

UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF NEW YORK

Charles v. Color Factory, LLC, Civil Action No. 1:24-cv-00322-JSR

If You Purchased Electronic Tickets to Color Factory NYC between August 29, 2022 and January 23, 2024 and Paid a Fee In Connection With Such Purchase, You May Be Entitled to a Payment From a Class Action Settlement.

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

- A settlement has been reached in a class action lawsuit claiming that Defendant, Color Factory, LLC (“Defendant”), failed to properly disclose a fee for electronic tickets to its Color Factory NYC prior to those tickets being selected for purchase, in alleged violation of New York Arts and Cultural Affairs Law (“ACAL”) § 25.07(4). Defendant denies that it violated any law, but has agreed to the settlement to avoid the uncertainties and expenses associated with continuing the case.
- You are included in the settlement if you purchased electronic tickets to Color Factory NYC between August 29, 2022 and January 23, 2024 and paid a fee in connection with such purchase. Persons included in the settlement will be eligible to receive a *pro rata* portion of the Settlement Fund, which will be based on the total amount of fees they paid.
- Read this notice carefully. Your legal rights are affected whether you act, or don’t act.

YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT	
SUBMIT A CLAIM FORM BY DECEMBER 23, 2024	This is the only way to receive a payment.
EXCLUDE YOURSELF BY SEPTEMBER 13, 2024	You will receive no benefits, but you will retain any rights you currently have to sue the Defendant about the claims in this case.
OBJECT BY SEPTEMBER 13, 2024	Write to the Court explaining why you don’t like the settlement.
GO TO THE HEARING ON NOVEMBER 6, 2024	Ask to speak in Court about your opinion of the settlement.
DO NOTHING	You won’t get a share of the settlement benefits and will give up your rights to sue the Defendant about the claims in the case.

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

BASIC INFORMATION

1. Why was this Notice issued?

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

The case is called *Charles v. Color Factory, LLC*, Civil Action No. 1:24-cv-00322-JSR. The person who sued is called the Plaintiff. The Defendant is Color Factory, LLC.

2. What is a class action?

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

Questions?

Call (888) 495-4585 Toll Free, or Visit www.ColorFactoryTicketFeeSettlement.com

3. What is this lawsuit about?

This lawsuit claims that Defendant failed to properly disclose a fee for electronic tickets to its Color Factory NYC prior to those tickets being selected for purchase, in alleged violation of ACAL § 25.07(4). Defendant denies that it violated any law, but has agreed to the settlement to avoid the uncertainties and expenses associated with continuing the case.

4. Why is there a Settlement?

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

WHO'S INCLUDED IN THE SETTLEMENT?

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

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

All individuals who purchased electronic tickets and paid a fee to gain entrance to Defendant's Place of Entertainment from Defendant's Website from August 29, 2022, and through and including January 23, 2024.

"Place of Entertainment" means Color Factory NYC.

"Defendant's Website" means <https://www.colorfactory.co/>.

THE SETTLEMENT BENEFITS

6. What does the settlement provide?

Monetary Relief. A Settlement Fund will be created totaling \$714,705.68. Payments to Settlement Class Members, and the cost to administer the settlement, the cost to inform people about the settlement, attorneys' fees (inclusive of litigation costs), and an award to the Class Representative will also come out of this fund (*see* Question 12).

Prospective Relief. Additionally, Defendant acknowledges that it has changed the purchase flow for tickets on its website to display the "Taxes & Fees" that was the subject of this litigation when the ticket is first selected for purchase and will agree to comply with New York Arts & Cultural Affairs Law § 25.07(4).

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

7. How much will my payment be?

To receive a *pro rata* share of the Settlement Fund, which will be based on the total amount of fees you paid, you **must** submit a timely and complete Claim Form **no later than December 23, 2024**. You can file a claim by clicking [here](#). Your payment will be by PayPal, Venmo, Zelle, or check, at your election. Claim Forms must be submitted online by 11:59 p.m. EST on **December 23, 2024** or postmarked and mailed by **December 23, 2024**. You can contact Class Counsel at (646) 837-7150 to inquire as to the number of claims and/or requests for exclusion that have been received to date.

8. When will I get my payment?

The hearing to consider the fairness of the settlement is scheduled for November 6, 2024. If the Court approves the settlement, eligible Settlement Class Members whose claims were approved by the Settlement Administrator will receive their payment 60 days after Defendant makes its last installment payment into the Settlement Fund. The payment will be made in the form of a check, unless you elect to receive payment by PayPal, Zelle, or Venmo, and all checks will expire and become void 180 days after they are issued.

Questions?

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HOW TO GET BENEFITS

9. How do I get a payment?

If you are a Settlement Class Member and you want to get a payment, you **must** complete and submit a Claim Form by **December 23, 2024**. Claim Forms can be found and submitted by clicking [here](#), or by printing and mailing a paper Claim Form, copies of which are available for download [here](#).

We also encourage you to submit your claim on-line. Not only is it easier and more secure, but it is completely free and takes only minutes!

REMAINING IN THE SETTLEMENT

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

If the settlement becomes Final, you will give up your right to sue the Defendant and other Released Parties for the claims being resolved by this settlement. The specific claims you are giving up against the Defendant are described in the Settlement Agreement. You will be “releasing” the Defendant and certain of its affiliates, employees and representatives as described in Section 1.33 of the Settlement Agreement. Unless you exclude yourself (*see* Question 13), you are “releasing” the claims, regardless of whether you claim your electronic payment or not. The Settlement Agreement is available through the “court documents” link on the website.

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

THE LAWYERS REPRESENTING YOU

11. Do I have a lawyer in the case?

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

12. How will the lawyers be paid?

The Defendant has agreed that Class Counsel’s attorneys’ fees and costs may be paid out of the Settlement Fund in an amount to be determined by the Court. The fee petition will seek no more than one-third of the Settlement Fund, inclusive of reimbursement of their costs and expenses; the Court may award less than this amount. Under the Settlement Agreement, any amount awarded to Class Counsel will be paid out of the Settlement Fund.

Subject to approval by the Court, Defendant has agreed that the Class Representative may be paid a service award of \$5,000 from the Settlement Fund for her services in helping to bring and resolve this case.

EXCLUDING YOURSELF FROM THE SETTLEMENT

13. How do I get out of the settlement?

To exclude yourself from the settlement, you must submit a request for exclusion by 11:59 p.m. EST on September 13, 2024. Requests for exclusion may be submitted either on the Settlement Website (via the online form accessible [here](#)) or by mailing or otherwise deliver a letter (or request for exclusion) stating that you want to be excluded from the *Charles v. Color Factory, LLC*, Civil Action No. 1:24-cv-00322-JSR settlement. Your letter or request for exclusion must also include your name, your address, a statement that you purchased electronic tickets to Color Factory NYC from Defendant’s Website, from August 29, 2022 through and including January 23, 2024;

Questions?

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and paid a convenience fee in connection with such purchase, your signature, the name and number of this case, and a statement that you wish to be excluded. If you choose to submit a request for exclusion by mail, you must mail or deliver your exclusion request, postmarked no later than September 13, 2024 to the following address:

Color Factory NYC Ticket Fee Settlement
c/o Epiq
PO Box 2790
Portland, OR 97208-2790

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

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

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

No. If you exclude yourself, you will not receive any payment from the Settlement Fund.

OBJECTING TO THE SETTLEMENT

16. How do I object to the settlement?

If you are a member of the Settlement Class, you can object to the settlement if you don't like any part of it. You can give reasons why you think the Court should not approve it. The Court will consider your views. To object, you must file with the Court a letter or brief stating that you object to the settlement in *Charles v. Color Factory, LLC*, Civil Action No. 1:24-cv-00322-JSR, and identify all your reasons for your objections (including citations and supporting evidence) and attach any materials you rely on for your objections. Your letter or brief must also include your name, your address, the basis upon which you claim to be a member of the Settlement Class, the name and contact information of any and all attorneys representing, advising, or in any way assisting you in connection with your objection, and your signature. If you, or an attorney assisting you with your objection, have ever objected to any class action settlement where you or the objecting attorney has asked for or received payment in exchange for dismissal of the objection (or any related appeal) without modification to the settlement, you must include a statement in your objection identifying each such case by full case caption. You must also mail or deliver a copy of your letter or brief to Class Counsel and Defendant's Counsel listed below.

Class Counsel will file with the Court and post on this website its request for attorneys' fees by August 30, 2024.

If you want to appear and speak at the Final Approval Hearing to object to the settlement, with or without a lawyer (explained below in answer to Question Number 20), you must say so in your letter or brief. File the objection with the Court (or mail the objection to the Court) and mail a copy of the objection to Class Counsel and Defendant's Counsel, at the addresses below, postmarked no later than **September 13, 2024**.

Court	Class Counsel	Defendant's Counsel
Daniel Patrick Moynihan United States Courthouse 500 Pearl Street, Courtroom 14B New York, NY 10007	Philip L. Fraietta Bursor & Fisher P.A. 1330 Avenue of the Americas, 32nd Floor New York, NY 10019	Beth-Ann E. Krimsky, Greenspoon Marder LLP 200 East Broward Blvd., Suite 1800 Fort Lauderdale, FL 33301

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

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

Questions?
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THE COURT'S FINAL APPROVAL HEARING

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

The Court will hold the Final Approval Hearing at 4:00 p.m. on November 6, 2024 in Courtroom 14B at the Daniel Patrick Moynihan United States Courthouse, 500 Pearl Street, New York, NY 10007. The purpose of the hearing will be for the Court to determine whether to approve the settlement as fair, reasonable, adequate, and in the best interests of the Settlement Class; to consider the Class Counsel's request for attorneys' fees and expenses; and to consider the request for an incentive award to the Class Representative. At that hearing, the Court will be available to hear any objections and arguments concerning the fairness of the settlement.

The hearing may be postponed to a different date or time without notice, so it is a good idea to check for updates by visiting the Settlement Website at www.ColorFactoryTicketFeeSettlement.com or calling (888) 495-4585. If, however, you timely objected to the settlement and advised the Court that you intend to appear and speak at the Final Approval Hearing, you will receive notice of any change in the date of the Final Approval Hearing.

19. Do I have to come to the hearing?

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

20. May I speak at the hearing?

Yes. You may ask the Court for permission to speak at the Final Approval Hearing. To do so, you must include in your letter or brief objecting to the settlement a statement saying that it is your "Notice of Intent to Appear in *Charles v. Color Factory, LLC*, Civil Action No. 1:24-cv-00322-JSR." It must include your name, address, telephone number and signature as well as the name and address of your lawyer, if one is appearing for you. Your objection and notice of intent to appear must be filed with the Court and postmarked no later than **September 13, 2024**, and be sent to the addresses listed in Question 16.

GETTING MORE INFORMATION

21. Where do I get more information?

This Notice summarizes the settlement. More details are in the Settlement Agreement. You can get a copy of the Settlement Agreement at www.ColorFactoryTicketFeeSettlement.com. You may also write with questions to:

Color Factory NYC Ticket Fee Settlement
c/o Epiq
PO Box 2790
Portland, OR 97208-2790

You can call the Settlement Administrator at (888) 495-4585 or Class Counsel at (646) 837-7150, if you have any questions. Before doing so, however, please read this full Notice carefully. You may also find additional information elsewhere on the case website.

Questions?

Call (888) 495-4585 Toll Free, or Visit www.ColorFactoryTicketFeeSettlement.com