismissing the Maulding Action subject to the terms of this Settlement Agreement with prejudice, with the Court to retain jurisdiction for the purpose of enforcing the Settlement Agreement;

1.8.6 discharging the Released Parties of and from all further liability for the Released Claims to Plaintiffs and Settlement Class Members; and

1.8.7 permanently barring and enjoining Plaintiffs, and each and every member of the Settlement Class, and all persons purporting to act on their behalf or purporting to assert a claim under or through them, including, but not limited to, heirs and assigns, children, spouses, significant others, and companions, whether individual, class, representative, legal, equitable, direct or indirect, or any other type or in any other capacity from instituting, filing, commencing,

prosecuting, maintaining, continuing to prosecute, directly or indirectly, as an individual or collectively, representatively, derivatively, or on behalf of them, or in any other capacity of any kind whatsoever, any action in the Illinois Courts, any other state court, any federal court, or any other tribunal, forum, or proceeding of any kind, against the Released Parties that asserts any claims that would be released and discharged upon final approval of the settlement as provided in Section 2.8.

1.8.8 The actual form of the Final Judgment and Order entered by the Illinois Court may include additional provisions as the Courts may direct that are not inconsistent with this Agreement.

1.9 **“Hilton”** means Hilton Hotels Corporation and its subsidiaries, divisions, joint venturers, and their present and former directors, officers, partners, owners, employees, agents, insurers, investors, attorneys, administrators, executors, conservators, successors-in-interest, and assigns but excluding the franchisees referred to in Section 3.1.

1.10 **“Hilton Properties”** refers collectively to the following hotels:

1.10.1 the Doubletree Golf Resort in San Diego, California (the **“Doubletree Golf Resort”**);

1.10.2 the Doubletree Surfcomber in Miami, Florida (the **“Doubletree Surfcomber”**)

1.10.3 the Doubletree Guest Suites Walt Disney World Resort in Orlando, Florida (the **“Doubletree Guest Suites Walt Disney World”**)

1.10.4 the Embassy Suites Deerfield Beach in Deerfield Beach, Florida (the **“Embassy Suites Deerfield Beach”**);

1.10.5 the Hilton Sedona Resort & Spa, previously operated as the Doubletree Sedona, in Sedona, Arizona (the **“Hilton Sedona”**);

1.10.6 the Pointe Hilton Squaw Peak Resort in Phoenix, Arizona (the **“Pointe Hilton Squaw Peak”**);

1.10.7 the Pointe Hilton Tapatio Cliffs Resort in Phoenix, Arizona (the **“Pointe Hilton Tapatio Cliffs”**);

1.10.8 the Hilton Waikoloa Village Resort in Waikoloa, Hawaii (the **“Hilton Waikoloa”**);

1.10.9 the Hilton Walt Disney World Resort in Orlando, Florida (the **“Hilton Walt Disney World”**);

1.10.10 the Hilton Myrtle Beach, Myrtle Beach, South Carolina (the “Hilton Myrtle Beach”).

1.11 Hilton’s Counsel” is:

Randall J. Sunshine, Esq.
LINER YANKELEVITZ SUNSHINE & REGENSTREIF LLP
1100 Glendon Avenue, 14th Floor
Los Angeles, CA 90024-3503

1.12 “Hsu Action” means *Lee Hsu v. Hilton Hotels Corporation and Walter Hotel Corporation*, Case No. BC303840 in the California Court. Counsel for Plaintiffs in the Pecci and Hsu Actions are:

Gregory A. Blue
MORGENSTERN JACOBS & BLUE, LLC
885 Third Avenue, Suite 3020
New York, NY 10022

1.13 “Illinois Court” means the Circuit Court for the Twentieth Judicial Circuit, St. Clair County, Illinois.

1.14 “Intended Class Notice Recipients” means the Class certified in the Maulding Action and includes all persons who, during the Class Period, stayed at the Participating Hotels, and paid a Resort Fee in addition to the per night room rate.

1.15 “Lead Class Counsel” are:

Paul M. Weiss, Esq.
FREED & WEISS LLC
111 West Washington Street, Suite 1331
Chicago, Illinois 60602

Bradley M. Lakin, Esq.
Richard J. Burke, Esq.
THE LAKIN LAW FIRM, P.C.
300 Evans Avenue, P.O. Box 229
Wood River, Illinois 62095-0229

Jodee Favre
FAVRE LAW OFFICE, LLC
121 East Main
Belleville, Illinois 62220

Malik R. Diab
Phillip A. Bock
DIAB & BOCK, LLC

20 N. Wacker Dr., Suite 1741
Chicago, Illinois 60606

1.16 “Maulding Action” means *Thomas Maulding v. Hilton Hotels Corporation*, Civil Action No. 02 L 645 in the Illinois Court.

1.17 “Opt Out Deadline” means the last date on which a Settlement Class Member may exercise his or her right to be excluded from the Settlement Class by returning via First Class U.S. mail an executed request for exclusion to the Settlement Administrator, which shall be postmarked no later than 30 days before the Final Settlement Hearing.

1.18 “Plaintiffs” means Maulding, Pecci and Hsu.

1.19 “Parties” means Maulding, Pecci, Hsu, Hilton, Walter Hotel Corporation and the Settlement Class. Any of the Parties may be referred to individually as a “Party.”

1.20 “Pecci Action” means *Matthew Pecci v. Hilton Hotels Corporation*, Case No. BC278600 in the California Court. Counsel for Plaintiffs in the Pecci and Hsu Actions are:

Gregory A. Blue
MORGENSTERN JACOBS & BLUE, LLC
885 Third Avenue, Suite 3020
New York, NY 10022

1.21 “Participating Hotels” means the Hilton Properties and the Walter property as identified in Section 1.34.

1.22 Preliminary Approval Order” means a Court Order, substantially in the form attached hereto as Exhibit A:

1.22.1 defining the Settlement Class as modified from the June 23, 2003 Illinois Court Order;

1.22.2 appointing Plaintiff Thomas Maulding as class Representative;

1.22.3 appointing Richard J. Burke and Bradley M. Lakin of The Lakin Law Firm, Paul M. Weiss of Freed & Weiss, Jodee Favre of Favre Law Office, and Malik Diab and Phillip A. Bock of Diab & Bock, LLC as Lead Class Counsel for the Settlement Class;

1.22.4 finding that the class cannot readily and practicably be identified such that a fluid recovery is appropriate;

1.22.5 finding that the practice of charging undisclosed, mandatory resort fees has been discontinued and was discontinued prior to December 31, 2003;

1.22.6 preliminarily approving the settlement set forth in this Agreement as fair, reasonable, and adequate;

1.22.7 scheduling a date for the Final Settlement Hearing as provided in Section 4.7 and setting forth the procedures for the conduct of that hearing;

1.22.8 finding the form and method of disseminating the Class Notice to Settlement Class Members by Publication, E-Mail, On Premises Notice as provided in Section 2.2 (substantially in the form attached to this Agreement as Exhibits) as meeting all of the requirements of due process and constituting the best notice practicable in the circumstances; and

1.22.9 setting forth procedures and deadlines for requesting exclusion from the Settlement Class and filing objections to this Agreement as described in Sections 4.2 and 4.3, respectively.

1.23 **"Preliminary Settlement Hearing"** means the hearing set or to be set by the Illinois Court to address the matters which will be the subject of the Preliminary Approval Order.

1.24 **"Publication Notice"** means the notice procedure set forth in Section 2.2.1.

1.25 **"Released Claims"** means the claims described in Sections 2.8.2 and 2.8.3.

1.26 **"Released Parties"** means Hilton, Walter Hotel Corporation, all other owners and operators of Hilton Properties, and all of their respective subsidiaries, affiliated or related entities, divisions, and their present and former directors, officers, partners, members, owners, lessors, joint venturers, employees, agents, insurers, investors, attorneys, administrators, executors, conservators, successors-in-interest, and assigns.

1.27 **"Releasing Parties"** means the Settlement Class Members.

1.28 **"Resort Fees"** means bundled per night charges for resort services and amenities charged in addition to the per night room rate.

1.29 **"Settlement"** means the complete and final resolution of the Actions by all Parties thereto, on the terms and conditions memorialized in this Agreement.

1.30 **"Settlement Class" or "Settlement Class Members"** means the multi-state class certified in the Maulding Action, and includes all persons, except as noted below, who: (1) stayed at any of the Participating Hotels prior to January 1, 2004; (2) paid to the hotel property a Resort Fee; and (3) (a) did not receive notice of that additional charge at the time the reservation was made by the class member, or if no reservation was made, at the time of check-in at the hotel property, and/or (b) believe they were misinformed or misled about the nature, purpose, scope, amount, or ultimate

recipient of the Resort Fee. Excluded from the Settlement Class are (1) all persons who stayed at one of the Participating Hotels pursuant to written group contracts that expressly provided for the payment of Resort Fees or who received a rebate or reimbursement of the Resort Fee; (2) Hilton's Counsel, the Judges in the Actions, and all current and former employees of Hilton; (3) guests of international hotels (meaning any hotels outside the 50 United States and District of Columbia); and (4) citizens of Mississippi and Montana.

1.31 "Settlement Effective Date" means the later of (1) the date upon which all appeals, if any, from the Final Settlement Order and Judgment (other than that pertaining to attorneys' fees) shall be finally concluded or (2) the date upon which the time in which to seek an appellate remedy (including rehearing or *certiorari*) (other than that pertaining to attorneys' fees) from the Final Settlement Order and Judgment shall have expired.

1.32 "Total Resort Fees" means the total Resort Fees collected by each Participating Hotel through December 31, 2003, as follows:

1.32.1 Doubletree Golf Resort: \$80,050;

1.32.2 Doubletree Guest Suites Walt Disney World: \$62,065;

1.32.3 Doubletree Surfcomber: \$353,895;

1.32.4 Embassy Suites Deerfield Beach: \$99,020;

1.32.5 Hilton Sedona: \$126,418;

1.32.6 Hilton Waikaloa: \$2,315,010;

1.32.7 Hilton Walt Disney World: \$3,684,286;

1.32.8 Pointe Hilton Squaw Peak: \$2,646,076;

1.32.9 Pointe Hilton Tapatio Cliffs: \$3,610,337;

1.32.10 Hilton Myrtle Beach: \$452,753.

1.32.11 Hilton Palm Springs: \$451,553

TOTAL = \$13,881,463.00 The amount of Resort Fees collected by any Participating Hotel may be referred to as that Hotel's "Total Resort Fee."

1.33 "Unknown Claims" means the claims referred to in Section 2.8.3 and includes any claims that Plaintiffs or any Settlement Class Members do not know or suspect to exist in their favor at the time of the release provided for herein, including without limitation those that, if known to them might have affected their settlement and

release pursuant to the terms of this Agreement, or might have affected their decision not to object to or opt out of the Settlement.

1.34 “Walter Property” refers to Hilton Palm Springs, California, owned by Walter Hotel Corporation.

