

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

Curtis Berrien, et al. v. New Raintree Resorts
International, LLC, et al.

Case No. CV 10-03125 CW

NOTICE OF CLASS ACTION SETTLEMENT

TO: U.S. MEMBERS OF RAINTREE VACATION CLUB AND CLUB REGINA

**THIS NOTICE RELATES TO A PROPOSED SETTLEMENT OF A CLASS ACTION LAWSUIT AGAINST
NEW RAINTREE RESORTS INTERNATIONAL, LLC, RVC MEMBERS, LLC AND DOUGLAS Y. BECH.
PLEASE READ THIS NOTICE CAREFULLY. IT CONTAINS IMPORTANT INFORMATION ABOUT
YOUR RIGHTS.**

1. **PURPOSE OF THIS NOTICE.** This notice is being sent at the direction of the United States District Court, Northern District of California (“Court”) to persons residing in the United States who are members of Raintree Vacation Club or Club Regina (together the “Club”) and were charged a “Special Assessment” in or around October or November 2009. This notice is to inform you about a proposed settlement (“Settlement”) of litigation involving New Raintree Resorts International, LLC, RVC Members, LLC and Douglas Y. Bech (“Defendants”). If approved by the Court, the Settlement will fully, finally and forever resolve the litigation against Defendants on the terms and conditions summarized in this notice.
2. **THE SETTLEMENT APPROVAL HEARING IS MARCH 8, 2012.** The Settlement is described in paragraph 5 on pages 1-3 of this notice. The Court will hold a Settlement approval hearing on **March 8, 2012 at 2:00 p.m.** before the Honorable Claudia Wilken, at the U.S. District Courthouse, 1301 Clay Street, Courtroom 2, Oakland, California 94612. You may comment on the Settlement or be heard at this hearing. To comment or appear at the hearing, you must follow the procedures described in paragraph 7 on pages 3-4 of this notice. The Court may reschedule the hearing. Please consult the Court’s web page (<http://www.cand.uscourts.gov/cw>) to confirm the hearing date if you intend to appear. You may also exclude yourself from the Settlement by following the procedures described in paragraph 8 on page 4 of this notice. If you exclude yourself from the Settlement, you retain the right to sue Defendants separately about the same legal claims in this lawsuit, but you will not be able to comment on the Settlement or appear at the hearing and you will not be entitled to receive any of the Settlement benefits described in paragraph 5 on pages 1-3 of this notice.
3. **LITIGATION OVERVIEW.** In 2010, eleven members of the Club (“Plaintiffs”) filed a class action lawsuit against Defendants, U.S. District Court Case No. CV-10-03125 CW, on behalf of certain Club members. The lawsuit alleges that Defendants intentionally interfered with the Club members’ contractual relations and engaged in certain acts that violate California law. Among other things, the lawsuit challenged Defendants’ authority to charge and collect a “Special Assessment” in October or November 2009 and to suspend the membership rights of Club members who declined to pay all or some of the Special Assessment. Defendants contest and deny the alleged claims.
4. **THERE HAS BEEN NO FINDING OF WRONGDOING OR LITIGATION SUCCESS.** The Court has not decided the merits of the claims or defenses in the lawsuit. Defendants deny all liability or wrongdoing, but believe the Settlement is desirable to avoid the substantial expense, burden, risk, distraction, and uncertainty of protracted litigation. All parties believe the Settlement confers substantial benefits and is in the best interests of Club members.
5. **THE SETTLEMENT.** The terms and conditions of the proposed Settlement are set forth in the parties’ Settlement Agreement and Release, which has been filed with the Court. The following description of the terms of the proposed Settlement is a summary only:
 - A. **Reinstatement of Club Membership Rights and Waiver of Unpaid Maintenance Fees.** If the Settlement is approved, each member of the Settlement Class whose rights as a Club member were suspended due to nonpayment of Maintenance Fees and/or the Special Assessment will have his or her Club membership rights immediately reinstated upon payment in full of the 2012 Maintenance Fee within 60 days of the Settlement being implemented, provided that the member of the Settlement Class is a Club member at that time. Defendants will

provide 2012 Maintenance Fee invoices to all suspended members by the implementation date of the Settlement that will specify the date that 2012 Maintenance Fees must be paid in order for members to be reinstated. Upon such reinstatement, each member of the Settlement Class shall receive the allocation of Points (or weeks) for 2012 to which he or she is ordinarily entitled under his or her Club membership and will have one year from the date of such reinstatement to use those Points. Any unpaid amounts of past-due Maintenance Fees and the Special Assessment, and any interest, penalties or other charges related thereto, shall be waived and Defendants shall cease all collections efforts related to such nonpayment and any interest, penalties or other charges related thereto.

