

## NOTICE OF PROPOSED CLASS-ACTION SETTLEMENT

**Attention: all persons in the United States who own or lease property within 100 meters of any location that Niantic has designated, without prior consent, as a Pokémon gym or Pokéstop in the *Pokémon Go* mobile app.**

**READ THIS NOTICE AND INSTRUCTIONS CAREFULLY. A CLASS ACTION LAWSUIT MAY AFFECT YOUR LEGAL RIGHTS.**

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

A proposed settlement has been reached in a class action lawsuit about the location-based mobile game *Pokémon Go*, styled *In re Pokemon Go Nuisance Litigation*, Case No. 3:16-cv-04300-JD (N.D. Cal.). The lawsuit alleges that Niantic, Inc. (“Niantic”), the developer of *Pokémon Go*, violated state trespass and nuisance laws by placing game items called “Pokémon Gyms” and “PokéStops” on or near privately-owned property without prior permission and by enticing and/or causing *Pokémon Go* players to trespass upon such properties and/or interfere with property owners’ use and enjoyment of such properties. Niantic denies any and all wrongdoing or legal violation. The settlement, if approved by the Court, will resolve the lawsuit by requiring Niantic to follow a series of procedures, detailed below, intended to minimize interference with the rights of private property owners.

***The settlement does not provide any monetary relief, and it will not affect any claim for monetary relief that you may otherwise have against Niantic.***

If you are a Class member and the Settlement is approved by the Court, you cannot opt out from the settlement and you will be bound by the release of injunctive and equitable claims. If you wish to object to the settlement, you must do so by following the procedures outlined below.

### **Class Definition**

Solely for purposes of effectuating this settlement, Judge James Donato of the United States District Court for the Northern District of California has conditionally certified a Settlement Class for injunctive relief of:

All persons in the United States who own or lease property within 100 meters of any location that Niantic has designated, without prior consent of such property owner or lessee, as a Pokéstop or Pokémon Gym in the *Pokémon Go* mobile application.

### **Summary of the Proposed Settlement**

The settlement provides only injunctive (non-monetary) relief to the Class. If approved by the Court, it will require Niantic to follow a series of procedures outlined below.

Specifically, for at least **the next three years**, Niantic has agreed to the following in connection with *Pokémon Go* in the United States:

**1. A straightforward complaint process for complaints about alleged trespass or nuisance by Pokémon Go players:**

- a. Niantic will maintain a form on its website at <https://pokemongolive.com/en/report-location> (or a similar URL) where you can submit complaints to Niantic relating to any alleged interference with your private property rights by people you believe to be *Pokémon Go* players, and where you can request that Niantic remove from the *Pokémon Go* game any Pokémon Gym or Pokéstop located near your property that you believe may be related to such alleged interference.
- b. For complaints properly submitted to Niantic through the form listed above relating to nuisance or trespass or a request to remove a Pokéstop or Pokémon Gym, Niantic will use commercially reasonable efforts to resolve the complaints and communicate a resolution within no more than 15 days of wait time for the requestor, for 95% of cases each year.
- c. Niantic will agree to confirm compliance with these obligations by way of an audit, at Niantic's expense, conducted by an independent firm that Niantic will select. Should the audit conclude that Niantic was materially non-compliant with the settlement terms) during the audited period, a second audit will be conducted, at Niantic's expense, after 30 days' notice.
- d. For complaints where the resolution requires the removal of a Pokémon Gym or Pokéstop from the *Pokémon Go* game, Niantic will use commercially reasonable efforts to perform that removal within five business days of the communication from Niantic agreeing to such action.

**2. Removal of any Pokémon Gym or Pokéstop located on or within 40 meters of single-family residential property:**

- a. Using the form on Niantic's website listed above, you can request that any Pokémon Gym or Pokéstop located on or within 40 meters of your single-family residential property be removed from the *Pokémon Go* game. You can make this request regardless of whether you have experienced any specific interference with your private property rights by people you believe to be *Pokémon Go* players.
- b. If Niantic determines that the complained-of Pokéstop or Pokémon Gym is on or within 40 meters of your property, Niantic will use commercially reasonable efforts to perform that removal within five business days of the communication from Niantic agreeing to such action.