2. CLASS CERTIFICATION, NOTICE, COMPENSATION, AND GENERAL RELEASE

2.1 Class Certification.

The Parties acknowledge that a multi-state class has been certified in the Maulding Action, *i.e.*, the Certified Class. The foregoing notwithstanding, the Parties will jointly move the Illinois Court for certification of the Settlement Class as part of their joint motion for Preliminary Approval of the Settlement. The Settlement Class shall be certified for settlement purposes and shall be defined as follows:

All persons, except as noted below, who: (1) stayed at one of the Participating Hotels prior to January 1, 2004; (2) paid to the hotel property a Resort Fee; and (3) (a) did not receive notice of that additional charge at the time the reservation was made by the class member, or if no reservation was made, at the time of check-in at the hotel property, and/or (b) believe they were misinformed or misled about the nature, purpose, scope, amount, or ultimate recipient of the Resort Fee. Excluded from the Settlement Class are (1) all Persons who stayed at one of the Participating Hotels pursuant to written group contracts which expressly provided for the payment of Resort Fees or who received a rebate or reimbursement of the Resort Fee; (2) Hilton’s Counsel, the Judges in these Actions, and all current and former employees of Hilton; (3) guests of international hotels (meaning any hotels outside the 50 United States and District of Columbia); (4) citizens of the states of Mississippi and Montana.

The Parties agree that Thomas Maulding shall be appointed Class Representative and Richard J. Burke and Bradley M. Lakin of The Lakin Law Firm, Paul M. Weiss of Freed & Weiss, Jodee Favre of Favre Law Office, and Malik Diab and Phillip A. Bock of Diab & Bock, LLC are appointed Lead Class Counsel for the Settlement Class.

2.2 Class Notice Plan.

2.2.1 Publication Notice. Based on the discovery in the Actions to date and upon the Parties’ independent investigations, it has been determined that guests at the Participating Hotels who paid Resort Fees

and are members of the Settlement Class cannot be determined due to the following reasons:

- (a) Resort Fees are tracked by room number, not by guest name;
- (b) Guests who were charged Resort Fees can only be identified by reviewing each guest folio for each stay on an individual basis, consuming an unreasonable expense and time that would significantly delay implementation of the terms of the Agreement and would be economically prohibitive for the Parties;
- (c) Based on Hilton's record retention policy, information regarding Resort Fees is maintained for a year, which is not as long as the defined Class Period, limiting the ability of Hilton and Walter Hotel Corporation to identify members of the class;
- (d) Due to upgrades and changes in computer systems, Hilton and/or Walter Hotel Corporation do not have the ability to retrieve complete information on guests who were charged Resort Fees; and
- (e) The identification and individual notification of Settlement Class members cannot reasonably be accomplished based upon the information available to the parties..

To reach potential members of the Settlement Class no later than 45 days after the entry of the Preliminary Approval Order, Hilton will publish a single joint one-eighth page (or such larger size as may be required to achieve readability) notice of this action and these Settlements one time on two days in each of the national editions of *The Wall Street Journal* and *USA Today* substantially in the form attached as Exhibit B.

2.2.2 E-Mail Notice. Not later than 30 days from the entry to the Preliminary Approval Order, Hilton will electronically transmit by e-mail, notice substantially in the form attached hereto as Exhibit C, to all members of Hilton's HHonors Program for whom Hilton has an email address on file.

2.2.3 On Premises Notice. Each of the Participating Hotels will also post information at guest check-in notifying guests of the Discounted Resort Fee in effect (On Premise Notice). This notification will be posted at the front desk of each Participating Hotel at all times during the Discount Period. Hilton and Walter Hotel Corporation shall file a certification with the Illinois Court of compliance with this Notice requirement at least 10 days prior to the Final Settlement Hearing. Not later than 30 days from the entry to the Preliminary Approval Order, each of the Participating Hotels shall place at its front desk a

placard notice in the form substantially similar to Exhibit D. Participating Hotels shall file a certification with the Illinois Court of compliance with this Notice requirement at least 10 days prior to the Final Settlement Hearing.

2.2.4 Costs. Hilton will pay the costs of the Notice provided for in this Agreement, subject to recoupment, at its option, from Walter Hotel Corporation of its pro rata share. Hilton Counsel and Class Counsel shall administer (or oversee the administration of) the Notice Plan provided for in this Agreement.

2.2.5 Telephone Number and Internet Website For Inquiries. The Class Notice will include a toll-free telephone number and Internet Website until the expiration of the Discount Period, that Intended Class Notice Recipients and Settlement Class Members may call or access if they have questions about their right to opt out of the Settlement Class, the Settlement claims procedure, and/or the Discount Period. The Internet Website shall contain a hyperlink to the Order of Preliminary Approval, this Settlement Agreement, the Publication Notice, the on Premise Notice and the Claim Form for use by Class Members wishing to submit a claim for reimbursement to Hilton, as set forth and subject to the limitations in Section 4.4 and attached hereto as Exhibit E. Hilton and Class Counsel will jointly pre-approve the language posted on the Internet Website, and if a pre-recorded message is placed on the telephone number required under this provision, Hilton and Class Counsel will jointly pre-approve the content of the telephone message.

2.3 Fluid Recovery Compensation to Settlement Class. Because the Parties cannot identify guests who paid Resort Fees for the reasons stated herein above, all guests of the Participating Hotels who request hotel amenities for which a Resort Fee would be applicable shall receive the compensation provided herein below until the expiration of the Discount Period. Within 30 days of the Settlement Effective Date, each of the Participating Hotels will discount its Resort Fee on an ongoing basis by seventy five percent (75%) until it has foregone a total of twenty-two and one-half percent (22.5%) of the Total Resort Fee it collected, as set forth in paragraph 1.32 herein. The monetary value of the Fluid Recovery Compensation is approximately **\$3,123,329.00**. ($22.5\% \times \$13,881,463.00 = \$3,123,329.00$). None of the Participating Hotels will increase its Resort Fees charged or diminish the value of bundled amenities for which any Resort Fees are charged, until it has foregone the required amount of compensation as set forth herein. To the extent possible, each Participating Hotel will either (1) offer the identical amenities and services previously offered for the non-discounted Resort Fee or (2) to the extent those amenities or services are unavailable, substitute amenities or services of equal value.

2.4 Remedial Consideration.

In further consideration for this Settlement, and to the extent that they are not already in place, no later than 30 days after the Settlement Effective Date, Hilton, Walter Hotel Corporation, and the Participating Hotels will implement the following remedial procedures:

2.4.1 Each of the Participating Hotels will implement procedures for the disclosure of Resort Fees charges to all guests upon check-in. The bundled amenities will be clearly identified and alternatively offered to the guests on an à la carte basis. Check in forms shall require a guest to place his or her initials, indicating an agreement to pay a Resort Fee. No guest may be charged a Resort fee unless the guest initials the check-in forms indicating his or her agreement to pay for bundled amenities.

2.4.2 Hilton shall continue to require that each of the hotels operating under the Hilton, DoubleTree and Embassy Suites brands (1) treat any bundled charges as optional, not mandatory, charges; and (2) obtain the affirmative agreement of any guest being charged a bundled charge, prior to such a charge being incurred. The foregoing shall not preclude Hilton or Walter Hotel Corporation from negotiating a Resort Fee as part of a written group contract.

2.5 Other Issues Related to Discounted Resort Fees.

2.5.1 Value. Plaintiffs in each of the Actions, Class Counsel, Hilton, and the Participating Hotels agree that the value of the discount is a significant percentage of the Resort Fee. Plaintiffs in each of the Actions and Class Counsel have determined that this discounted rate provides fair, reasonable, and adequate compensation to the Settlement Class Members.

2.5.2 Availability. Except for price, discounted Resort Fees will be provided on the same terms and conditions otherwise applicable to Resort Fees at each of the Participating Hotels.

2.5.3 Procedures If Court Approval Not Obtained. In the event that the Illinois Court fails to enter the Final Settlement Order and Judgment and any of the Parties seeks appellate review of the Court's decision, Hilton will (a) advise Settlement Class Members when they request the Discounted Resort Fee that the discount is not being offered and update the information posted at the Internet Website or telephone number established pursuant to Section 2.2.5 to verify the Discount Period; and (b) if appellate review is granted and the Illinois Court's decision overturned and review is not sought in the Illinois Supreme Court, Hilton may provide Notice as per Section 2.2 to Settlement Class Members, who had previously been notified, revised Discounted Resort Fee information during the Class Period, which will start 30 days after the Settlement Effective Date.

2.5.4 In The Event An Appeal Is Filed. In the event an appeal is filed after the Court enters the Final Settlement Order and Judgment, Hilton in its sole discretion will either (a) continue to honor the Discounted Resort Fee during the Discount Period; or (b)(1) advise Settlement Class Members when they request a Discounted Resort Fee that the Discounted Resort Fee is not being offered at that time; and (2) if the appeal is unsuccessful and the Final Settlement Order and Judgment is affirmed and Illinois Supreme Court review is either not sought or denied, Hilton will notify Settlement Class Members in the same manner as

Notice was provided in Section 2.2 of the revised Discounted Resort Fee on which a new Discount Period will be published, which will start 30 days after the Settlement Effective Date. If the appeal is withdrawn or successful and the Final Settlement Order and Judgment is reversed, Hilton is not required to publish any further notice to Settlement Class Members.

2.6 Attorneys' Fees.

2.6.1 Application. Class Counsel, provided that the Pecci and Hsu actions are dismissed prior to the date upon which application for attorneys' fees may be made) may apply to the Illinois Court for attorneys' fees and costs. The Settlement Effective Date shall not be conditioned upon or delayed by the Illinois Court's failure to approve an award of attorneys' fees and costs. All applications for an award of attorneys' fees and costs shall be filed with the Illinois Court no later than 30 days prior to the Final Settlement Hearing and served via overnight mail to all counsel. Hilton may file objections thereto with the Illinois Court no later than 10 days prior to the Final Settlement Hearing and served via overnight mail to all counsel. Such applications will be heard at the time of the Final Settlement Hearing or as soon thereafter as may be determined by the Court. The Parties agree that the Illinois Court may impose an award of attorneys' fees and costs to Class Counsel, subject to the Parties' rights to appeal any such award. Class Counsel shall seek attorneys' fees and costs not to exceed one third (1/3) of the settlement benefits provided to the class. Neither Hilton nor Walter Hotel Corporation have bargained for such limitation, nor do they take a position on whether any particular award would be reasonable. The Parties agree that any award of attorneys fees shall not diminish the compensation to the Settlement Class as provided in this Agreement but shall be in addition thereto. Any appeal pertaining exclusively to attorneys' fees and costs shall not result in a stay of any other provisions of this Agreement.

2.6.2 Payment. The attorneys' fees and costs shall be paid to Class Counsel, as awarded by the Illinois Court 30 days after the order and judgment awarding such fees becomes final or the time for filing an appeal of said order and judgment has expired. Hilton agrees to pay fees and costs awarded by the Court, subject to its appellate rights, and subject to its right to seek recoupment of such payment from Walter Hotel Corporation or other third parties. Interest shall not accrue on any amount awarded by the Illinois Court if payment is timely made under this Section. If this Agreement is terminated pursuant to any provision of this Agreement or otherwise, the obligations under this Section 2.6.2, including the obligation to pay such fees and costs, shall be null and void.

2.7 Limitation on Costs and Fees.

2.7.1 Court Award as Exclusive Remedy. Except as provided in this Agreement, neither Hilton nor any of the Participating Hotels shall bear any other expenses, costs, damages, or fees incurred by Plaintiff, by any Settlement Class Member, or by Class Counsel and their experts, advisors, agents, or

representatives. Any award of attorneys' fees and costs payable hereunder and approved by the Court shall be in complete satisfaction of any and all claims for such attorneys' fees and costs under state or federal law which Plaintiffs, the Settlement Class, or Class Counsel have or may have against Hilton arising out of or in connection with the Actions and this Settlement, including, but not limited to, any claims for attorneys' fees and costs involved in litigating the Actions and negotiating and implementing this Agreement, including attorneys' fees and costs incurred through and after the final disposition and termination of the Actions.

2.7.2 Fees for Objecting Settlement Class Members. Neither Hilton nor Walter Hotel Corporation nor any of the Participating Hotels shall be responsible to any Plaintiffs or Settlement Class Members who submit objections to the Settlement or who exclude themselves from the Actions (or any part thereof) for attorneys' fees, costs, or expenses of any kind.

2.8 Dismissals and Release.

2.8.1 Dismissal. Upon the Settlement Effective Date, and subject to the approval of the Illinois Court, the Maulding Action shall be dismissed with prejudice with the Illinois Court retaining jurisdiction for the purpose of enforcing the terms of this Agreement and with authority to enter such other and further orders as are required, necessary or reasonable to make effective the provisions thereof. Within ten (10) days of the signing of the Agreement the counsel for Pecci and Hsu shall file in the California Court such documents as may be necessary and reasonably required to effect dismissal with prejudice (with the parties to bear their own fees and costs in those actions) of the Pecci Action and the Hsu Action. The dismissal of the Hsu and Pecci Actions shall be limited to dismissal of the claims against Released Parties only. The dismissals of the *Pecci* Action and the Hsu Action may be made contingent upon entry of the Final Settlement Order and Judgment by the Illinois Court so as to preserve the options of Pecci and Hsu as provided in Section 3.2 of this Agreement. Dismissal is likewise contingent upon Final Approval as referred to in paragraph 4.8 below.

2.8.2 Release. Upon the Settlement Effective Date, any and all claims, rights and causes of action, damages, punitive or statutory damages, penalties, losses and issues of any kind or nature whatsoever, asserted or unasserted, known or unknown (including, but not limited to, any and all claims relating to or alleging breach of contract, consumer fraud, deceptive or unfair business practices, false or misleading advertising, intentional or negligent misrepresentation, negligence, concealment, omission, unfair competition, promise without intent to perform, and any and all claims or causes of action arising under or based upon any statute, act, ordinance, or regulation governing or applying to business practices generally, including, but not limited to, any and all claims relating to or alleging violation of the Illinois Consumer Fraud Act, common law fraud, common law breach of contract, UCL, CRLA, or any other state or federal statute pertaining to consumer fraud claims) by or on behalf of Plaintiffs and all members of the Settlement Class, and any or all persons or

entities purporting to act on their behalf or purporting to assert a claim under or through them, including, but not limited to, heirs and assigns, children, spouses, significant others, and companions (collectively, the "Releasing Parties"), whether individual, class, representative, legal, equitable, direct or indirect, or any other type or in any other capacity against any Released Party, in connection with or that arise out of or relate in any manner whatsoever, in whole or in part, to the Actions, the claims asserted in the Actions, or to the charging of Resort Fees, including any claims that have been or could have been asserted in any other class action or other action based on Resort Fees that have been brought against any Released Party and are currently pending in any other state or federal court, addressing the imposition of resort fees paid at any time prior to January 1, 2004, shall be finally and irrevocably compromised, settled, released, and discharged with prejudice.

2.8.3 Release Encompasses Unknown Claims. The plaintiffs in each of the Actions agree, and each Settlement Class Member shall be deemed to have agreed, that, upon the Settlement Effective Date, they release, waive, and discharge, and by operation of the Final Settlement Order and Judgment will have released, waived, and discharged their Released Claims and will have expressly waived and relinquished, to the fullest extent permitted by law, the provisions, rights and benefits of Section 1542 of the California *Civil Code* and of all other similar statutory or common law. Section 1542 of the California *Civil Code*, whether or not a resident of California, which provides:

"A general release does not extend to claims which the creditor does not know or suspect to exist in his favor at the time of executing the release, which if known by him must have materially affected his settlement with the debtor."

In addition, upon the Settlement Effective Date, Plaintiffs in each of the Actions and the Settlement Class Members will be deemed to have, and by operation of the Final Settlement Order and Judgment will have, expressly waived and relinquished, to the fullest extent permitted by law, any and all provisions, rights, and benefits conferred by any law of the United States, or any state or territory of the United States, or principle of common law or equity that is similar, comparable or equivalent to Section 1542 of the California *Civil Code*. Plaintiffs in each of the Actions expressly acknowledge that they may hereafter discover facts in addition to or different from those which they now know or believe to be true with respect to the subject matter of the Released Claims, but plaintiffs and Settlement Class Members, upon the Settlement Effective Date, shall be deemed to have, and by operation of law shall have, fully, finally and forever settled, released, and discharged any and all Released Claims, known or unknown, suspected or unsuspected, contingent or non-contingent, whether or not concealed or hidden, that now exist or heretofore have existed upon any theory of law or equity now existing or coming into existence in the future, arising from the Released Claims whether based on conduct that is negligent, reckless, intentional,

with or without malice, or a breach of any duty, law or rule, without regard to the subsequent discovery or existence of such different or additional facts.

2.9 No Assignment of Rights.

Plaintiffs in each of the Actions warrant and represent that they have not assigned any Released Claim to any other person or entity. This warranty and representation shall survive the execution of this Agreement and the dismissal of the Actions. Plaintiffs shall hold Hilton harmless from and against any claim, damages, litigation, causes of action, and expenses, including reasonable attorneys' fees, resulting from any breach by them of this warranty and representation, or any breach of their release of Released Claims.

3. OPTION TO JOIN SETTLEMENT AND OPTION TO WITHDRAW FROM SETTLEMENT

3.1 Option to Join Settlement. Each of Hilton's franchisees has the right, but not the obligation, to become party to this Agreement on the terms set forth herein. Hilton's franchisees have been given 30 days prior to the execution of this Agreement by the Plaintiffs and by Hilton in which to inform Lead Class Counsel in writing of their desire to join the Settlement. Hilton presented the terms of this Agreement to its franchisees and informed them of their right to become party to this Agreement.

3.2 Option to Withdraw from Settlement. If, once the thirty day period to join the Agreement has expired, and any of Hilton's franchisees have failed to indicate its agreement to enter into this Agreement, then Plaintiffs shall have the right, but not the obligation, to withdraw from this Agreement. Plaintiffs shall state their intent to withdraw within fifteen days after expiration of the deadline for Hilton's franchisees to indicate in writing their intent to join, as set forth in Section 3.1. To be effective, any statement of intent to withdraw pursuant to this Section must be executed by all Class Counsel, on behalf of all Plaintiffs. If no timely notice of intent to withdraw is provided, the right to withdraw shall automatically be deemed extinguished.

4. APPROVAL OF CLASS SETTLEMENT

4.1 Motion For Preliminary Approval And Injunction. On or before August 16, 2006, the Parties will file in the Illinois Court their Joint Motion For Preliminary Approval And Injunction requesting approval of the terms of this Agreement and request an injunction preliminarily enjoining and barring any member of the Settlement Class, unless and until they have timely excluded themselves from the Settlement Class as provided in Section 4.2, *infra*, from commencing or prosecuting any action if such other lawsuit is based upon or relates to the imposition of payment of Resort Fees. The Parties agree that to the extent that they are aware of any such action currently pending, they shall take all reasonable steps to enforce and/or seek enforcement of the Court's injunction before the court in which such enjoined action is pending and provide notice to Hilton Counsel and Class Counsel as soon as practicable. The Parties will apply for the entry of the Preliminary Approval Order. Hilton joins in the request for

preliminary approval of the Settlement and the request for Preliminary Injunction and accepts the certification of a multi-state Settlement Class for settlement purposes only.

4.2 Right to Opt Out of the Class. Settlement Class Members have the right to exclude themselves from the Settlement Class. They may do so by executing a Request For Exclusion as an individual and present any such Request For Exclusion no later than October 16, 2006, by mailing the executed Request For Exclusion First Class U.S. mail to Hilton Counsel and Class Counsel. Executed Requests For Exclusion must be postmarked by the Opt Out Deadline and shall set forth in writing the Settlement Class Member's full name and address, telephone number, and the location of the Participating Hotels at which the Resort Fee(s) was paid. Settlement Class Members who do not request to be excluded from the Settlement Class as required herein will automatically and irrevocably be deemed a member of the Settlement Class and be bound by the terms of this Agreement and Settlement. Settlement Class Members who request to be excluded from the Settlement Class will not be eligible to object to the terms of this Agreement and the Settlement.

4.3 Right to Object to the Settlement. Any Settlement Class Member who has not exercised his/her right to opt out of the Settlement may object to the proposed Settlement, the proposed Final Settlement Order and Judgment and/or application for attorneys' fees and costs. The Parties agree that they will request that the Illinois Court order that all objections (1) be made in writing signed by the objector or his/her attorney, if any; (2) state the objector's name, address, and telephone number and provide the name of the Hilton and/or Franchise Property at which the Resort Fee(s) was paid, together with the date(s) of payment; (3) include a statement of all objections and the reasons (including factual and legal support) therefore; (4) include a statement that the objector intends to appear at the Final Settlement Hearing individually or through her attorney, if applicable; (5) be submitted to the Illinois Court; and (6) be served on Class Counsel and Hilton's Counsel, no later than the Opt Out Deadline. Any member of the Settlement Class who does not file a timely written objection to the Settlement shall be foreclosed from seeking review of the Settlement by appeal or otherwise.

4.4 Limited Agreement to Reimburse Class Members. If any members of the class provide Hilton, within three months from the final Order with reasonable documentation evidencing their payment of Resort Fees, Hilton agrees that it will directly reimburse such members the full amount of the Resort Fee(s) paid by the class members. A Claim Form as described in Section 2.2.5, (Exhibit E) will be made available on the Internet website for use by Class Members, until the deadline for submission of direct claims for reimbursement. The total of all such payments shall be deducted from the Total Resort Fees and will be deducted from the Fluid Recovery Compensation to settlement class, as set forth in Section 2.3.

4.5 Limited Effect of Certification for Settlement Purposes. The certification by the Illinois Court of the Settlement Class shall have no bearing in deciding whether the claims asserted in the Actions are, or were, appropriate for class treatment in the absence of the Settlement and this Agreement.

4.6 Right to Withdraw from the Settlement. Hilton and/or Walter Hotel Corporation may elect to withdraw from the Settlement and this Agreement upon determining in good faith that an excessive number of Settlement Class Members have elected to opt out of the proposed Settlement. Hilton and/or Walter Hotel Corporation shall have 20 calendar days after the Opt Out Deadline to exercise their respective elections to withdraw from the Settlement. If a party chooses to withdraw from the Settlement and this Agreement, it will send written notice to the Court and Class Counsel advising them of its election to withdraw, will post conspicuous notice of its election to withdraw on the Internet Website, and will place a recorded message on the telephone number described above in Section 2.2.5. The withdrawal of Hilton or Walter Hotel Corporation will not affect the effectiveness of this Agreement as to the other remaining Parties. As a result of any such withdrawal, this Agreement and the Settlement and any action taken or to be taken in connection therewith shall be terminated with respect to the withdrawing Party and shall become void and have no further force and effect with respect to that Party, except for the obligation to pay for any and all expenses incurred in connection with the notice of the Settlement on or before the date on which the Party withdraws from the Settlement and this Agreement, and in connection with the provision of notice of such withdrawal.

4.7 Request for Final Approval.

4.7.1 Timing. The Parties will request that the Illinois Court hold a Final Settlement Hearing no later than ninety (90) days after the entry of the Preliminary Settlement Order. At the Final Settlement Hearing, the Parties will request jointly that the Illinois Court enter the Final Settlement Order and Judgment described above in Section 1.8.

4.7.2 Objections. The Parties will further request that the Illinois Court set a Settlement Status Conference for November 13, 2006, before the Final Settlement Hearing for the purpose of determining the procedures to be followed at the Final Settlement Hearing in the event that Settlement Class Members have filed and served written objections to the Settlement and indicated their intention to attend the Final Settlement Hearing. If no written objections have been filed or served by the deadline provided above, the Parties may jointly request that the Court take the Settlement Status Conference off calendar.

4.7.3 Subsequent Defaults. Following entry by the Court of the Final Settlement Order and Judgment, no default by any person in the performance of any covenant or any obligation under this Agreement or any order or judgment entered in connection therewith shall affect the dismissal of the Actions or the discharge and release of the Released Parties.

4.8 Effect of Failure to Grant Final Approval. In the event the Illinois Court fails to enter the Final Settlement Order and Judgment in accordance with this Agreement (or such order is reversed on appeal or by writ) or certification of the class for purposes of settlement is reversed on appeal or by writ, the Parties shall proceed as follows:

4.8.1 Options. The Parties shall have the option of: (1) seeking reconsideration or appellate review of the decision denying entry of the Final Settlement Order and Judgment; (2) attempting to further negotiate the settlement, and obtaining Illinois Court approval of the renegotiated settlement; or (3) proceeding with the Actions on the claims, parties and causes of action. In the event that the Parties decide upon options (2) or (3), the terms and provisions of this Agreement will have no further force and effect, and will not be used in the Actions or in any other proceeding for any purpose.

4.8.2 Stay Pending Appeal. In the event that any of the Parties seek appellate review of the Illinois Court's refusal to enter the Final Settlement Order and Judgment, as provided for in this Agreement, and seeks a stay of the Actions pending the outcome of such review, that party (or parties) may not assert in support of the request to stay the Actions that the opposing Party agreed to stay in such circumstances by agreeing to Section 4.8.1, *supra*. If such review is denied or is unsuccessful after exhaustion of all available appellate remedies, the Parties shall have no further rights or obligations under this Agreement, except for any rights or obligations which survive the termination of this Agreement, unless otherwise agreed to in writing by counsel for the Parties.

5. MISCELLANEOUS PROVISIONS

5.1 Arms-Length Negotiations. This Agreement and Settlement were entered into after substantial good faith, arms-length negotiations between Class Counsel and Hilton's Counsel.

5.2 No Admission of Liability. Neither this Agreement nor the Settlement, nor any act performed or document executed pursuant to or in furtherance thereof is, or may be deemed to be or may be used as (1) an admission or evidence of the validity of any Released Claim, or any alleged wrongdoing or liability of Hilton, or the owners, lessors, or managers of any of the Participating Hotels; (2) an admission or evidence of any fault or omission of Hilton, or the owners, lessors, or managers of any of the Participating Hotels in any civil, criminal or administrative proceeding in any court, administrative agency or other tribunal, other than such proceedings as may be necessary to consummate or enforce this Agreement, the settlement memorialized herein or the Final Settlement Order and Judgment; and (3) an admission or evidence that any of the Actions are appropriate for class treatment or suitable for maintenance as a private-attorney-general action; provided, however, that this Agreement and/or Final Order may be filed and used in any action or proceeding in any court, administrative agency or other tribunal to support a defense of *res judicata*, collateral estoppel, release, good faith settlement, accord and satisfaction, claim preclusion, issue preclusion or any similar defense or counterclaim.

5.3 Cooperation of the Parties. The Parties acknowledge that it is their intent to consummate expeditiously the settlement memorialized in this Agreement and will cooperate to the extent necessary to effectuate and implement, and exercise their best efforts to accomplish, all terms and conditions of the Agreement.

5.4 Force Majeure. The failure of any of Party to perform any of its obligations hereunder shall not subject such Party to any liability or remedy for damages, or otherwise, where such failure is occasioned in whole or in part by acts of God, fires, accidents, earthquakes, other natural disasters, explosions, floods, wars, interruptions or delays in transportation, power outages, labor disputes or shortages, shortages of material or supplies, governmental laws, restrictions, rules or regulations, sabotage, terrorist acts, acts or failures to act of any third parties, or any other similar or different circumstances or causes beyond the reasonable control of such Party.

5.5 Amendment. This Agreement may be amended or modified only by a written instrument signed by or on behalf of the Parties hereto or their successors-in-interest.

5.6 Severability. In the event that any one or more of the provisions contained in this Agreement shall for any reason be held invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall in no way affect any other provision if Hilton's Counsel and Class Counsel, on behalf of the Parties and the Settlement Class, mutually elect in writing to proceed as if such invalid, illegal, or unenforceable provision had never been included in this Agreement, except as otherwise provided herein.

5.7 Entire Agreement. This Agreement and the Exhibits hereto constitute the entire agreement among the Parties. No representations, warranties or inducements have been made to any Party concerning the Settlement, this Agreement or its Exhibits other than the representations, warranties and covenants contained in such documents.

5.8 Authority to Execute. Each counsel or other person executing this Agreement on behalf of any of the Parties hereto warrants that such person has the authority to do so.

5.9 Effective Agreement; Counterparts. This Agreement may be executed in one or more counterparts. All executed counterparts and each of them shall be deemed to be one and the same Agreement. A complete set of executed counterparts shall be filed with the Illinois Court. This Agreement shall become effective upon its execution by Plaintiffs, Hilton, Walter Hotel Corporation and approval by the Court.

5.10 Governing Law. This Agreement and the Exhibits hereto shall be considered to have been negotiated, executed and delivered, and to be wholly performed, in the State of Illinois, and the rights and obligations of the Parties will be construed and enforced in accordance with, and governed by, the internal, substantive laws of the State of Illinois without giving effect to that State's choice of law principles. Any dispute, challenge, question, or the like relating to the Settlement Class, the administration of this settlement, of the administration or enforcement of the Agreement shall be heard only by the Illinois Court. In the event of breach of this Agreement by any Party or any member of the Settlement Class, the Illinois Court may exercise all equitable powers over the breaching party or parties to enforce this Agreement, the Final Order and Judgment, Preliminary and Final Injunction without regard to the availability or adequacy of any

remedy at law and without the necessity of bond. Such powers include without limitation the powers of specific performance, contempt and injunctive relief.

5.11 Notice. Unless otherwise indicated herein, where any Party's exercise of any right under this Agreement requires written notice, the Party shall serve such written notice on the counsel of record for the other Party by First Class U.S. mail or any method that is at least as reliable and timely as First Class U.S. mail.

5.12 Waiver. The waiver by any of the Parties to this Agreement of any provision of the Agreement shall not be deemed a waiver by that party of any other provision of this Agreement.

5.13 Continuing Jurisdiction. The Illinois Court shall retain jurisdiction over the interpretation and implementation of this Agreement, as well as any and all matters arising out of, or relating to, the interpretation or implementation of the Final Settlement Order and Judgment and/or this Agreement.

5.14 Party's Reliance On Own Knowledge. Each Party acknowledges and represents that it has fully and carefully read this Agreement prior to execution; that it has been fully apprised by its counsel of the legal effect and meaning of this document and all terms and conditions hereof; that it has had the opportunity to make whatever investigation or inquiry it deemed necessary or appropriate in connection with the subject matter of the Action; that it has been afforded the opportunity to negotiate as to any and all terms hereof; and that it is executing this Agreement voluntarily, free from any undue influence, coercion, duress, or menace of any kind. This Agreement reflects the conclusion of each of the Parties that this Agreement, the Settlement, the judgments to be entered hereunder, and the releases, waivers and covenants contemplated hereby are in the best interest of said Parties, the general public, and the Settlement Class. Except as expressly provided herein, this Agreement is not intended to confer upon any other person or entity any rights or remedies.

5.15 Destruction of Documents. The Parties shall not use the documents produced by the other Party (for which said Party did not already have a copy) for any purpose without the written consent of the other Party. Each of the Parties agree to destroy or cause to be destroyed all copies of documents produced by the other Parties and that within 30 days of the Settlement Effective Date, counsel for each Party shall send written confirmation that those documents have been destroyed.

5.16 Use of Headings and Captions in Agreement. The headings and captions inserted in this Agreement are for convenience only and in no way define, limit or otherwise describe the scope or intent of this Agreement, or any provision hereof, or in any way affect the interpretation of this Agreement.

PLAINTIFFS/CLASS REPRESENTATIVES:

Dated: _____, 2006

MATTHEW PECCI
On behalf of himself

Dated: _____, 2006

LEE HSU
On behalf of himself

Dated: 8-1, 2006

Thomas Maulding
THOMAS MAULDING
On behalf of himself and as a Class
Representative of the Settlement Class

"HILTON":

Dated: _____, 2006

HILTON HOTELS CORPORATION

By: _____

Its: _____

APPROVED AS TO FORM:

Dated: _____, 2006

PLAINTIFFS/CLASS REPRESENTATIVES:

Dated: 8/9, 2006

Matthew Pecci
MATTHEW PECCI
On behalf of himself

Dated: _____, 2006

LEE HSU
On behalf of himself

Dated: _____, 2006

THOMAS MAULDING
On behalf of himself and as a Class
Representative of the Settlement Class

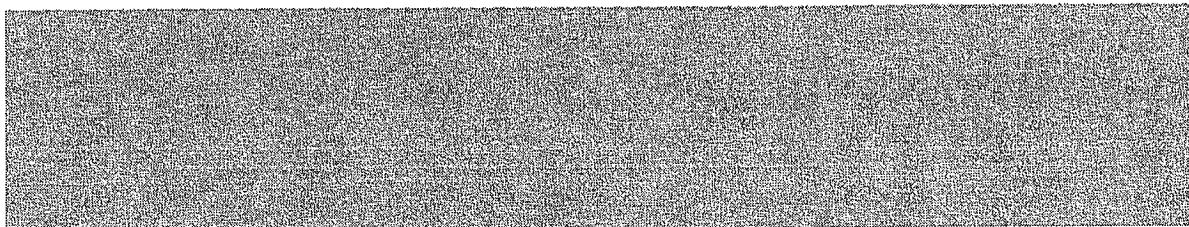
"HILTON":

Dated: _____, 2006

HILTON HOTELS CORPORATION

By: _____

Its: _____




PLAINTIFFS/CLASS REPRESENTATIVES:

Dated: _____, 2006

MATTHEW PECCI
On behalf of himself

Dated: August 8, 2006


LEE HSU
On behalf of himself

Dated: _____, 2006

THOMAS MAULDING
On behalf of himself and as a Class
Representative of the Settlement Class

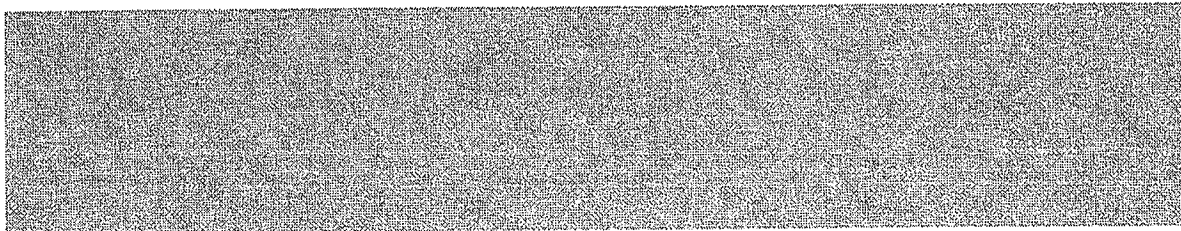
"HILTON":

Dated: _____, 2006

HILTON HOTELS CORPORATION

By: _____

Its: _____



PLAINTIFFS/CLASS REPRESENTATIVES:

Dated: _____, 2006

MATTHEW PECCI
On behalf of himself

Dated: _____, 2006

LEE HSU
On behalf of himself

Dated: _____, 2006

THOMAS MAULDING
On behalf of himself and as a Class
Representative of the Settlement Class

"HILTON":

Dated: 8-15, 2006

HILTON HOTELS CORPORATION

By: _____

Its: VICE PRESIDENT AND SENIOR COUNSEL

Dated: _____, 2006

WALTER HOTELS CORPORATION

By: _____

Its: _____

PLAINTIFFS/CLASS REPRESENTATIVES:

Dated: _____, 2006

MATTHEW PECCI
On behalf of himself

Dated: _____, 2006

LEE HSU
On behalf of himself

Dated: _____, 2006

THOMAS MAULDING
On behalf of himself and as a Class
Representative of the Settlement Class

"HILTON":

Dated: _____, 2006

HILTON HOTELS CORPORATION

By: _____

Its: _____

Dated: AUG 11, 2006

WALTER HOTELS CORPORATION

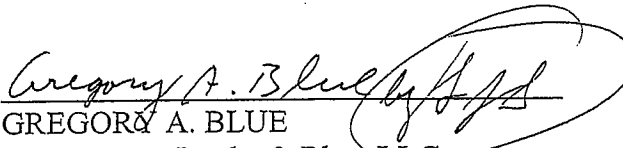
By: _____

Its: _____

AFTAB DADA
Vice President and General Manager

APPROVED AS TO FORM:

Dated: Aug. 7, 2006


GREGORY A. BLUE
Morgenstern Jacobs & Blue, LLC
Counsel for Plaintiff Matthew Pecci, Plaintiff
Lee Hsu

Dated: _____, 2006

RICHARD BURKE
The Lakin Law Firm
Counsel for Plaintiff Thomas Maulding
and the Settlement Class

Dated: _____, 2006

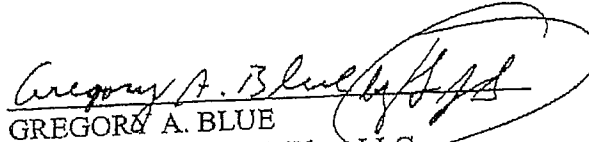
JON A. SHOENBERGER
Schlect, Shevlin & Shoenberger
Counsel for Walter Hotel Corporation

Dated: _____, 2006


RANDALL J. SUNSHINE
Liner Yankelevitz Sunshine & Regenstreif LLP
Counsel for Hilton Hotels Corporation

APPROVED AS TO FORM:

Dated: Aug. 7, 2006


GREGORY A. BLUE
Morgenstern Jacobs & Blue, LLC
Counsel for Plaintiff Matthew Pecci, Plaintiff
Lee Hsu

Dated: Aug 8, 2006


RICHARD BURKE
The Lakin Law Firm
Counsel for Plaintiff Thomas Maulding
and the Settlement Class

Dated: _____, 2006

JON A. SHOENBERGER
Schlect, Shevlin & Shoenberger
Counsel for Walter Hotel Corporation

Dated: _____, 2006

RANDALL J. SUNSHINE
Liner Yankelevitz Sunshine & Regenstreif LLP
Counsel for Hilton Hotels Corporation

APPROVED AS TO FORM:

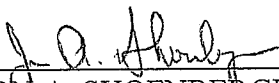
Dated: _____, 2006

GREGORY A. BLUE
Morgenstern Jacobs & Blue, LLC
Counsel for Plaintiff Matthew Pecci, Plaintiff
Lee Hsu

Dated: _____, 2006

RICHARD BURKE
The Lakin Law Firm
Counsel for Plaintiff Thomas Maulding
and the Settlement Class

Dated: 8/14, 2006


JON A. SHOENBERGER
Schlect, Shevlin & Shoenberger
Counsel for Walter Hotel Corporation

Dated: _____, 2006

RANDALL J. SUNSHINE
Liner Yankelevitz Sunshine & Regenstreif LLP
Counsel for Hilton Hotels Corporation

APPROVED AS TO FORM:

Dated: _____, 2006

GREGORY A. BLUE
Morgenstern Jacobs & Blue, LLC
Counsel for Plaintiff Matthew Pecci, Plaintiff
Lee Hsu

Dated: _____, 2006

RICHARD BURKE
The Lakin Law Firm
Counsel for Plaintiff Thomas Maulding
and the Settlement Class

Dated: _____, 2006

JON A. SHOENBERGER
Schlect, Shevlin & Shoenberger
Counsel for Walter Hotel Corporation

Dated: 8/15, 2006



RANDALL J. SUNSHINE
Liner Yankelovitz Sunshine & Regenstreif LLP
Counsel for Hilton Hotels Corporation

IN THE CIRCUIT COURT
FOR THE TWENTIETH JUDICIAL CIRCUIT
ST. CLAIR COUNTY, ILLINOIS

THOMAS L. MAULDING, individually
and on behalf of all others similarly situated,

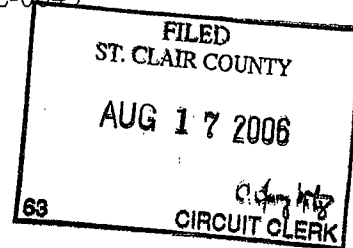
Plaintiff,

v.

HILTON HOTELS CORPORATION,

Defendant.

No. 02-L-0645



**ORDER RE: PRELIMINARY APPROVAL OF SETTLEMENT
AND APPROVAL OF NOTICE OF PENDENCY OF
SETTLEMENT OF CLASS ACTION TO CLASS MEMBERS**

WHEREAS, plaintiff Thomas L. Maulding, on behalf of himself and the proposed Settlement Class, and defendant Hilton Hotels Corporation ("Hilton") have agreed, subject to Court approval following notice to the Settlement Class and a hearing, to settle this litigation upon the terms and conditions in the Settlement Agreement, filed with the Court on Aug 16, 2006;

WHEREAS, counsel for the above referenced actions, as well as all pending actions against Hilton arising from the same facts or allegations at issue in the present litigation, have been provided timely notice of this hearing for preliminary approval and an opportunity to be heard;

NOW, THEREFORE, based upon the Notice and Summary Notice, as defined in ¶ 5 of this Order and placed on the record at the preliminary settlement hearing held on Aug 16, 2006, and upon all of the files, records and proceedings herein, and it appearing to the Court that a hearing should be held, on notice to the Settlement Class of the

Proposed Settlement, to determine finally if the terms of the Proposed Settlement are fair, reasonable and adequate;

IT IS HEREBY ORDERED THAT:

1. For purposes of determining whether the terms of the Proposed Settlement should be finally approved as fair, reasonable and adequate, a Settlement Class is conditionally certified, for purposes of this Settlement only, as consisting of the following:

All persons, except as noted below, who: (1) stayed at one of the Participating Hotels prior to January 1, 2004; (2) paid to the hotel property a Resort Fee; and (3) (a) did not receive notice of that additional charge at the time the reservation was made by the class member, or if no reservation was made, at the time of check-in at the hotel property, and/or (b) believe they were misinformed or misled about the nature, purpose, scope, amount, or ultimate recipient of the Resort Fee. Excluded from the Settlement Class are (1) all Persons who stayed at one of the Participating Hotels pursuant to written group contracts which expressly provided for the payment of Resort Fees or who received a rebate or reimbursement of the Resort Fee; (2) Hilton's Counsel, the Judges in these Actions, and all current and former employees of Hilton; (3) guests of international hotels (meaning any hotels outside the 50 United States and District of Columbia); (4) citizens of the states of Mississippi and Montana.

2. Plaintiff Thomas L. Maulding is appointed as representative of the Settlement Class and the following attorneys are designated as counsel for the Settlement Class ("Class Counsel"):

Paul M. Weiss
FREED & WEISS LLC
111 West Washington Street,
Suite 1331
Chicago, Illinois 60602

Bradley M. Lakin
Richard J. Burke
THE LAKIN LAW FIRM, P.C.
301 Evans Avenue, P.O. Box 229
Wood River, Illinois 62095-1127

JoDee Favre
FAVRE LAW OFFICE, LLC
121 East Main Street
Belleville, Illinois 62220

Malik R. Diab
Phillip A. Bock
DIAB & BOCK
20 N. Wacker Drive, Suite 1741
Chicago, Illinois 60606

Gregory R. Blue
**MORGENSTERN JACOBS &
BLUE LLC**
885 Third Avenue, Suite 3020
New York, New York 10022

3. If final approval of the Proposed Settlement is not obtained, then the parties shall be returned to their position in the litigation as it existed immediately preceding the entry of the Order of Preliminary Approval.

4. Pending final determination of whether the Proposed Settlement should be approved, unless and until they have timely excluded themselves from this Settlement, neither Plaintiff nor any member of the Settlement Class, whether directly, indirectly, representatively or in any other capacity, shall start, continue, or participate in, litigate or receive any benefits or other relief from any other lawsuit, arbitration or administrative or regulatory proceeding or order based on or relating to the claims, facts, or circumstances in this Action and/or the Released Claims (as defined in the Settlement Agreement). In addition, all class members are hereby preliminarily enjoined from filing, commencing or prosecuting any other lawsuit as a class action (including by seeking to amend a pending complaint to include class allegations or by seeking class certification in a pending action in any jurisdiction) on behalf of Class Members who have not timely excluded themselves from the Class, if such other lawsuit is based on or relates to the claims and causes of action, or the facts and circumstances relating thereto, in this Action. The Court finds that issuance of this preliminary injunction is necessary and appropriate in aid of the Court's jurisdiction over this Action.

5. Hilton shall, as soon as practical, but to be completed no later than Sept. 30, 2006, cause to be implemented the notice plan as described in the

Agreement of Settlement, Compromise, and General Release. Hilton is directed to file with the Court and provide to Class Counsel, prior to the final settlement approval hearing, a declaration confirming completion of the notice plan in accordance with the terms of this Order.

6. The Court preliminarily finds that the dissemination of the Notice under the terms and in the format provided for in this Order constitutes the best notice practicable under the circumstances, and is due and sufficient notice for all purposes to all persons entitled to such notice, and fully satisfies the requirements of due process, the Illinois Rules of Civil Procedure, and all other applicable laws.

7. A hearing (the "Final Approval Hearing") shall be held on Nov. 14, 2006, at 10:00, a.m., in Courtroom 403 of the Circuit Court of St. Clair County, Illinois, St. Clair, Illinois 62220, as set forth in the Notice Plan, to determine whether the Proposed Settlement of this Action, including the payment of attorneys' fees and costs to Class Counsel, should be approved as fair, reasonable, and adequate, and whether the Final Judgment approving the Settlement and dismissing all claims asserted in this Action on the merits, with prejudice and without leave to amend, should be entered. The Final Approval Hearing may be postponed, adjourned or rescheduled by order of the Court without further notice to the members of the Settlement Class.

8. Objections to the Proposed Settlement shall be heard, and any papers or briefs submitted in support of said objections shall be considered by the Court (unless the Court in its discretion shall otherwise direct), only if they comply with the objection procedures set forth in the Settlement Agreement, Summary Notice and Class Notice. Specifically, members of the Class who have not filed a timely request for exclusion from the Class must file a notice of intent to object to the Settlement. The written notice of intent to object must be: (a) filed with

the Clerk of the Court not later than 30 days before the date set for the Final Approval Hearing; and (b) sent by first-class mail, postmarked not later than 30 days before the date set for the Final Approval Hearing, to Paul M. Weiss of Freed & Weiss LLC, 111 West Washington Street, Suite 1331, Chicago, Illinois 60602, and to Randall Sunshine of Liner, Yankelevitz, Sunshine & Regenstreif LLP, 1100 Glendon Avenue, Suite 1400, Los Angeles, California 90024, on the same date. Any objector to the Settlement must provide: (a) his or her full name, address, telephone number, Hilton account number(s) if known, the resort location where the Resort Fee was paid, together with date of payment; (b) a written statement of all objections, the reasons for such objections, and whether the objector intends to appear at the Final Approval Hearing, either in person or through counsel, and, if through counsel, identifying counsel by name, address and phone number; (c) a detailed statement of the specific legal and factual bases for each and every objection, and if through counsel, a legal memorandum in support of the objection; and (d) a list of any witnesses, along with the expected testimony of each such witness, and photocopies of exhibits the objector intends to introduce at the Final Approval Hearing. Settlement Class Plaintiff and/or Counsel for defendant may file a written response to any objection timely filed with the Court. The written response to the objection shall be filed no later than three (3) days before the date set for Final Approval. The failure to file a written response shall not waive any response to the objection filed.

9. All requests for exclusion from the Settlement Class must be in writing and must comply with the provisions of and contain the information requested as set forth in the Settlement Agreement, Summary Notice and Class Notice and, to be effective, must be sent to counsel for the parties at the addresses provided in the Class Notice, by first-class mail, postmarked not later than 30 days prior to the date set for the Final Approval Hearing. Class

Counsel, with the cooperation of counsel for Hilton, is responsible for reporting to the Court at the Settlement Hearing regarding the number and status of any requests for exclusion. Class Members who file valid requests for exclusion in the manner set forth in the Class Notice shall have no rights under the Settlement, and shall not share in the distribution of Settlement funds, but shall not be bound by the Settlement Agreement or any final judgment and order of dismissal entered pursuant to the Settlement Agreement. Settlement Class Members who do not request exclusion in the manner set forth in the Class Notice and Summary Notice shall be bound by any final judgment and order of dismissal entered pursuant to the Settlement Agreement, shall be barred and enjoined, now and in the future, from asserting any and all of the Released Claims, as defined in the Settlement Agreement, against the Released Persons, as defined in the Settlement Agreement, and any such Settlement Class Member shall be conclusively deemed to have released any and all such Released Claims.

10. Class Counsel and the attorneys for the plaintiffs in the actions who joined in the Settlement Agreement (collectively, "Plaintiffs' Counsel") have agreed that any representation, encouragement, solicitation or other assistance, including but not limited to referral to other counsel, to any person seeking exclusion from the Settlement Class, or any other person seeking to litigate with Hilton over any of the claims covered under the release in this matter, would place Class Counsel and Plaintiffs' Counsel in an untenable conflict of interest with the Settlement Class. Accordingly, Plaintiffs' Counsel and their respective firms shall not encourage, solicit or otherwise assist, in any way whatsoever, including but not limited to referrals to other counsel, any person in requesting exclusion from the Settlement Class.

11. Class Counsel shall make application for award of attorneys fees and costs no later than 30 days before the date set for Final Approval Hearing and Hilton shall file its

objections thereto no later than 10 days before Final Approval Hearing. Class Counsel agrees that its application for award of attorneys fees shall not exceed 1/3 of the monetary value of the compensation to the settlement class.

12. The Proposed Settlement is hereby preliminarily approved, but is not to be deemed an admission of liability or fault by Hilton or by any other person, or a finding of the validity of any claims asserted in this litigation or any action referenced herein, or of any wrongdoing or of any violation of law by Hilton. The Proposed Settlement is not a concession and shall not be used as an admission of any fault or omission by Hilton or any other person or entity. Neither the terms of the Settlement nor any related document shall be offered or received in evidence in any civil, criminal, or administrative action or proceeding, other than such proceedings which may be necessary to consummate or enforce the terms of the Settlement, except that Hilton may file this Order in any action that may be brought against it 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.

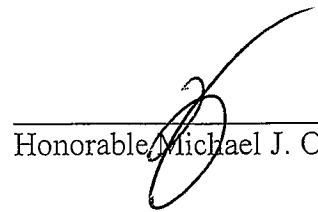
13. Upon the motion of any party, the Court may, for good cause, extend any of the deadlines set forth in this Order without further notice to the Settlement Class.

14. It is hereby ordered that this Action shall be stayed pending further proceedings in connection with the effectuation of the Proposed Settlement.

IT IS SO ORDERED.

Dated: _____

8/17/06



Honorable Michael J. O'Malley

IN THE CIRCUIT COURT
FOR THE TWENTIETH JUDICIAL CIRCUIT
ST. CLAIR COUNTY, ILLINOIS

THOMAS L. MAULDING, individually
and on behalf of all others similarly situated,

Plaintiff,

v.

HILTON HOTELS CORPORATION,

Defendant.

No. 02-L-0645

**NOTICE OF PROPOSED CLASS ACTION SETTLEMENT
AND RELEASE OF CLAIMS**

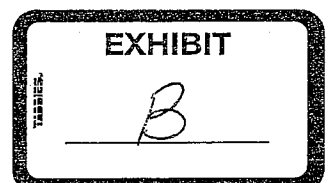
***THIS NOTICE MAY AFFECT YOUR LEGAL RIGHTS.
PLEASE READ IT CAREFULLY. YOU MAY WISH TO CONSULT YOUR ATTORNEY
CONCERNING THIS NOTICE. THE LAWSUIT WAS NOT FILED AGAINST YOU.***

TO: All persons who stayed at a Hilton Resort Hotel prior to January 1, 2004 and paid a Resort Fee. Your rights may be affected by a class action settlement that has been entered into between Hilton Hotels Corporation, Walter Hotel Corporation and certain Plaintiffs who have filed class action lawsuits.

I. DESCRIPTION OF THE SETTLEMENT CLASS WHOSE RIGHTS ARE AFFECTED

All persons, except as noted below, who:

- (1) stayed at one of the Participating Hotels listed below prior to January 1, 2004;
- (2) paid to the hotel property a Resort Fee; and
- (3) Either:
 - (a) did not receive notice of the Resort Fee at the time their reservation was made, or if no reservation was made, at the time of check-in; and/or
 - (b) believe they were misinformed or misled about the nature, purpose, scope, amount, or ultimate recipient of the Resort Fee.



The Participating Hotels included are:

- The Doubletree Golf Resort in San Diego, California
- The Doubletree Surfcomber in Miami, Florida
- The Doubletree Guest Suites Walt Disney World Resort in Orlando, Florida
- The Embassy Suites Deerfield Beach in Deerfield Beach, Florida
- The Hilton Sedona Resort & Spa, previously operated as the Doubletree Sedona, in Sedona, Arizona
- The Pointe Hilton Squaw Peak Resort in Phoenix, Arizona
- The Pointe Hilton Tapatio Cliffs Resort in Phoenix, Arizona
- The Hilton Waikoloa Village Resort in Waikoloa, Hawaii
- The Hilton Walt Disney World in Orlando, Florida
- The Hilton Myrtle Beach in Myrtle Beach, South Carolina
- The Hilton Palm Springs in Palm Springs, California.

Excluded from the Settlement Class are: (1) all Persons who stayed at one of the listed Participating Hotels pursuant to written group contracts that expressly provided for the payment of Resort Fees or who received a rebate or reimbursement of the Resort Fee; (2) Hilton's Counsel, the Judges in these Actions, and all current and former employees of Hilton; (3) guests of international hotels (meaning any hotels outside the 50 United States and District of Columbia); and (4) citizens of the states of Mississippi and Montana.

II. PURPOSE OF THIS NOTICE

A proposed Settlement (the "Settlement") of all claims has been reached in *Maulding v. Hilton Hotels Corporation*, Cause No. 02-L-0645 (the "Action"), pending in the Circuit Court for St. Clair County, Illinois. In connection with the Settlement, the Court has certified the Action to proceed as a class action on behalf of the Settlement Class described above. The purpose of this Notice of Pendency and Settlement of Class Action and Settlement Hearing (the "Notice") is to inform you about the Settlement: how to participate in it, how to object to it if you wish, how to exclude yourself from the settlement if you wish, and how to get more information about it. As stated below, a hearing is scheduled for the Court to consider whether the Settlement should be approved.

III. THE CLASS ACTION LAWSUIT

The Action was filed in the Circuit Court for the Twentieth Judicial Circuit, St. Clair County, Illinois. The Plaintiff, Thomas L. Maulding, sued the Defendant Hilton Hotels Corporation in a class action regarding Hilton's charging of Resort Fees to its hotel guests. The case was settled as a class action by the Class Representative, Thomas L. Maulding, Hilton Hotels Corporation, and Walter Hotel Corporation. Mr. Maulding filed a Motion for Preliminary Approval and the Court entered an Order of Preliminary Approval on Aug 16, 2006. Members of the class affected by the settlement are given this Notice, approved by the

Court, telling them about the case, the settlement, and their rights, and are provided an opportunity to be heard regarding the Settlement before it is approved.

A. **PLAINTIFF'S ALLEGATIONS.** Plaintiff's Complaint alleges a single cause of action arising from the claims of customers who reserved a room at a Hilton Resort Hotel, who were promised certain room rates by Hilton, and who incurred additional charges, including but not limited to a "Resort Fee," that were not optional and that were not disclosed by Hilton at the time the reservations were made or at the time of check-in. Plaintiff alleges that the charges are unlawful and actionable for the reasons stated in his Second Amended Complaint. In particular, Plaintiff alleges that Hilton participated in a scheme to deceive guests about the actual room rate by failing to provide advance notice of the Resort Fee at the time of reservation and misrepresented the nature of the Resort Fee, all in violation of the Illinois Consumer Fraud and Deceptive Practices Act and the similar consumer fraud statutes of the other states in which Hilton operates resort hotels.

B. **HILTON'S POSITION.** Hilton denies these allegations, and asserts that its policy and practice was and is to provide notice of the existence and nature of Resort Fees to guests at the time of check-in as an optional package that would not be charged unless and until a guest agreed to the purchase. Hilton further asserts that it took diligent and reasonable steps to enforce that policy and practice. Accordingly, Hilton believes that no one, including Settlement Class Members, was harmed or damaged in any way by any of the conduct either alleged in this Action or resolved by this settlement. Hilton further argues that Plaintiff's claims are wholly without merit, and it denies all allegations of wrongdoing and any liability whatsoever to Plaintiff and the other Settlement Class Members arising from the transactions at issue in the Action.

IV. **SUMMARY OF THE PROPOSED SETTLEMENT.**

The following is a summary of the principal terms of the proposed Settlement. The full Settlement Agreement is on file with the Clerk of the Court, St. Clair County Courthouse, Courtroom No. 403, 10 Public Square, P.O. Box 691, Belleville, Illinois 62222 ("Clerk of the Court"), where you may read and copy it at your own expense. The Settlement Agreement may be approved or modified by the Court without further notice. The complete terms of the Settlement Agreement may also be viewed at www._____.com.

A. **DESCRIPTION OF THE CLASS.** In connection with the Settlement, the Court has certified a Settlement Class in the Action. Plaintiff Maulding is the Settlement Class Representative. The Settlement Class consists of:

All persons, except as noted below, who: (1) stayed at one of the Participating Hotels prior to January 1, 2004; (2) paid to the hotel property a Resort Fee; and (3) (a) did not receive notice of that additional charge at the time the reservation was made by the class member, or if no reservation was made, at the time of check-in at the hotel property, and/or (b) believe they were misinformed or misled about the nature, purpose, scope, amount, or ultimate recipient of the Resort Fee. Excluded from the Settlement Class are: (1) all Persons who stayed at one of the

Participating Hotels pursuant to written group contracts which expressly provided for the payment of Resort Fees or who received a rebate or reimbursement of the Resort Fee; (2) Hilton's Counsel, the Judges in these Actions, and all current and former employees of Hilton; (3) guests of international hotels (meaning any hotels outside the 50 United States and District of Columbia); (4) citizens of the states of Mississippi and Montana.

The Participating Hotels are the Doubletree Golf Resort in San Diego, California; the Doubletree Surfcomber in Miami, Florida; the Doubletree Guest Suites Walt Disney World Resort in Orlando, Florida; the Embassy Suites Deerfield Beach in Deerfield Beach, Florida; the Hilton Sedona Resort & Spa, previously operated as the Doubletree Sedona, in Sedona, Arizona; the Pointe Hilton Squaw Peak Resort in Phoenix, Arizona; the Pointe Hilton Tapatio Cliffs Resort in Phoenix, Arizona; the Hilton Waikoloa Village Resort in Waikoloa, Hawaii; the Hilton Walt Disney World in Orlando, Florida; the Hilton Myrtle Beach in Myrtle Beach, South Carolina; and the Hilton Palm Springs in Palms Springs, California.

Excluded from the proposed Settlement Class are all persons and entities that timely and validly request exclusion from the Settlement Class pursuant to the Notice. The Settlement Class also excludes Hilton Hotels Corporation, all Hilton brand hotels, members of the Illinois judiciary, any entity in which the defendant has a controlling interest, and any of their parents, subsidiaries, affiliate, officers, directors, or members of their immediate families.

If you are a Settlement Class Member and you have corporate affiliates, parents, or subsidiaries that are also Settlement Class Members, you and each such corporate affiliate, parent, or subsidiary are "Affiliated Settlement Class Members."

B. SETTLEMENT BENEFITS.

1. Compensation to the Settlement Class. Pursuant to the terms of the Settlement Agreement, and in consideration for the release of the Settlement Class Members' claims, within 30 days of the Settlement Effective Date, each Participating Hotel will discount its Resort Fee on an ongoing basis seventy-five percent (75%), until it has foregone a total of twenty-two and one-half percent (22.5%) of the Total Resort Fee collected by that Participating Hotel prior to January 1, 2004. This benefit will apply to any hotel guest incurring Resort Fees after the effective date of the settlement ("Settlement Effective Date"), and prior to the discount of 22.5% of the Total Resort Fee, regardless of whether they are a class member. Class members who present themselves to Hilton with documentation verifying their membership in the Class, and incur Resort Fees after the effective date of the settlement ("Settlement Effective Date"), and prior to the discount of 22.5% of the Total Resort Fee, will be reimbursed the full amount of the Resort Fees then incurred. Until each Participating Hotel has paid the 22.5% of the amount provided for in paragraph 1.34 of the Settlement Agreement, it may not increase Resort Fees charged nor diminish the value of bundled amenities for which any Resort Fees is charged. To the extent possible, each Participating Hotel will either (a) offer substantially identical amenities and services previously offered for the non-discounted Resort Fee, or (b) to the extent those amenities or services are unavailable, substitute

amenities or services of equal value. The monetary value of the compensation to the settlement class is approximately \$3,123,329.00.

2. **Remedial Consideration.** In further consideration for this Settlement, and to the extent that they are not already in place, no later than 30 days after the Settlement Effective Date, Hilton and Walter Hotel Corporation will implement procedures for the disclosure of Resort Fees charges to all guests upon check-in.

C. **COSTS AND ATTORNEYS' FEES.** Hilton will pay the costs and expenses of duplicating, sending, and publishing this Notice. Additionally, the parties have agreed that Plaintiff and Class Counsel will make an application to the Court for an award of an incentive payment to Plaintiff for services on behalf of the class and an award of reasonable attorneys' fees, costs and expenses (collectively "Attorneys' Fees") to Class Counsel. Any Attorneys' Fees awarded shall be in addition to the benefits provided to Settlement Class Members and shall not reduce or diminish the Settlement Class recovery in any way. Class Counsel will make application to the Court for attorneys' fees to be paid by Hilton, which application shall not exceed 1/3 of the monetary value of the compensation to the settlement class. In addition, Plaintiff will apply to the Court for an incentive award, and Matthew Pecci and Lee Hsu, individually and as members of the Settlement Class will apply to the Court for an incentive award.

V. **WHAT YOU CAN DO**

A. **TO REMAIN IN THE CLASS.** If you fit the description above (see "Description Of The Class"), and you have not requested exclusion from the Class (as described below), then you will remain a Class Member and can obtain the benefits of the Settlement. To remain in the class you do not have to do anything.

IF YOU REMAIN IN THE CLASS, ANY RIGHTS YOU HAVE REGARDING THE PAYMENT OF RESORT FEES AT THE LISTED HILTON RESORT HOTELS ARE COVERED BY THIS SETTLEMENT AND YOU WILL RELEASE HILTON HOTELS CORPORATION FROM ALL LIABILITY ARISING FROM THE PAYMENT BY YOU OF ANY RESORT FEES. IF YOU DO NOT EXCLUDE YOURSELF AND YOU REMAIN IN THE CLASS, YOU WILL NOT BE ABLE TO FILE, JOIN, OR OTHERWISE MAKE A CLAIM (FOR EXAMPLE, BY BEING A CLASS MEMBER IN ANOTHER CLASS ACTION) AGAINST HILTON HOTELS CORPORATION BASED ON THE CLAIMS MADE IN THIS CASE.

B. **TO REQUEST EXCLUSION FROM THE CLASS.** To exclude yourself from the class you must file a written exclusion. To do this you must send a letter stating "I DO NOT WANT TO BE PART OF THE PLAINTIFF SETTLEMENT CLASS IN *MAULDING V. HILTON HOTELS CORPORATION*," and mail it to any Class Counsel postmarked on or before Oct 16, 2006 at the addresses listed at the end of this Notice. If you fit within the definition of the Settlement Class, you will automatically be considered a Settlement Class

Member unless you request to be excluded. The Court will exclude you from the Settlement Class only if your written request for exclusion is mailed to Class Counsel. Your request for exclusion must be signed and must also include your name and address (or, in the case of a business entity, its name and address). The request for exclusion must be submitted in your own name; no individual Settlement Class Member may request that other Settlement Class Members be excluded from the Settlement Class. Affiliated Settlement Class Members must request exclusion in their own names.

**IF YOU EXCLUDE YOURSELF FROM THE SETTLEMENT CLASS,
YOU WILL NOT BE ENTITLED TO SHARE IN ANY BENEFITS THAT
THE SETTLEMENT CLASS MAY OBTAIN.**

Judgment in the Action will apply to and bind all Settlement Class Members who have not excluded themselves. If you properly and timely request exclusion from the Settlement Class, you will retain any rights you may have against Defendant.

C. HOW TO FILE AN OBJECTION TO THE SETTLEMENT. If you are a member of the Class who has not filed a timely request for exclusion from the Class, you may file an objection to the Settlement. Any objection must:

- a. Be in writing signed by the class member making the objection;
- b. State the objector's name, address, and telephone number;
- c. State the name of the Participating Hotel where the resort fee was paid, as well as the date of payment;
- d. Include a statement of all the objections, both legal and factual;
- e. State whether the objector, either in person or through counsel, intends to appear at the Final Approval Hearing;
- f. Send a copy by first class mail to Class Counsel, Paul M. Weiss of Freed & Weiss LLC, 111 West Washington Street, Suite 1331, Chicago, Illinois 60602, and to Hilton Counsel, Randall Sunshine of Liner Yankelevitz Sunshine & Regenstreif LLP, 1100 Glendon Avenue, Suite 1400, Los Angeles, California 90024, and
- g. The written objection must be filed with and received by the Court, Class Counsel and Hilton Counsel ON OR BEFORE Oct 16, 2006, (not later than 30 days before the date set for Final Approval Hearing) OR THE OBJECTION WILL NOT BE CONSIDERED.

VI. THE FINAL APPROVAL HEARING IN COURT

In order to take effect, the proposed Settlement Agreement must be approved by the Court. A hearing has been scheduled for Nov. 14, 2006, at 9:00 a.m., before the Honorable Michael O'Malley, Circuit Judge, at the St. Clair County Courthouse, Courtroom No. 403, 10 Public Square, P.O. Box 691, Belleville, Illinois 62222, to determine: (1) whether the proposed Settlement Class should be finally certified; (2) whether the proposed Settlement of the class action should be finally approved as fair, reasonable and adequate; (3) whether the class action should be dismissed with prejudice pursuant to the terms of the Settlement; (4) whether the

Settlement Class's compensation and release of Hilton and other parties should be approved as fair, reasonable, and adequate; (5) whether the application of Settlement Class counsel for an award of attorneys' fees, costs, and expenses should be approved; (6) whether the application by the Class representative for an incentive award should be approved as fair, adequate and reasonable; and (7) to determine the merits of any objection(s) filed. With notice to Plaintiff and Hilton only, the Court may reschedule or postpone the scheduled hearing date, for good cause shown.

If you timely file a written objection and have not previously requested exclusion, you may appear at the hearing, in person or through an attorney retained at your own expense. If you wish to appear at the hearing to object to the Stipulation, you must file a written Notice of Intention to Appear with the Clerk of the Court, by Oct 16, 2006, at the address of the courthouse set forth above. Copies must also be mailed to counsel for the parties at the addresses listed below.

VII. EFFECT OF THE SETTLEMENT

Unless you exclude yourself from the Class in the manner set forth above, if the Court enters a Final Approval Order approving the Settlement, you shall be deemed to have given a "Release" to the "Released Parties."

A. "Released Parties" means and includes Hilton, Walter Hotel Corporation, and all of their respective subsidiaries, affiliated or related entities, divisions, and their present and former directors, officers, employees, partners, owners lessors, joint venturers, agents, investors, attorneys, administrators, executors, conservators, successors-in-interest, and assigns, but does not include any Hilton Franchisees that did not join in and participate in this Settlement.

B. "Release" means that you, your heirs, executors, administrators, representatives, agents, successors and assigns, and any and all other persons claiming through or by virtue of you, shall be deemed to have fully released, waived, relinquished, and discharged, to the fullest extent permitted by law, all Released Class Claims (as defined below) that you may have against Released Parties. Except for the obligations imposed by the Stipulation, the Released Parties shall be forever released and discharged from any and all claims, lawsuits, rights, counts, causes of action, damages, judgments, executions, attachments, debts, demands, liabilities and obligations of every kind and nature, known or unknown, in law or equity, accrued or unaccrued, liquidated or contingent, class or individual, whether formal or informal, and whether in writing or not, that were asserted or that could or might have been asserted in any pleading or amended pleading by the Settlement Class Representative, by the Settlement Class Representative on behalf of the Settlement Class, or by any of the other Settlement Class Member against any of the Released Parties in state or federal court or any type of proceeding, for any injury in any way relating to or arising out of "Resort Fee" charges that were not optional and that were not disclosed by Hilton at the time the reservations were made.

C. "Released Class Claims" means any and all claims, lawsuits, rights, counts, causes of action, damages, judgments, executions, attachments, debts, demands, liabilities, and obligations of every kind and nature, known or unknown, in law or equity, accrued or unaccrued,

liquidated or contingent, class or individual, whether formal or informal, and whether in writing or not, that were asserted or that could or might have been asserted in any pleading or amended pleading by the Settlement Class Representative, by the Settlement Class Representative on behalf of the Settlement Class, or by any of the other Settlement Class Members against any of the Defendants or their respective Related Parties in state or federal court or any type of proceeding, for any injury in any way relating to or arising out of charges of a 'Resort Fee' that were not optional and that were not disclosed by Hilton at the time reservations were made; and/or based upon, arising from, or in any way related to the facts, transactions, events, occurrences, disclosures, statements, acts or omissions, or failures to act that were or could have been alleged in the Action, including without limitation: claims asserted in the Second Amended Complaint and any claims based upon any injury in any way relating to or arising out of charges, of a "Resort Fee," that were not optional and that were not disclosed by Hilton at the time reservations were made (including the settlement, adjustment, payment, or denial of Claims), including but not limited to any such claims, counts, or causes of action (including such claims, counts, or causes of action for damages for economic loss, general damages, punitive damages, or attorneys' fees) sounding in breach of contract; intentional interference with contract; breach of the covenant of good faith and fair dealing; civil conspiracy; conversion, restitution, or moneys had and received; breach of statutory and/or regulatory duties, including but not limited to any and all claims for violation of the Illinois Consumer Fraud and Deceptive Business Practices Act, 815 ILCS §§ 501/1 *et seq.*, and related regulations, and/or any other jurisdiction's consumer protection statute and related regulations; actual or constructive fraud; negligent misrepresentation; unjust enrichment; actual or constructive breach of fiduciary duties; unfair business practices and unfair claims handling practices; any and all "bad faith" claims arising from the laws, cases, statutes, or otherwise of the State of Illinois or any other jurisdiction worldwide; violation of California Business and Professions Code §§ 17200 and 17500; violation of California Civil Code § 1750; any and all claims for violation of the federal Racketeer Influenced and Corrupt Organizations Act, 18 U.S.C. §§ 1961 *et seq.*, and/or any other country's or state jurisdiction's analogous laws, cases or statutes; and any and all claims for violation of the federal antitrust laws, 15 U.S.C. §§ 1 *et seq.*, and/or any other country's or state jurisdiction's analogous antitrust laws, cases, or statutes.

D. "Bar of Other Actions Pending Final Approval of the Settlement." Pending its final decision on whether or not to approve this Settlement, the Court has entered an order barring all Settlement Class Members, unless and until they exclude themselves from the Settlement Class, from instituting or prosecuting any action or proceeding against Hilton for liability in any way related to or arising out of the Released Claims, as defined above, unless and until the Settlement is terminated in accordance with its terms.

VIII. FOR FURTHER INFORMATION

The references herein to the pleadings and other documents filed in the Action are only partial summaries. The complete text of these and other relevant documents are on file with the Clerk of the Court, St. Clair County Courthouse, Courtroom No. 403, 10 Public Square, P.O. Box 691, Belleville, Illinois 62222, and the text of those documents may be found at www._____.com.

Unless you are objecting to the proposed Settlement in the manner indicated above, **DO NOT CONTACT THE COURT CONCERNING THIS NOTICE OR THE LAWSUIT.**

IX. ATTORNEYS

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THE COURT HAS NOT RULED IN FAVOR OF OR AGAINST PLAINTIFF OR HILTON ON THE MERITS OF ANY OF THEIR CLAIMS, DENIALS, OR DEFENSES IN THIS CASE.

DATED this the 16 day of Aug, 2006.

Clerk of the Court
Circuit Court for St. Clair County

IN THE CIRCUIT COURT
FOR THE TWENTIETH JUDICIAL CIRCUIT
ST. CLAIR COUNTY, ILLINOIS

THOMAS L. MAULDING, individually
and on behalf of all others similarly situated,

Plaintiff,

v.

HILTON HOTELS CORPORATION,

Defendant.

No. 02-L-0645

SHORT-FORM E-MAIL NOTICE OF PROPOSED CLASS ACTION SETTLEMENT

Maulding v. Hilton Hotels Corporation is a nationwide class action lawsuit filed in the Circuit Court of St. Clair County, Illinois, challenging resort fees charged by eleven Hilton Resort Hotels prior to January 1, 2004. The resort fees consisted of bundled per-night charges for resort services and amenities charged in addition to the per-night room rate. The following hotels (hereinafter referred to as the "Participating Hotels") are participating in the settlement: (1) The Doubletree Golf Resort in San Diego, California; (2) The Doubletree Surfcomber in Miami, Florida; (3) The Doubletree Guest Suites Walt Disney World Resort in Orlando, Florida; (4) The Embassy Suites Deerfield Beach in Deerfield Beach, Florida; (5) The Hilton Sedona Resort & Spa (previously known as the Doubletree Sedona) in Sedona, Arizona; (6) The Pointe Hilton Squaw Peak Resort in Phoenix, Arizona; (7) The Pointe Hilton Tapatio Cliffs Resort in Phoenix, Arizona; (8) The Hilton Waikoloa Village Resort in Waikoloa, Hawaii; (9) The Hilton Walt Disney World in Orlando, Florida; (10) The Hilton Myrtle Beach in Myrtle Beach, South Carolina, and (11) The Hilton Palm Springs in Palm Springs, California. Members of the class include all persons who stayed at a Participating Hotel prior to January 1, 2004, paid a resort fee, and either did not receive notice that the resort fee was being charged, or believe they were misinformed about the resort fee. Excluded from the class are persons who stayed at a Participating Hotel pursuant to a written group contract, persons residing in Mississippi or Montana, and all current and former employees of Hilton Hotels Corporation.

After several years of litigation, the parties in the case have reached a Settlement Agreement. The Settlement Agreement provides that each of the Participating Hotels will discount its resort fee, on an ongoing basis, by 75%, until it has foregone a total of 22.5% of the total resort fee it collected prior to January 1, 2004. If the Court approves the settlement, future lawsuits by class members against Hilton Hotels Corporation related to the resort fee will be prohibited. St. Clair County Circuit Court Judge Michael J. O'Malley will decide whether to approve the settlement at a hearing in Belleville, Illinois on Nov 14, 2006, at 10:00 a.m. In order to remain in the class, you need do nothing. To request exclusion from the class, you must send a letter so stating to counsel for the class before Oct 16, 2006. To file an objection to the settlement, you must send a letter to counsel for the class and the Court before

Oct 16, 2006. You can find out more information about this class action and the Final Approval Hearing, get a complete copy of the parties' Notice of Proposed Class Action Settlement and Release of Claims and other related documents, and locate contact information for the court and counsel for the class, at _____, or by calling the toll-free information line, _____.

IN THE CIRCUIT COURT
FOR THE TWENTIETH JUDICIAL CIRCUIT
ST. CLAIR COUNTY, ILLINOIS

THOMAS L. MAULDING, individually
and on behalf of all others similarly situated,

Plaintiff,

v.

HILTON HOTELS CORPORATION,

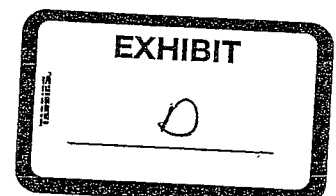
Defendant.

No. 02-L-0645

SHORT-FORM PLACARD NOTICE OF PROPOSED CLASS ACTION SETTLEMENT

Maulding v. Hilton Hotels Corporation is a nationwide class action lawsuit filed in the Circuit Court of St. Clair County, Illinois, challenging resort fees charged by eleven Hilton Resort Hotels (the "Participating Hotels"), *including this hotel*, prior to January 1, 2004. The resort fees consisted of bundled per-night charges for resort services and amenities that were charged in addition to the per-night room rate. As part of a settlement of that action, this hotel has agreed to discount all resort fees, for those guests who choose to pay a resort fee, by 75%, for a specific period of time.

You can find out more information about this class action, obtain a complete copy of the parties' Notice of Proposed Class Action Settlement and Release of Claims and other related documents, and locate contact information for the court and counsel for the class, at _____, or by calling the toll-free information line, _____.



IN THE CIRCUIT COURT
FOR THE TWENTIETH JUDICIAL CIRCUIT
ST. CLAIR COUNTY, ILLINOIS

THOMAS L. MAULDING, individually
and on behalf of all others similarly situated,

Plaintiff,

No. 02-L-0645

v.

HILTON HOTELS CORPORATION,

Defendant.

CLAIM FORM for MEMBER OF SETTLEMENT CLASS

Instructions:

- Complete the information requested (please print)
- Sign and date this Claim Form
- Mail this Claim Form to:

LINER YANKELEVITZ SUNSHINE & REGENSTREIF LLP
Attention: Randall J. Sunshine or Gary J. Gorham
1100 Glendon Avenue, 14th Floor
Los Angeles, CA 90024-3503

Name: _____

Mailing Address: _____

Phone number(s) where you might be reached for questions related solely to your claim:

Name of Resort where Resort Fee was charged: _____

Date(s) of stay at Hilton Property where Resort Fee was charged: _____

Amount of Resort Fee charged: _____

Attach document evidencing payment of the charge (receipt, hotel bill, check, credit card statement, other) _____

Your Hotel Room Number (if known): _____

Signature of Settlement Class Member

Date