B. Supplemental Points. If the Settlement is approved, certain members of the Settlement Class will be entitled to receive Supplemental Points under the Settlement. Supplemental Points will be allocated to eligible members of the Settlement Class based on each member's 2010 Points (or weeks) allotment as follows, depending on the payments each member has made:

Payment(s) Made by Class Member	Supplemental Points Allocation
1. Paid both the Special Assessment and Maintenance Fees for both 2010 and 2011	1. Will receive Supplemental Points equal to Class Member's 2010 Points
2. Paid the Special Assessment, but did not pay Maintenance Fees for both 2010 and 2011	2. Will receive Supplemental Points equal to Class Member's 2010 Points
3. Paid Maintenance Fees for either (but not both) 2010 or 2011, but did not pay the Special Assessment	3. Will receive Supplemental Points equal to Class Member's 2010 Points
4. Paid Maintenance Fees for either (but not both) 2010 or 2011, plus the Special Assessment	4. Will receive Supplemental Points equal to 2x Class Member's 2010 Points
5. Paid Maintenance Fees for both 2010 and 2011, but did not pay the Special Assessment	5. Will receive Supplemental Points equal to 2x Class Member's 2010 Points

Members of the Settlement Class who paid nothing toward the Special Assessment and paid nothing toward 2010 and 2011 Maintenance Fees will not receive any Supplemental Points.

If a member of the Settlement Class made a partial payment of the Special Assessment and/or 2010 or 2011 Maintenance Fees, and is eligible to receive Supplemental Points, then Supplemental Points will be allocated to the member on a pro rata basis. Members with every-other-year memberships will receive Supplemental Points based on half their every-other-year Points allotments.

Supplemental Points will be allocated to and be available for use by eligible members of the Settlement Class within 30 days after the Settlement is implemented. Supplemental Points may be used at any Raintree Vacation Club resort at which a Settlement Class member normally has usage rights under his or her Club membership, upon a confirmed reservation, on a space available basis. Supplemental Points reservations may be made no more than 90 days in advance. There will be no charges associated with the use of Supplemental Points at any resort, except for taxes and other charges required by law or customarily charged to persons staying at the resort at which Supplemental Points are used. Except as otherwise stated herein, Supplemental Points may be used on the same basis, on the same terms and subject to payment of the same fees as each Settlement Class member's usual Points allotment. The use period for Supplemental Points will begin 60 days after the Settlement is implemented and end seven years after the first day of such use period. Members of the Settlement Class who are otherwise eligible to receive Supplemental Points, but who are not Club members at the time that the Settlement becomes effective, will receive Supplemental Points, which they may use on the same terms specified above as if they are current Club members.

C. Reporting Requirements Regarding Special Assessment Funds. Within 60 days of the Settlement being implemented, Defendants will publish a report to Club members containing a detailed description of how all Special Assessment funds have been, or will be, spent. Within one year of the Settlement being implemented, Defendants will publish a second report to Club members detailing how all Special Assessment funds have been spent.

- D. *Reporting Requirements Regarding Club Finances and Fees.*** If Defendants have not previously done so, beginning 60 days after the Settlement is implemented, Defendants will place all funds collected from Club members in a segregated and separately identifiable, interest-bearing account. Within 60 days after the Settlement is implemented, Defendants will engage an independent auditor to conduct an annual accounting of all funds collected from Club members, the uses of such funds and all Club expenses, as well as an accounting of the Club's capital improvement reserve. A detailed report certified by the auditor will be published to Club members by June 30 of each year. The report will identify, describe and itemize, using generally accepted accounting procedures and categories, all Club-related expenses and revenues, all amounts received from Club members and all expenditures of funds received from members and/or the capital improvement reserve for the previous year including specific descriptions of the uses and purposes of all expenditures. The report will also identify, but not certify, all material factors considered in any decision to increase or decrease the fees charged to Club members in the year that the report is issued and will specifically identify and describe the increases or decreases in Club expenses that are the basis for any increase or decrease in fees charged to Club members. Funds collected from Club members may be used to pay for such audit and report.
- E. *Certification Regarding Adverse Credit References and Forfeiture.*** Within ten calendar days of the Settlement being implemented, Defendants will certify to the Court that, since the announcement of the Special Assessment, no member of the Settlement Class has been or will be subject to any adverse credit reference related to nonpayment of 2010 or 2011 Maintenance Fees, the Special Assessment, or any penalties and other additional charges or fees related to such nonpayment. Within ten calendar days of the Settlement being implemented, Defendants will further certify to the Court that no member of the Settlement Class has been subject to any forfeiture of Club membership related to such nonpayment.
- F. *No Increase of Fees or Charges to Pay for the Settlement.*** No fees or other charges paid by members of the Settlement Class, including Maintenance Fees, will be increased in the future to pay any costs associated with the Settlement or its implementation.
- G. *Release of Claims.*** If the Settlement is approved, Plaintiffs, all members of the Settlement Class, Defendants, Defendants' Counsel and Class Counsel will mutually release each other from all claims that: (i) were asserted in the Action; (ii) arise from the Action; and/or (iii) arise from the Special Assessment. For a fuller description of the claims being released, please see paragraphs VII.A.1-2. of the Settlement Agreement and Release, which is available for viewing at www.GirardGibbs.com/Raintree-Settlement.asp.
- 6. CLASS COUNSEL'S FEE AND EXPENSES APPLICATION.** Plaintiffs and the Class have been represented by Girard Gibbs LLP, a law firm in San Francisco, California ("Class Counsel"). To date, Class Counsel have not been compensated for any of their work or reimbursed for any of the significant expenses incurred in the litigation. Subject to Court approval, Defendants have agreed to pay a fee and expense award in an amount not to exceed \$1.75 million to compensate Class Counsel for the work they have performed for the Class, the litigation expenses incurred, and the costs associated with the notice and administration of the Settlement, together with any amounts paid to Plaintiffs as incentive awards. Also subject to Court approval, each of the named Plaintiffs will receive a \$3,000 incentive award to be paid out of the total amount of any fee and expense award to Class Counsel. Neither Plaintiffs, the Club, nor the Class will be responsible for the payment of any of Class Counsel's fees or expenses or the incentive awards. In addition, the Settlement described above is not contingent upon the Court's award of fees or expenses to Class Counsel or the incentive awards to the Plaintiffs. Class Counsel's fee and expenses application, including the incentive awards, are subject to Court approval. You may comment on these matters, if you wish, following the procedures set forth in paragraph 7 below.
- 7. THE SETTLEMENT HEARING AND YOUR RIGHT TO BE HEARD.** You do not need to attend the Settlement approval hearing, which is currently scheduled for **March 8, 2012 at 2:00 p.m.** in Oakland, California, unless you wish to address the Court. You have the right to attend or comment on the Settlement or fee and expenses application if you want to.