**3. Niantic will maintain a database of complaints so as to avoid problems recurring in the future:**

- a. Niantic will use commercially reasonable efforts to maintain a database of complaints related to nuisance or trespass and requests to remove a Pokémon Gym or Pokéstop, for a minimum of 1 (one) year from the date of the complaint.
- b. Where Niantic has previously removed a Pokémon Gym or Pokéstop from a single-family residential property, and in cases where Niantic does so in the future during the settlement period, Niantic will use commercially reasonable efforts to avoid replacing that Pokémon Gym or Pokéstop on that same single-family residential property.

**4. Niantic will honor requests for limited hours of operation for Pokémon Gyms and Pokéstops in parks:**

- a. Niantic will maintain a form on its website where public parks can request that the Hours of Operation of a specific park be applied to any Pokémon Gym or Pokéstop located within that park. Government parks authorities can also use this form to request that the “Hours of Operation” of each park within their jurisdiction be applied to any Pokémon Gyms and Pokéstops located within each park.
- b. At least once a year, Niantic will make a public post on its website reminding parks that Niantic has agreed to limit the hours of operation of Pokémon Gyms and Pokéstops within public parks upon request from the proper park administrator.

**5. Additional reminders to Pokémon Go players to be respectful of private property:**

- a. Niantic will add a new warning to the rotating warnings that appear at the launch of the game (which currently include “do not trespass while playing Pokémon GO” and “do not play Pokémon GO while driving”) that states: “Be courteous to members of real-world communities as you play Pokémon GO” or similar.
- b. For Raids which Niantic’s systems indicate will involve more than 10 participants, Niantic will use commercially reasonable efforts to cause a warning message to appear on participants’ screens before the raid begins reminding players to be courteous to others and respectful of their real-world surroundings.

**6. Additional safeguards to avoid placing new Pokémon Gyms or Pokéstops in locations that are likely to lead to issues with nuisance or trespass:**

- a. Niantic will add specific instructions to the current review form that Niantic’s user-reviewers use to evaluate new locations nominated to become Pokémon Gyms or Pokéstops that direct user-reviewers to increase scrutiny regarding any proposed locations that may be on or within 40 meters of a private single-family residential property or that appear to be in neighborhood parks. (For more

information about Niantic’s process for evaluating new locations for Pokéstops, see <https://niantic.helpshift.com/a/pokemon-go/?l=en&p=web&s=pokestops&f=what-makes-a-high-quality-pokestop>.) At a minimum, such instructions will include directions for the user-reviewer to examine the proposed new location using a variety of sources, including but not limited to mapping services maintained by private companies, such as Google Maps.

- b. After such review, Niantic will use commercially reasonable efforts to avoid placing a new Pokémon Gym or Pokéstop on any property that appears to the reviewer to be a single-family residential property.
- c. Niantic will manually review a statistically significant percentage of new locations nominated to become Pokémon Gyms or Pokéstops via a Niantic employee or contractor for the principal purpose of trying to avoid placing new Pokémon Gyms or Pokéstops in locations that are more likely to lead to issues with nuisance or trespass.

**7. Class Counsel available to assist with further disputes:**

- a. For a period of two years after the Court approves the settlement, Class Members who have already gone through Niantic’s customer service process can contact Class Counsel using the information provided below or at [pokemongosettlement@pomlaw.com](mailto:pokemongosettlement@pomlaw.com) with any issues they experience with the processes outlined in this section.

**Attorneys’ Fees**

The attorneys at Pomerantz LLP, who represent the Class (“Class Counsel”), intend to seek \$4 million in attorneys’ fees and expenses for their work on the case. These amounts, to the extent awarded by the Court, will be paid by Defendant separate and apart from the other relief provided by the settlement. Class Counsel also intend to request service awards of \$2,500 for each of the eleven named plaintiffs who will serve as class representatives for their time and effort working on this case for the benefit of the Class. Class Counsels’ motion for attorneys’ fees and costs will be available after **June 13, 2019** by visiting [www.pokemongopropertysettlement.com](http://www.pokemongopropertysettlement.com) or by contacting Class Counsel (contact information below).

**Effect of the Settlement on the Rights of Class Members**

If the Settlement is approved by the Court, all Class Members will release and forever discharge claims for injunctive or equitable relief that were or could have had been brought against Niantic arising out of *Pokémon Go*, the design of *Pokémon Go*, or the locations of Pokémon, Pokéstops, or Pokémon Gyms in *Pokémon Go*.

**The Settlement will only release claims for equitable or injunctive relief; it will not release any rights any Class Member may otherwise have to sue Niantic for money damages.**

**Class members cannot opt out from the Settlement.** If you are a Class member and the Settlement is approved by the Court, you will be bound by the release of injunctive and/or equitable claims. In other words, if you want to preserve your right to sue Niantic individually on similar grounds in the future, you must object to the Settlement as described below.

### **How to Comment on or Object to the Settlement**

You have the right to file an objection to the settlement. You can't ask the Court to order a different settlement; the Court can only approve or reject the settlement. If the Court denies approval, the proposed settlement will not take effect and the lawsuit will continue. If that is what you want to happen, you must object.

Any objection to the proposed settlement must be in writing and sent only to the Court. If you file a timely written objection, you may, but are not required to, appear at the Final Approval Hearing, either in person or through your own attorney. If you appear through your own attorney, you are responsible for hiring and paying that attorney. All written objections and supporting papers must (a) clearly identify the case name and number (*In re Pokemon Go Nuisance Litigation*, Case Number 3:16-cv-04300-JD), (b) be submitted to the Court either by mailing them to the Class Action Clerk, United States District Court for the Northern District of California, 450 Golden Gate Avenue, Box 36060, San Francisco, CA 94102-3489, or by filing them in person at any location of the United States District Court for the Northern District of California, (c) state with specificity the grounds for the comment or objection, (d) state whether the comment or objection applies only to the commentator or objector, to a specific subset of the class, or to the entire class; and (e) be postmarked no later than **July 18, 2019**.

### **Final Approval Hearing**

The District Court will hold a Final Approval Hearing to decide whether to approve the settlement. The Final Approval Hearing will be held on **August 22, 2019 at 10:00 a.m.** at the United States District Court for the Northern District of California, San Francisco Courthouse, Courtroom 11, 19th Floor, 450 Golden Gate Avenue, San Francisco, CA 94102. At this hearing, the Court will consider whether the settlement is fair, reasonable and adequate. If there are objections or requests to be heard, the Court may consider them at the hearing. The Court may also decide the amount of attorneys' fees and costs to be paid to Class Counsel.

The date of the Final Approval Hearing may change without further notice to the class. You should check the settlement website at <http://www.pokemongopropertysettlement.com> to get the most current information concerning the date of the hearing. You may also access the Court's docket in this case, for a fee, through the Court's Public Access to Court Electronic Records ("PACER") system at <https://ecf.cand.uscourts.gov/cgi-bin/DktRpt.pl?301537>.

### **Further Information**

This notice summarizes the proposed settlement. For the precise terms and conditions of the settlement, please see the Settlement Agreement available at <http://www.pokemongopropertysettlement.com> by contacting Class Counsel via the contact information provided below, by accessing the Court's docket through the PACER system at the URL provided above, or by visiting the office of the Clerk for the United States District Court for the Northern District of California, San Francisco Division, 450 Golden Gate Avenue, San Francisco, CA 94102, between 9:00 a.m. and 4:00 p.m., Monday through Friday, excluding Court holidays.

To obtain a copy of this notice in alternate accessible formats, contact Class Counsel.

**PLEASE DO NOT CONTACT THE COURT, THE COURT CLERK'S OFFICE, OR NIANTIC'S COUNSEL WITH QUESTIONS ABOUT THIS SETTLEMENT.**

Any questions must be directed to Class Counsel at **(212) 661-1100** or the address below:

Pomerantz LLP  
600 Third Avenue, 20th Floor  
New York, New York 10016  
[www.pomlaw.com](http://www.pomlaw.com)