

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION (CINCINNATI)

THOMAS DWYER	:	Case No. 1:17-cv-00455-MRB
	:	
Individually and on behalf of all others similarly situated	:	Judge Michael R. Barrett
	:	
Plaintiff,	:	<u>UNOPPOSED MOTION FOR</u>
	:	<u>AMENDMENT OF PRELIMINARY</u>
vs.	:	<u>APPROVAL OF CLASS ACTION</u>
	:	<u>SETTLEMENT</u>
SNAP FITNESS, INC.	:	
	:	
Defendant.	:	

Plaintiff Thomas Dwyer, individually and on behalf of all others similarly situated (“Dwyer” or “Named Plaintiff”) on behalf of himself and the Settlement Class, respectfully moves this Court to amend its Order Granting Preliminary Approval of Class Action Settlement (“Preliminary Approval Order”),<sup>1</sup> which was entered on March 20, 2019 [Doc. No. 29] to include minor amendments to the Settlement Agreement and Release, as well as a minor change to the class notice documents. The reasons for the amendment are more fully set forth in the accompanying memorandum of law.

Respectfully submitted,

/s/ Bryce Lenox  
Bryce A. Lenox (0069936)  
THE LAW OFFICE OF BRYCE A. LENOX, ESQ.  
LLC  
3825 Edwards Road, Suite 103  
Cincinnati, Ohio 45208  
(513) 520-9829  
[bryce@brycelenoxlaw.com](mailto:bryce@brycelenoxlaw.com)

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<sup>1</sup> Capitalized terms not defined herein are as stated in the Settlement Agreement and Release dated February 1, 2019, previously filed with Plaintiff’s Motion for Preliminary Approval.

/s/ Brian T. Giles

Brian T. Giles (0072806)

THE LAW OFFICE OF BRIAN T. GILES LLC

1470 Apple Hill Rd.

Cincinnati, Ohio 45230

(513) 379-2715

Brian@GilesFirm.com

Attorneys for Plaintiff

## MEMORANDUM IN SUPPORT

In its March 20, 2019 Order, this Court, among other things, preliminarily approved the settlement in this class action, appointed JND Legal Administration to act as Settlement Administrator, and approved the form of Class Notice, copies of which were attached to the Settlement Agreement. See Doc. No. 29. The Court's Order identified the Settlement Class as follows:

(a) persons who have paid a Club Enhancement Fee under a Snap Fitness membership agreement that did not mention payment of the Club Enhancement Fee (the "CEF Sub-Class");

(b) persons who have been a party to a pre-November 2017 Snap Fitness prepaid membership agreement in the state of Ohio and who either (i) canceled their membership during the Class Period while operating under that agreement, or (ii) remain current Snap Fitness members under that agreement (the "PECA Sub-Class"). For purposes of this Section, "canceled" shall mean a termination of membership in which the member did not transfer to another form of Snap Fitness membership within two days, as reflected in Defendant's business records.

"Club Enhancement Fee(s)" was defined in Section 2.12 of the Settlement Agreement as "an additional, one-time fee implemented and charged by certain Snap Fitness locations in or around April 2017 and/or April 2018."

While compiling data relating to the Class for purposes of Class Notice, Defendant Snap Fitness, Inc. learned that certain franchisees had charged Snap Fitness members a one-time fee in months other than April 2017 and/or April 2018. Moreover, those franchisees had in certain cases called the "Club Enhancement Fee" by a different name, such as an "Annual Enhancement Fee," or simply "Enhancement Fee."

To eliminate any potential confusion among Class Members as to their membership in the Class, on May 9, 2019, the parties executed an Amendment to the Settlement Agreement and Release (“Amendment”) which clarified the definition of “Club Enhancement Fee” as follows:

“‘Club Enhancement Fee(s)’ means an additional, one-time Fee or Due that included the terms: ‘Club Enhancement,’ ‘Annual Enhancement,’ ‘Annual Maintenance’ or ‘Enhancement’ that was implemented and charged by certain Snap Fitness locations in or around 2017 and/or 2018.”