If you wish to comment on or object to the Settlement or fee and expenses application, you must submit your comment **in writing**. Your written comments must: (1) include a reference at the beginning to *Berrien v. New Raintree Resorts International, LLC*, Case No. CV 10-03125 CW; (2) list your name, address, telephone number, and Club membership number; (3) be personally signed by you; (4) specifically and clearly explain your comment/objection and the basis for

it; and (5) if you intend to appear at the hearing personally or through counsel, state on the first page of your submission "Intent to Appear at Hearing." If you intend to appear at the hearing, your comment/objection must include copies of all papers, exhibits or other evidence that you will present to the Court at the hearing. If you object to the Settlement or fee and expenses application, you may be subject to discovery, including a deposition that may be held within 100 miles of your place of residence, by Class Counsel or Defendants' Counsel on ten days' notice. If you are requested to provide discovery, but do not do so, you will waive or forfeit your right to object to the Settlement and you will not be permitted to address the Court at the hearing or present any evidence or other materials.

Written comments must be **received** by the Court and attorneys listed below **no later than January 30, 2012**:

Clerk of the Court:

Clerk of the Court
U.S. District Court, Northern
District of California
1301 Clay Street
Oakland, CA 94612

Class Counsel:

Jonathan Levine or Elizabeth Pritzker
Girard Gibbs LLP
601 California Street, Suite 1400
San Francisco, CA 94108

Defendants' Counsel:

James J. Ormiston
Looper Reed & McGraw, P.C.
1300 Post Oak Blvd.
Suite 2000
Houston, TX 77056

If you do not present your comments on or objections to the Settlement in writing in compliance with these procedures, your views will not be considered, you will not be permitted to address the Court or present any evidence or other materials, and you will waive or forfeit your right to object to the Settlement.

8. **YOUR RIGHT TO EXCLUDE YOURSELF FROM THE SETTLEMENT.** You may exclude yourself, or opt-out, from the Settlement. If you exclude yourself, you will keep the right to sue Defendants, on your own, about the legal issues in this case, and you will not be legally bound by the Court's judgment in the class action. If you start your own lawsuit against Defendants, you will have to hire and pay for your own lawyer and prove your claims. If you exclude yourself from or opt-out of the Settlement, you give up the right to receive any of the Settlement benefits, comment on the Settlement or fee and expenses application and give up the right to be heard at the Settlement approval hearing.

If you wish to exclude yourself from the Settlement, you must send a letter by U.S. mail or overnight delivery to Class Counsel at the address set forth in paragraph 7 above. Your letter must: (1) include a reference at the beginning to *Berrien v. New Raintree Resorts International, LLC*, Case No. CV 10-03125 CW; (2) list your name, address, telephone number, and Club membership number; (3) be personally signed by you; and (4) specifically state that you wish to be excluded from the Settlement. Your letter must be postmarked or delivered **no later than January 30, 2012**. You may not exclude yourself on the telephone, by e-mail or by fax.

9. **MORE INFORMATION.** This notice summarizes the lawsuit and the Settlement. For more details, you may review the Settlement Agreement and Release, available online in Adobe Portable Document Format (pdf) at www.GirardGibbs.com/Raintree-Settlement.asp. The Settlement Agreement and all other papers filed in the lawsuit are available for inspection and copying during regular business hours at the office of the Clerk of the Court, United States District Court for the Northern District of California, 1301 Clay Street, Oakland, California 94612.

If you would like more information about the Settlement, you may contact Class Counsel, Girard Gibbs LLP, 601 California Street, Suite 1400, San Francisco, CA 94108; telephone number (415) 981-4800; or by email to Raintree-Settlement@GirardGibbs.com.

DO NOT CONTACT THE COURT WITH QUESTIONS ABOUT THE SETTLEMENT.

DATED: DECEMBER 15, 2011

**BY ORDER OF THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA**