

SUPERIOR COURT OF WASHINGTON IN AND FOR KING COUNTY

In re EXPEDIA HOTEL TAXES AND FEES  
LITIGATION

Master File No. 05-02060-1 SEA

NOTICE OF PROPOSED SETTLEMENT OF CLASS ACTION

**If you booked a hotel stay through Expedia and paid “Tax Recovery Charges” and “Service Fees,” a proposed Settlement of a Class action lawsuit may affect your rights.**

- There is a proposed Settlement on behalf of a nationwide class action of consumers who booked hotel stays through Expedia from January 10, 2001 through June 11, 2008 and paid a “Tax Recovery Charge” and a “Service Fee” (the “Class”).
- There will be a Final Approval hearing to consider whether to approve the Settlement on December 1, 2009, before Judge Monica J. Benton in the Superior Court of Washington in and for King County.
- The Settlement, if approved, will provide Settlement Benefits of \$123.4 million in cash payments and Expedia Settlement Credit to the Class. ***The choice as to whether to receive cash or Expedia Settlement Credit is up to each Class Member.*** If you are a member of the Class as described above and in Section 3, your legal rights are affected, and you have a choice to make now:

<b>YOUR LEGAL RIGHTS &amp; OPTIONS</b>	
<b>MAKE A CASH ELECTION</b>	<b>Participate in the Settlement. Receive a cash payment of approximately 30% of the total amount of Service Fees you paid to Expedia during the Class Period.</b> Go to the Settlement Website at <a href="http://www.ServiceFeesSettlement.com">www.ServiceFeesSettlement.com</a> and complete a simple electronic form. <b><i>This form should take under 5 minutes to complete.</i></b> If the Settlement is approved, you will release all claims against Expedia that were or could have been raised in this case related in any manner to Expedia's alleged conduct (through June 11, 2008) that gave rise to or is the subject of this lawsuit.
<b>RECEIVE EXPEDIA SETTLEMENT CREDIT</b>	<b>Participate in the Settlement. Automatically receive Expedia Settlement Credit of approximately 65% of the total amount of Service Fees you paid to Expedia during the Class Period, even if you do nothing.</b> Even if you choose to receive Expedia Settlement Credit, you are urged to go the Settlement Website at <a href="http://www.ServiceFeesSettlement.com">www.ServiceFeesSettlement.com</a> and answer a few simple questions to ensure that you receive all the Expedia Settlement Credit to which you are entitled, especially if you used multiple email addresses when making hotel reservations through Expedia's website and/or call centers. If the Settlement is approved, you will release all claims against Expedia that were or could have been raised in this case related in any manner to Expedia's alleged conduct (through June 11, 2008) that gave rise to or is the subject of this lawsuit.
<b>OBJECT TO THE SETTLEMENT</b>	<b>Object to the Settlement or any of its terms, and urge that the Court not approve the Settlement. Appear at a Final Approval hearing on December 1, 2009.</b> Whether or not you object to the terms of the Settlement, you may also object to the requested attorneys' fees and expenses and/or the requested incentive awards for the Named Plaintiffs. <b><i>In order for any objection to be considered, you must file a written statement with the Court, Plaintiffs' Counsel, and Defendant's Counsel at the addresses listed herein, by November 11, 2009.</i></b>
<b>ASK TO BE EXCLUDED</b>	<b>Get out of this lawsuit. Get no benefits from the Settlement. Keep rights.</b> If you ask to be excluded or “opt out,” you will <b><i>not</i></b> share in the Settlement Benefits and you will <b><i>not</i></b> be permitted to object or otherwise comment on the terms of the proposed Settlement. But, you will keep any rights you may have to sue Expedia separately for the same legal claims asserted in this lawsuit. To be excluded, you must return a completed “Opt-Out Form” as discussed below with a postmark of no later than November 11, 2009.

- If you are not a member of the Class, this Notice does not apply to you.
- If you wish to receive Settlement Benefits in the form of a cash payment, you **must** go the Settlement Website at [www.ServiceFeesSettlement.com](http://www.ServiceFeesSettlement.com) by December 31, 2009 and fill out a simple electronic form.
- If you wish to **object** to the proposed Settlement or any of its terms, you **must** file a written objection with the Court, Plaintiffs' Counsel, and Defendant's counsel at the addresses provided below by November 11, 2009.
- If you wish to **exclude yourself** from the proposed Settlement and preserve any rights you may have to sue Expedia separately for the legal claims asserted in this lawsuit, you **must** submit an Opt-Out form by November 11, 2009.
- **Any questions? Read on.**

## 1. WHY DID I GET MAILED OR EMAILED NOTICE?

If you received a shorter mailed or emailed Notice of the proposed Settlement of this litigation, that is because Expedia's records show that you have booked one or more hotel reservations through Expedia during the Class period, and have paid a "Tax Recovery Charge" and a "Service Fee" in connection with that purchase. This Notice explains that there is a proposed Settlement of a class action lawsuit that may affect you. Judge Monica J. Benton of the Superior Court of Washington in and for King County is overseeing this class action and will decide whether to approve the proposed Settlement. The lawsuit is known as *In re Expedia Hotel Taxes and Fees Litigation*, Master File No. 05-2-02060-1 SEA.

## 2. WHAT IS THIS CASE ABOUT?

In 2005, consumers who booked hotel stays through Expedia filed a nationwide class action against Expedia alleging breach of contract and violations of the Washington Consumer Protection Act ("CPA") arising from Expedia's assessment of bundled "Tax Recovery Charges" and "Service Fees." Expedia collects these charges each time a consumer books a hotel reservation, regardless of whether the reservation is booked through Expedia's website or through its telephone operators.

Plaintiffs alleged that, from February 18, 2003 through December 11, 2006, Expedia breached its contractual obligations by charging excessive amounts in its bundled "Tax Recovery Charge" and "Service Fees" charge that it collects every time a consumer books a hotel reservation through Expedia. This is known as the "breach of contract claim," and it applies to **every** consumer who booked a hotel stay through Expedia and paid a "Tax Recovery Charge" and a "Service Fee" during the period from February 18, 2003 through December 11, 2006.

Plaintiffs also alleged that, from January 10, 2001 to June 11, 2008, Expedia violated the Washington CPA by deceptively bundling its "Tax Recovery Charges" and "Service Fees" in a single charge in order to make it impossible for consumers to learn the true nature and amount of either the "fees" or "taxes" they are charged. This is known as the "CPA claim." Unlike the breach of contract claim, the CPA claim applies only to consumers who booked a hotel stay that was **not** part of a "package" including airfare and/or a car rental, and paid a bundled "Tax Recovery Charge" and "Service Fee." In other words, the CPA claim applies only to "standalone" purchasers of hotel reservations, and it applies to "standalone" hotel reservations booked between January 10, 2001 through June 11, 2008, excluding the period from December 20, 2002 to December 27, 2002.

On May 7, 2008, Judge Benton issued an order granting Plaintiffs' motion for certification of a nationwide class against Expedia. The Court's class certification order is available at [www.hbsslaw.com](http://www.hbsslaw.com). Subsequently, extensive discovery occurred in which the Parties produced and reviewed thousands of documents and voluminous data, and conducted numerous fact and expert witness depositions.

In April 2009, both Parties filed motions for summary judgment asking the Court to rule in their favor without the need for a trial based on all the facts revealed through discovery.

On May 28, 2009, Judge Benton issued her Summary Judgment Order. In that Order, Judge Benton (i) granted Plaintiffs' motion for summary judgment on the breach of contract claim, and awarded \$184 million in damages to the Class, but denied Plaintiffs' motion for summary judgment on the CPA claim; and (ii) denied Expedia's motion for summary judgment on the CPA and the breach of contract claims. Under the Order, then, the contract claim was resolved but the CPA claim was to go to trial. The Court's Summary Judgment Order is available at [www.hbsslaw.com](http://www.hbsslaw.com).

Expedia believes that the Court's Summary Judgment Order was incorrect, and filed a motion for discretionary review with the Court of Appeals urging that the Summary Judgment Order be reversed. The hearing on Expedia's motion for discretionary review has been postponed pending consideration of the proposed Settlement.

Expedia denies Plaintiffs' allegations, and, in the absence of this Settlement, would continue to vigorously defend itself in this litigation, including on appeal. Expedia denies that it did anything wrong and asserts that its practices about which Plaintiffs complain are reasonably required to maintain and preserve Expedia's business of facilitating hotel reservations for the benefit of consumers. Expedia also asserts that consumers are not entitled to recover damages where they paid only the amounts that Expedia disclosed to them before they finalized their booking of a hotel stay through Expedia with full knowledge of the amounts they would pay to do so.

### 3. **WHO IS A MEMBER OF THE CLASS?**

You may be a Member of the nationwide Class and entitled to Settlement Benefits if:

- You made a "standalone" hotel reservation through Expedia between January 10, 2001 and June 11, 2008 and paid a bundled "Tax Recovery Charge" and "Service Fee" in connection with that booking and/or you made *any* hotel reservation (either "standalone," or as part of a "package" including airfare and/or car rental) through Expedia between February 18, 2003 and December 11, 2006 and paid a "Tax Recovery Charge" and "Service Fee" charge in connection with that booking.

You are NOT a Member of the nationwide Class and NOT entitled to Settlement Benefits if:

- The *only* hotel booking you made through Expedia was a "standalone" booking between December 20, 2002 and December 27, 2002, as that period is excluded from the Class Period in this case; *or*
- You made *only* "package" bookings, and all of them were placed prior to February 18, 2003 *or* after December 11, 2006; *or*
- You were not a resident of the United States when you placed a hotel reservation through Expedia; *or*
- You timely submitted an "Opt-Out" Form in response to notice of the Court's class certification order in the fall of 2008; *or*
- You are an employee or agent of Expedia, or you are a state or other governmental entity, and/or you were not assessed a "Tax Recovery Charge" and "Service Fee" charge in connection with your booking of any hotel reservations through Expedia.

### 4. **WHAT BENEFITS ARE AVAILABLE UNDER THE SETTLEMENT?**

If the Settlement is approved, Settlement Benefits in the amount of **\$123.4 million** will be distributed in the form of cash payments and Expedia Settlement Credit. **Expedia Settlement Credit** is useable for the purchase of hotel reservations for "Expedia Special Rate" or "ESR" hotels and for "package" reservations that include a hotel reservation. Expedia Settlement Credit is good for either one year from the date of issuance, or until you use it up, whichever comes first. The \$123.4 million in Settlement Benefits will be divided amongst three Subgroups as follows:

**Subgroup One:** For Class Members who made at least one Standalone Reservation during the period from **January 10, 2001 through February 17, 2003** (excluding those placed during the period from December 20, 2002 to December 27, 2002), \$10.1 million in Settlement Benefits will be provided;

**Subgroup Two:** For Class Members who made at least one Standalone Reservation *or* one Package Reservation during the period from **February 18, 2003 through December 11, 2006**, \$75.3 million in Settlement Benefits will be provided;

**Subgroup Three:** For Class Members who made at least one Standalone Reservation during the period from **December 12, 2006 through June 11, 2008**, \$38 million in Settlement Benefits will be provided.

You may be a member of one, two, or all three Subgroups.

At your election through a simple form on the Settlement Website, [www.ServiceFeesSettlement.com](http://www.ServiceFeesSettlement.com), you may choose to receive a cash payment equal to about 30% of the amount of Service Fees you paid for covered reservations. Alternatively, you may receive Expedia Settlement Credit equal to about 65% of the amount of Service Fees you paid for

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each reservation. (Note: The above percentages are approximate, and may be adjusted upwards or downwards depending upon the total amount of the cash payment elected by Class Members within each Subgroup. It is certain, however, that your available Expedia Settlement Credit will be 2.17 times higher than your available cash payment.)

If you make no election, you will automatically receive Expedia Settlement Credit. If you prefer Expedia Settlement Credit to a cash payment, you are still encouraged to visit the Settlement Website at [www.ServiceFeesSettlement.com](http://www.ServiceFeesSettlement.com) and answer a few simple questions to ensure that you receive all the Expedia Settlement Credit to which you are entitled, even if you have used multiple email addresses and had multiple Expedia accounts during the Class Period.

## **5. DO I NEED TO DO ANYTHING IN ORDER TO OBTAIN SETTLEMENT BENEFITS?**

The answer depends upon whether you prefer (1) a cash payment **or** (2) Expedia Settlement Credit.

### **A. Cash Payments**

In order to obtain a cash payment under the Settlement, you **must** go to the Settlement Website at [www.ServiceFeesSettlement.com](http://www.ServiceFeesSettlement.com) and fill out a simple electronic form. This should take under 5 minutes of your time.

### **B. Expedia Settlement Credit**

If you received a shorter Notice of the proposed Settlement by email delivery to your correct address, your current email address is maintained correctly in Expedia's database, and you will automatically receive Expedia Settlement Credit. If you received a shorter Notice by regular mail, or if you did not receive an email Notice but believe that you should have, or if your address changes, please advise the Settlement Administrator of your current email address at the Settlement Website at [www.ServiceFeesSettlement.com](http://www.ServiceFeesSettlement.com).

*Even if you prefer Expedia Settlement Credit, you are still urged to go the Settlement Website and answer a few simple questions.* If you do so, this will ensure that you get all of the Expedia Settlement Credit to which you are entitled under the Settlement, including Expedia Settlement Credit for reservations you may have made using an email address that is no longer valid.

## **6. HOW CAN I USE MY EXPEDIA SETTLEMENT CREDIT?**

If you do not make a cash election, you will receive an email advising you of the amount of your Expedia Settlement Credit; the email will also tell you how to use the Expedia Settlement Credit and will inform you of the expiration date of the Expedia Settlement Credit (which will be one year after the date of the email advising you of the amount of the Expedia Settlement Credit). Your Expedia Settlement Credit can be used for hotel reservations for "Expedia Special Rate" or "ESR" hotels, which constitute the majority of hotel reservations offered by Expedia. You may also use Expedia Settlement Credit for "package" reservations that include a hotel reservation. When you use your Expedia Settlement Credit, any remainder of the Expedia Settlement Credit will be available for your use until the Expedia Settlement Credit expires. When you use Expedia Settlement Credit, you will pay the same prices as customers who do not have Expedia Settlement Credit or who choose to pay in regular currency.

## **7. WHAT ARE THE REASONS FOR SETTLEMENT?**

Plaintiffs' Counsel believe that this Settlement is fair and reasonable to the Members of the Class. They have reached this conclusion for several reasons. **First**, if the Settlement is approved, Class Members will receive a significant recovery equaling a very high percentage of the maximum damages they could have obtained after success on the remaining claims at trial and on appeal. **Second**, the Settlement will allow all those Class Members who choose to do so to receive cash payments. **Third**, the Settlement will allow Class Members to receive those benefits now, rather than after years of additional litigation of uncertain result.

Expedia, while continuing to deny all allegations of wrongdoing and disclaiming any liability with respect to any and all claims, considers it desirable to resolve this litigation consistent with the terms of the Settlement, in order to avoid further expense, inconvenience, and interference with its ongoing business operations, and to dispose of burdensome litigation, and therefore has determined that settlement of this litigation under the terms of the Settlement is in its best interest.

**8. WHO REPRESENTS THE CLASS?**

**A. Plaintiffs' Counsel**

The Court appointed the following law firm as Lead Class Counsel ("Plaintiffs' Counsel"):

Steve W. Berman  
Andrew M. Volk  
HAGENS BERMAN SOBOL SHAPIRO LLP  
1301 Fifth Avenue, Suite 2900  
Seattle, WA 98101

**B. Named Plaintiffs**

The following individuals are the Named Plaintiffs and Class representatives:

Michelle Huggins  
Jose Alba

**9. HOW WILL THE LAWYERS AND THE NAMED PLAINTIFFS BE PAID?**

On or before November 20, 2009, Plaintiffs' Counsel will file a motion for an award of attorneys' fees and expenses for Plaintiffs' Counsel. The motion will be considered by the Court at the Final Approval hearing. Any award of attorneys' fees and expenses will not exceed \$10 million, and will be paid by Expedia *in addition to* the Settlement Benefits discussed above.

The Named Plaintiffs will share in the allocation of Settlement Benefits on the same basis as all other Class Members, except that, in addition, the Named Plaintiffs may each apply to the Court for compensation up to \$7,500 as incentive awards in recognition of the benefits each has generated for the Class by coming forward and devoting time and knowledge to the prosecution of this case. The petition for incentive awards will also be considered at the Final Approval hearing, and any such amounts awarded by the Court will be paid by Expedia *in addition to* the Settlement Benefits discussed above.

**10. CAN I EXCLUDE MYSELF FROM THE CLASS?**

Yes. Read on for information about the effects of excluding yourself from this case and the procedure for excluding yourself (or "opting out") if you choose to do so.

**A. Effects Of Excluding Yourself From This Class Action**

If you opt out of this Class Action you will NOT be eligible to receive any benefits under the Settlement, and you will NOT be permitted to object to the proposed Settlement or any of its terms. You WILL retain any rights you may have to file or pursue individually, at your own expense, any claims and lawsuits against Expedia arising out of its assessment of "Tax Recovery Charges" and "Service Fees" you paid when booking hotel stays through Expedia. State laws may limit the time within which any suits must be filed. You will not be permitted to use the existence of terms of this Notice or the Settlement as evidence of any admission by Expedia regarding fault, liability, level of damages, or any similar issues.

**B. Procedure If You Elect To Opt Out**

If you do NOT want to remain a Class Member, you must complete and mail an "Opt-Out Form" to the Settlement Claims Administrator at the following address: The Garden City Group, Inc., Attn: Expedia Litigation, P.O. Box 91084, Seattle, WA 98111-9184. If you choose not to opt out, do not fill out and return an Opt-Out Form.

The Opt-Out Form must be postmarked on or before November 11, 2009. The date of the postmark on the return-mailing envelope shall be the exclusive means used to determine whether a request for exclusion has been timely submitted.

*You may download an Opt-Out Form at the Settlement Website*  
[www.ServiceFeesSettlement.com](http://www.ServiceFeesSettlement.com).

**11. CAN I OBJECT TO THE PROPOSED SETTLEMENT, THE REQUESTED ATTORNEYS' FEES AND EXPENSES, AND/OR THE REQUESTED INCENTIVE AWARDS FOR THE NAMED PLAINTIFFS?**

Yes. If you are a Class Member and you do not exclude yourself from this litigation, you may object to the terms of the Settlement and urge that the Court not approve the Settlement. Whether or not you object to the terms of the Settlement, you may also object to the requested attorneys' fees and expenses and/or the requested incentive awards for the Named Plaintiffs. In order for any objection to be considered, you *must* file a written statement with the Court, Plaintiffs' Counsel, and Defendant's counsel at the addresses listed herein by November 11, 2009. Any objection must state your name, address, and telephone number, and you must provide documents or statements under penalty of perjury sufficient to establish your membership in the Class. In support of any objection, you must also provide a detailed statement of any objection you are asserting, including the grounds therefor, and of your reasons, if any, for requesting the opportunity to appear and be heard at the Final Approval hearing.

**12. WHEN AND WHERE IS THE FINAL APPROVAL HEARING, AND WHAT WILL OCCUR THERE?**

The Final Approval hearing will be held on December 1, 2009, at 10:00 a.m., before the Honorable Monica J. Benton, at King County Superior Court, Maleng Regional Justice Center, 401 Fourth Avenue North, Kent, WA 98032, for the purpose of determining (a) whether the proposed Settlement is fair, reasonable and adequate and should be approved by the Court; (b) whether the Named Plaintiffs will receive incentive awards in an amount not to exceed \$7,500 each; (c) whether Plaintiffs' counsel should receive an award of attorneys' fees and costs, and the amount of any such award, not to exceed \$10 million; and (d) whether an Order of Final Judgment and Dismissal should be entered.

Any Class Member may appear at the Final Approval hearing and be heard on any of the foregoing matters, but no such person will be heard unless his, her, or its objection is made in writing and is filed with the Court, together with proof of membership in the Class and with copies of all other papers and briefs to be submitted by him, her, or it to the Court at the Final Approval hearing, no later than November 11, 2009, and showing due proof of service on Plaintiffs' Counsel:

Andrew M. Volk  
HAGENS BERMAN SOBOL SHAPIRO LLP  
1301 Fifth Avenue, Suite 2900  
Seattle, WA 98101

and upon the following counsel for Defendant:

James P. Karen, Esq.  
Jones Day  
2727 N. Harwood Street  
Dallas, TX 75201

Unless otherwise directed by the Court, any Class Member who does not make his, her, or its objection in the manner provided shall be deemed to have waived all objections to this Settlement.

**13. HOW DO I OBTAIN ADDITIONAL INFORMATION?**

This Notice contains only a summary of the terms of the proposed Settlement. A complete copy of the Settlement Agreement may be downloaded from the Settlement Website, [www.ServiceFeesSettlement.com](http://www.ServiceFeesSettlement.com). The records in this litigation (to the extent they are publicly available and not filed or lodged under seal) may be examined and copied at any time during regular office hours, and subject to customary copying fees, through the Clerk's Office of the King County Superior Court; if you wish to do so, you should contact the Clerk's Office at (206) 296-9300.

DO NOT WRITE OR TELEPHONE THE COURT, DEFENDANT, OR DEFENDANT'S ATTORNEY FOR INFORMATION.

Dated: August 10, 2009

BY ORDER OF THE SUPERIOR COURT  
IN AND FOR KING COUNTY,  
The Honorable Monica J. Benton