Attached hereto as Exhibit 1. Thus, the Amendment clarified that the one-time fee charged was not limited to April 2017 and/or April 2018, and further identified additional names by which Snap Fitness franchisees described the fee.

In addition, in response to an inquiry from a state regulatory agency, the parties wish to clarify that the Settlement Agreement’s claims release does not preclude class members from participating in or benefiting from regulatory enforcement actions relating to the matters alleged in the Complaint. The parties therefore have added the following language to the Amendment:

The Parties also hereby agree that **Section 12.01** of the Settlement Agreement and Release is amended to include the following statement: “Nothing in this Section shall be construed to prohibit Settlement Class Members from participating in, complying with, or receiving benefits from any government or regulatory initiated enforcement action.”

The Amendment made no other changes to the Settlement Agreement.

Finally, in the course of gathering data for Class Notice, Snap Fitness determined that some Snap Fitness members had been charged more in Club Enhancement Fees than previously known. This meant that those members were entitled to a larger recovery than the range specified in the Postcard Notice and the Email Notice, which both “estimate[] that each valid claimant will receive between approximately \$0.01 and \$50.” To accurately reflect the expected range of money that a claimant may receive, the parties have revised both the Postcard Notice and the

Email Notice to state that “[I]t is estimated that each valid claimant will receive between approximately \$0.01 and \$115.” The parties also made a similar clarification regarding the effect of the claims release on page 5 of the Long-Form Notice. The revised Notices are attached as Exhibit 2, 3 and 4.

The above changes have no substantive impact on the settlement. They simply clarify the definition of the Settlement Class, the breadth of the release, and the documents to be used for notice. As such, Plaintiff requests that the Court amend its Preliminary Approval Order to adopt the Amendment to the Settlement Agreement and Release, including the revised definition of “Club Enhancement Fee” and revised language of the release, and adopt and incorporate the revised Postcard Notice, Email Notice, and Long-Form Notice attached hereto.

Respectfully submitted,

/s/ Bryce Lenox  
Bryce A. Lenox (0069936)  
THE LAW OFFICE OF BRYCE A. LENOX, ESQ.  
LLC  
3825 Edwards Road, Suite 103  
Cincinnati, Ohio 45208  
(513) 520-9829  
[bryce@brycelenoxlaw.com](mailto:bryce@brycelenoxlaw.com)

/s/ Brian T. Giles  
Brian T. Giles (0072806)  
THE LAW OFFICE OF BRIAN T. GILES LLC  
1470 Apple Hill Rd.  
Cincinnati, Ohio 45230  
(513) 379-2715  
[Brian@GilesFirm.com](mailto:Brian@GilesFirm.com)

Attorneys for Plaintiff

**CERTIFICATE OF SERVICE**

I certify that on May 9, 2019, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system, which will send notification of such filing to counsel of record in this matter who are registered on CM/ECF.

/s/ Bryce A. Lenox  
Bryce A. Lenox

**AMENDMENT TO SETTLEMENT AGREEMENT AND RELEASE**

WHEREAS, on or about February 1, 2019, Plaintiff Thomas Dwyer and Defendant Snap Fitness, Inc. (collectively, the “Parties”) entered into a Settlement Agreement and Release;

WHEREAS, the parties desire to amend the definition of “Club Enhancement Fee” in the Settlement Agreement and Release in light of the class data that Defendant has compiled;

WHEREAS, the parties desire to clarify, but not to substantively alter, the definition of “Released Claims” in the Settlement Agreement and Release;

THEREFORE, the Parties hereby agree that **Section 2.12** of the Settlement Agreement and Release is replaced with the following language: “‘Club Enhancement Fee(s)’ means an additional, one-time Fee or Due with a label that included the terms: ‘Club Enhancement,’ ‘Annual Enhancement,’ ‘Annual Maintenance,’ or ‘Enhancement’ that was implemented and charged by certain Snap Fitness locations in or around 2017 and/or 2018.”

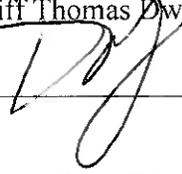
The Parties also hereby agree that **Section 12.01** of the Settlement Agreement and Release is amended to include the following statement: “Nothing in this Section shall be construed to prohibit Settlement Class Members from participating in, complying with, or receiving benefits from any government or regulatory initiated enforcement action.”

These revisions constitute the only changes to the Settlement Agreement and Release, and all other terms of the Settlement Agreement and Release remain in full effect.

IN WITNESS WHEREOF, the Parties hereto have caused this Amendment to Settlement Agreement and Release to be executed, dated as of May 9, 2019.

DATED: 5/9/19

Plaintiff Thomas Dwyer

  
\_\_\_\_\_

DATED: \_\_\_\_\_

Defendant Snap Fitness, Inc.

By:

Name: \_\_\_\_\_

Title: \_\_\_\_\_

DATED: \_\_\_\_\_

Plaintiff Thomas Dwyer

\_\_\_\_\_

DATED: \_\_\_\_\_

Defendant Snap Fitness, Inc.

By:

Name:  \_\_\_\_\_

Title: CFO \_\_\_\_\_

**What is this lawsuit about?** Thomas Dwyer filed this lawsuit against Snap Fitness, Inc. (“Snap Fitness”), alleging that Snap Fitness violated the law by charging members a Club Enhancement Fee (“CEF”) in health clubs across the country and by entering into member agreements in Ohio that didn’t comply with Ohio’s Prepaid Entertainment Contract Act (“PECA”). Snap Fitness denies that it violated the law. The parties have agreed to a settlement.

**Why did you receive this notice?** You received this notice because Snap Fitness’s records identified you as a potential member of one or both of the following classes: (1) All persons who have paid a CEF under a Snap Fitness membership agreement that did not mention payment of the CEF (“CEF Sub-Class”); and (2) All persons who have been a party to a pre-November 2017 Snap Fitness prepaid membership agreement in the state of Ohio and who either (i) canceled their membership between May 25, 2015, and the present (“Class Period”) while operating under that agreement, or (ii) remain current Snap Fitness members under that agreement (“PECA Sub-Class”).

**What does the settlement provide?** Snap Fitness will establish a settlement fund of \$2,920,000.00 and will separately pay notice and administration costs, an award of attorneys’ fees, and an incentive award to Mr. Dwyer. Anyone in the PECA Sub-Class is entitled to receive \$5. Anyone in the CEF Sub-Class is entitled to receive approximately 65% of the total amount he or she paid in CEFs. A class member may be eligible to recover under both the PECA Sub-Class and the CEF Sub-Class. It is estimated that each valid claimant will receive between approximately \$0.01 and \$115.

**What are your legal rights and options?** You have three options. First, you may do nothing, in which case you will receive a payment from the settlement fund and will release any claim(s) you have against Snap Fitness related to the claims and conduct alleged in this case. Second, you may exclude yourself from the settlement, in which case you will neither receive a share of the settlement fund nor release any claim(s) you have against Snap Fitness. Or third, you may object to the settlement. To obtain additional information about your legal rights and options, please visit [www.SnapFitnessCEFSettlement.com](http://www.SnapFitnessCEFSettlement.com), or contact the settlement administrator by writing to: Snap Fitness CEF Settlement, c/o JND Legal Administration, P.O. Box 91246, Seattle, WA 98111 or by calling 1-833-291-1645.

**When is the final fairness hearing?** The Court will hold a final fairness hearing on \_\_\_\_\_, 2019, at \_\_\_\_\_. The hearing will take place in the Potter Stewart U.S. Courthouse, 100 East Fifth Street, Cincinnati, Ohio 45202. At the final fairness hearing, the Court will consider whether the settlement is fair, reasonable, and adequate and, if so, whether it should be granted final approval. The Court will hear objections to the settlement, if any. The Court may make a decision at that time, postpone a decision, or continue the hearing.

**Front Inside**

**This is a notice of a settlement of a class action lawsuit. This is not a notice of a lawsuit against you.**

**If you paid a Snap Fitness Club Enhancement Fee in 2017 or 2018, or were a Snap Fitness member in Ohio before November 2017, you may be entitled to compensation as a result of the settlement of the class action lawsuit captioned:**

*Dwyer v. Snap Fitness, Inc.*  
No. 1:17-cv-00455 (S.D. Ohio.)

**A federal court authorized this notice. This is not a solicitation from a lawyer.**

**Please read this notice carefully. It summarily explains your rights and options to participate in a class action settlement.**

**Snap Fitness CEF Settlement**  
c/o JND Legal Administration  
P.O. Box 91246  
Seattle, WA 98111

Permit  
Info here

*Bar Code To Be Placed Here*

Postal Service: Please do not mark Barcode

**ADDRESS SERVICE REQUESTED**

<<Name>>  
<<Address>>  
<<City>>, <<State>> <<Zip>>

**Front Outside**

From: Jennifer@SnapFitnessCEFSettlement.com  
Subject: Snap Fitness CEF Proposed Class Action

**NOTICE OF PROPOSED CLASS ACTION SETTLEMENT**  
*Dwyer v. Snap Fitness, Inc.*, (Case Number 1:17-CV-00455)  
**(United States District Court for the Southern District of Ohio)**

**Claim ID: XXXXXX**

**Dear [NAME],**

This notice is to inform you of the settlement of a class action lawsuit with Snap Fitness, Inc. (“Snap Fitness”). Thomas Dwyer filed this lawsuit against Snap Fitness, alleging that Snap Fitness violated the law by charging members a Club Enhancement Fee (“CEF”) in health clubs across the country and by entering into member agreements in Ohio that didn’t comply with Ohio’s Prepaid Entertainment Contract Act (“PECA”). Snap Fitness denies that it violated the law. The parties have agreed to a settlement.

**Why did you receive this email?**

You received this email because Snap Fitness’s records identified you as a potential member of one or both of the following classes: (1) All persons who have paid a CEF under a Snap Fitness membership agreement that did not mention payment of the CEF (“CEF Sub-Class”); and (2) All persons who have been a party to a pre-November 2017 Snap Fitness prepaid membership agreement in the state of Ohio and who either (i) canceled their membership between May 25, 2015, and the present (“Class Period”) while operating under that agreement, or (ii) remain current Snap Fitness members under that agreement (“PECA Sub-Class”).

**What does the settlement provide?**

Snap Fitness will establish a settlement fund of \$2,920,000.00 and will separately pay notice and administration costs, an award of attorneys’ fees, and an incentive award to Mr. Dwyer. Anyone in the PECA Sub-Class is entitled to receive \$5. Anyone in the CEF Sub-Class is entitled to receive approximately 65% of the total amount he or she paid in CEFs. A class member may be eligible to recover under both the PECA Sub-Class and the CEF Sub-Class. It is estimated that each valid claimant will receive between approximately \$0.01 and \$115.

**What are your legal rights and options?**

You have three options. First, you may do nothing, in which case you will receive a payment from the settlement fund and will release any claim(s) you have against Snap Fitness related to the claims and conduct alleged in this case. Second, you may exclude yourself from the settlement, in which case you will neither receive a share of the settlement fund nor release any claim(s) you have against Snap Fitness. Or third, you may object to the settlement. To obtain additional information about your legal rights and options, please visit [www.SnapFitnessCEFSettlement.com](http://www.SnapFitnessCEFSettlement.com), or contact the settlement administrator by writing to: Snap Fitness CEF Settlement, c/o JND Legal Administration, P.O. Box 91246, Seattle, WA 98111 or by calling 1-833-291-1645.

**When is the final fairness hearing?**

The Court will hold a final fairness hearing on [DATE], 2019, at [time]. The hearing will take place in the Potter Stewart U.S. Courthouse, 100 East Fifth Street, Cincinnati, Ohio 45202. At the final fairness hearing, the Court will consider whether the settlement is fair, reasonable, and adequate and, if so, whether it should be granted final approval. The Court will hear objections to the settlement, if any. The Court may make a decision at that time, postpone a decision, or continue the hearing.

If you have questions, you may call the Claims Administrator toll-free at 1-833-291-1645.

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO**

THOMAS DWYER, individually and on  
behalf of all others similarly situated,

Plaintiff,

v.

SNAP FITNESS, INC.,

Defendant.

CASE NO. 1:17-cv-00455-MRB

**This is a notice of a settlement of a class action lawsuit.**

**This is not a notice of a lawsuit against you.**

**If you are or have been a Snap Fitness member and (1) you paid a Club Enhancement Fee (“CEF”) under a Snap Fitness membership agreement that did not mention payment of the CEF, and/or (2) have been a party to a pre-November 2017 Snap Fitness prepaid membership agreement in the state of Ohio and either (i) canceled your membership between May 25, 2015, and the present (“Class Period”) while operating under that agreement, or (ii) remain a current Snap Fitness member under that agreement, you are a member of the Settlement Class (“Class” or “Class Member”) and can get a payment from a class action settlement (the “Settlement”).**

**THIS NOTICE MAY AFFECT YOUR RIGHTS. PLEASE READ IT CAREFULLY.**

- On [DATE], 2019, the Hon. Michael R. Barrett of the United States District Court for the Southern District of Ohio (the “Court”) preliminarily approved the Settlement and ordered that notice be sent to Class Members of their legal rights and options to participate in this Settlement.
- A federal court has authorized this Notice. This is not a solicitation from a lawyer. Please read this Notice carefully and completely.

**YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT:**

<b>DO NOTHING</b>	If you are a Class Member and you do nothing, you will receive a payment from this Settlement but will give up your rights to sue Snap Fitness for claims related to this case.
<b>EXCLUDE YOURSELF NO LATER THAN _____, 2019</b>	If you are a Class Member and you exclude yourself from the Settlement, you will <u>not</u> receive a share of the Settlement Fund and you will <u>not</u> give up your right to sue Snap Fitness for claims related to this case.
<b>OBJECT NO LATER THAN _____, 2019</b>	If you are a Class Member, you may write to the Court about why you do not like the Settlement, but only if you have not excluded yourself from the Class.
<b>GO TO A HEARING ON _____, 2019</b>	If you are a Class Member, you may speak in Court about the fairness of the Settlement.

**INQUIRIES**

**Please do not contact the Court regarding this notice.** All inquiries concerning this Notice, the Proof of Claim, or any other questions by Class Members should be directed to:

<b>Settlement Administrator:</b>	<b>One or Both Class Counsel:</b>
Snap Fitness CEF Settlement c/o JND Legal Administration P.O. Box 91246 Seattle, WA 98111 info@SnapFitnessCEFSettlement.com 1-833-291-1645	<b>or</b>
	Bryce A. Lenox The Law Office of Bryce A. Lenox, Esq. LLC 3825 Edwards Road, Suite 103 Cincinnati, Ohio 45209 bryce@brycelenoxlaw.com
	Brian T. Giles The Law Office of Brian T. Giles, LLC 1470 Apple Hill Rd. Cincinnati, Ohio 45230 brian@gilesfirm.com

## **COMMON QUESTIONS AND ANSWERS CONCERNING THE SETTLEMENT**

### **1. Why did I get a notice?**

Notice was sent via email or U.S. mail to individuals who, according to Defendant's business records, (1) paid one or more CEFs under a Snap Fitness membership agreement that did not mention payment of the CEF; and/or (2) have been a party to a pre-November 2017 Snap Fitness prepaid membership agreement in the state of Ohio and either (i) canceled the membership during the Class Period while operating under that agreement, or (ii) remain a current Snap Fitness member under that agreement.

### **2. What is this lawsuit about?**

Thomas Dwyer filed this lawsuit against Defendant, alleging that Defendant violated the law by (1) charging a CEF to members whose Snap Fitness membership agreements did not mention the CEF and by (2) giving Snap Fitness members in Ohio insufficient notice of their cancellation rights under Ohio's Prepaid Entertainment Contract Act. Defendant denies that it violated the law. The parties have agreed to a settlement. The Settlement resolves all the claims in the Action against Defendant, as well as claims that could have been made in the Action against Defendant and Defendant's Releasees.<sup>1</sup> By entering into the Settlement, Defendant is not admitting that it did anything wrong.

### **3. Why is this a class action?**

In a class action, one or more persons and/or entities, called the Class Representative(s), sue on behalf of all persons and/or entities who have similar claims. All of these persons and/or entities are referred to collectively as a Class, and these individual persons and/or entities are known as Class Members. One court resolves all of the issues for all Class Members, except for those Class Members who exclude themselves from the Class.

The Class Representative appointed by the Court in the Action is Thomas Dwyer. The Class Representative is asking the Court to award him a service award of \$3,500 for serving as Class Representative.

### **4. Why is there a Settlement?**

The Class Representative and the Defendant do not agree regarding the merits of the Complaint's allegations. This matter has not gone to trial and the Court has not decided in favor of either the Class Representative or the Defendant. Instead, the Class Representative and the Defendant have agreed to settle the Action. The Class Representative and Class Counsel believe the Settlement is best for all Class Members because of the risks associated with continued litigation and the nature of the defenses raised by the Defendant. Even if the Class Representative were to win at trial, the Defendant could file an appeal whose outcome would be uncertain and could affect the collectability of any judgment previously obtained.

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<sup>1</sup> This notice incorporates by reference the definitions in the Settlement Agreement (the "Settlement") dated as of February 1, 2019, and all capitalized terms used, but not defined herein, shall have the same meanings as in the Settlement. The Settlement is posted on the Claims Administrator's website at [www.SnapFitnessCEFSettlement.com](http://www.SnapFitnessCEFSettlement.com).

## **5. How do I know if I am part of the Settlement?**

You are a Class Member if you (1) paid a CEF under a Snap Fitness membership agreement that did not mention payment of the CEF (the “CEF Class”), and/or (2) have been a party to a pre-November 2017 Snap Fitness prepaid membership agreement in the state of Ohio and either (i) canceled your membership between May 25, 2015, and the present (“Class Period”) while operating under that agreement, or (ii) remain a current Snap Fitness member under that agreement (the “PECA Class”).

## **6. What does the Settlement provide?**

### **(a) What is the Settlement Fund?**

The proposed Settlement calls for Defendant to create a Settlement Fund in the amount of \$2,920,000. The Settlement is subject to Court approval. A portion of the Settlement Fund will be used to pay taxes due on any interest earned by the Settlement Fund, if necessary. After any such deduction from the Settlement Fund, the amount remaining is for distribution to Class Members, with no reversion of those funds back to the Defendant.

### **(b) What can you expect to receive under the proposed Settlement?**

The amount you will receive depends on whether you are a member of the CEF Class, a member of the PECA Class, or a member of both Classes.

- Class Members in the CEF Class will receive a payment based on a percentage of the total amount they paid in CEFs. Based on Defendant’s records, the Claims Administrator estimates you might receive approximately 65% of the amount you paid in CEFs. Your share of the Settlement Fund will depend on the number of Class Members who exclude themselves from the Class.
- Class Members in the PECA Class will receive \$5.00.
- Individuals who are Class Members in both the CEF Class and the PECA Class are eligible to receive both payments identified above.

## **7. How will I receive a settlement payment?**

If you are a Class Member and do not exclude yourself from the Class, and if the Court grants final approval of the Settlement, you will receive a settlement payment in the form of a check mailed to your address at a future date. However, if you move from your current address, you will need to notify the Claims Administrator in writing and include your new address in order for the settlement payment to reach you. The Claims Administrator should be notified at:

Snap Fitness CEF Settlement  
c/o JND Legal Administration  
P.O. Box 91246  
Seattle, WA 98111  
[info@SnapFitnessCEFSettlement.com](mailto:info@SnapFitnessCEFSettlement.com)

**8. What am I giving up to get a payment or stay in the Class?**

If you are a Class Member, you will remain in the Class unless you exclude yourself. That means that if the Settlement is approved, you and all Class Members will release (agreeing never to sue, continue to sue, or be part of any other lawsuit) the Released Claims against the Defendant's Releasees.

The Defendant's Releasees are Snap Fitness, Inc., and its past and present parents, subsidiaries, franchisees, and affiliated corporations, limited liability companies, partnerships, and other entities, the predecessors and successors in interest of any of them, and all of their respective past and present officers, directors, shareholders, employees, agents, members, partners, representatives, attorneys, insurers, and assigns, in their capacities as such.

The Released Claims are any and all claims, actions, causes of action, rights or liabilities, whether arising out of federal, state, foreign, or common law, including Unknown Claims, of any Class Member, which exist or may exist against any of the Defendant's Releasees by reason of any matter, event, cause, or thing that were or could have been alleged based on the facts, circumstances, transactions, events, occurrences, acts, omissions, or failures to act alleged, or which Plaintiff requested leave to allege, in the Action. Released Claims do not include any claims relating to the enforcement of the Settlement or any claims of any person or entity who Successfully Opts Out of the Settlement.

If you are a Class Member and you do not exclude yourself from the Class, you are agreeing to give up your rights to the Released Claims, which will bar you from ever filing a lawsuit against the Defendant or any of the Defendant's Releasees for the matters covered by the Released Claims. That means you will accept a share in the Settlement Fund, whether or not you claim it, as sole compensation from the Defendant or the Defendant's Releasees for any losses you have suffered for the matters covered by the Released Claims. You will not be prohibited, however, from participating in, complying with, or receiving benefits from any government or regulatory initiated enforcement action relating to the allegations in this lawsuit.

Further detail and information about what you are agreeing to give up is detailed in the Settlement, which is available at [www.SnapFitnessCEFSettlement.com](http://www.SnapFitnessCEFSettlement.com).

**9. How do I get out of the Settlement?**

If you are a Class Member and want to keep any right you may have to sue or continue to sue the Defendant or the Defendant's Releasees for the matters covered by the Released Claims, then you must take steps to get out of the Settlement. This is called excluding yourself from—or “opting out” of—the Settlement. If you ask to be excluded, you will not receive a settlement payment, and you cannot object to the Settlement. If you ask to be excluded in conformity with this notice, you will not be legally bound by anything that happens in this Action.

To exclude yourself from the Settlement, you must send a written request to the Claims Administrator at the address below, postmarked no later than [REDACTED], 2019:

Snap Fitness CEF Settlement  
c/o JND Legal Administration  
P.O. Box 91246  
Seattle, WA 98111

Exclusion requests must: (i) be signed by the person in the Settlement Class who is requesting exclusion; (ii) include the full name and address of the person in the Settlement Class requesting exclusion; and (iii) include the following statement: “I/we request to be excluded from the settlement in the Snap Fitness CEF action.” No request for exclusion will be valid unless all of the information described above is included, and a member of the Settlement Class may opt out on an individual basis only.

**10. If I do not exclude myself, can I sue the Defendant for the same thing later?**

No. If you are a Class Member, unless you exclude yourself, you give up any right to sue the Defendant or the Defendant’s Releasees for the Released Claims. If you have a pending lawsuit, speak to your lawyer in that case immediately, since you may have to exclude yourself from this Class to continue your own lawsuit.

**11. Do I have a lawyer in this case?**

The Court has appointed Bryce A. Lenox, at The Law Office of Bryce A. Lenox, Esq. LLC, and Brian T. Giles, at The Law Office of Brian T. Giles, as Class Counsel to represent the Class Members for the purposes of this Settlement. You have the option to retain your own separate counsel at your own cost and expense. You need not retain your own separate counsel to exclude yourself from the Settlement, object, or appear at the Fairness Hearing.

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

Class Counsel have expended considerable time litigating this Action on a contingent fee basis, have paid for the expenses of the Action themselves, and have not been paid any attorneys’ fees in advance of this Settlement. Class Counsel have done so with the expectation that if they are successful in recovering money for the Class, they will receive attorneys’ fees and be reimbursed for their Litigation Expenses.

Class Counsel will file a motion asking the Court to award attorneys’ fees, reasonable Litigation Expenses, and a service award to the Class Representative in a collective amount of no more than \$350,000. Defendant has agreed to pay any amount awarded by the Court up to \$350,000 separately from the Settlement Fund, and an award of \$350,000 or less will not affect the amount that any Class Member receives. The Court may award less than \$350,000.

**13. How do I tell the Court that I do not like the Settlement?**

You can tell the Court that you do not agree with all or any part of the Settlement or Class Counsel’s motion for attorneys’ fees and Litigation Expenses, or any service awards to the Class Representative, and that you think the Court should not approve the Settlement, by mailing a letter stating that you object to the Settlement in the matter of *Dwyer v. Snap Fitness, Inc.*, Case No. 1:17-cv-00455-MRB. In the written objection, you must state your full name, address, a telephone number at which you currently can be reached, the reasons for your objection, the number of objections you have made in other class-action cases, identifying the specific cases, and whether you intend to appear at the Fairness Hearing on your own behalf or through counsel. Any documents supporting the objection must also be attached to the objection. Be sure to mail the objection to the address listed below, postmarked no later than [REDACTED], 2019, so the Court will consider your views:

Office of the Clerk  
Potter Stewart U.S. Courthouse  
Room 103  
100 East Fifth Street  
Cincinnati, Ohio 45202

**14. What is the difference between objecting and opting out?**

Objecting is simply telling the Court you do not like something about the Settlement. You can object only if you stay in the Class. Opting out of—or requesting exclusion from—the Settlement is telling the Court you do not want to be part of the Class or the Settlement. If you exclude yourself, you cannot object to the Settlement because it no longer concerns you. If you stay in the Class and object, but your objection is overruled, you will not be allowed a second opportunity to exclude yourself and you will be bound by any order issued by the Court.

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

The Court will hold a Fairness Hearing on [REDACTED], 2019 at [REDACTED] .m. before The Honorable Michael R. Barrett, United States District Judge for the Southern District of Ohio, Potter Stewart U.S. Courthouse, 100 East Fifth Street, Cincinnati, Ohio 45202.

At this hearing, the Court will consider whether the Settlement is fair, reasonable, and adequate and whether to approve the Settlement. If there are objections, the Court will consider them, and the Court will listen to people who have asked to speak at the hearing. The Court may also decide how much to award Class Counsel for attorneys' fees and Litigation Expenses, and whether to make service awards to the Class Representative.

If you wish to attend the Fairness Hearing and be heard orally in opposition to the Settlement, the application for attorneys' fees and Litigation Expenses, and/or the request for payment of service awards to the Class Representative, you must indicate in your written objection, submitted as described in response to Question No. 13, that you intend to appear at the Fairness Hearing. Your written objection must identify any witnesses you may call to testify or exhibits you intend to introduce into evidence at the Fairness Hearing.

**16. Do I have to come to the Fairness Hearing?**

No. Class Counsel will answer any questions the Court may have. You are, however, welcome to attend at your own expense. If you send an objection, you do not have to come to Court to talk about it. As long as you mail your written objection and it is received on time, the Court will consider it.

**17. What happens if I do nothing at all?**

If you do nothing and the Court approves the Settlement, you will receive a payment from the Settlement Fund.

**18. How do I get more information about this case?**

This Notice summarizes the proposed Settlement. More details are in the Settlement Agreement with the Court. You may examine the Court's file in the Clerk's Office at the United States District Court for the Southern District of Ohio Potter Stewart U.S. Courthouse, 100 East Fifth Street, Cincinnati, Ohio 45202, for more complete information about the details of the lawsuit and the proposed settlement. You may also visit the Settlement Website at [www.SnapFitnessCEFSettlement.com](http://www.SnapFitnessCEFSettlement.com), where the Settlement Agreement is posted, or call toll-free at 1-833-291-1645. Relevant case filings will be added to the Settlement Website as the Settlement proceedings continue.