

NOTICE OF PROPOSED SETTLEMENT OF CLASS ACTION LAWSUIT

ATTENTION: ALL PEOPLE WHO ARE DEAF OR HARD OF HEARING AND ATTEND NON-CONCERT EVENTS AT THE PEPSI CENTER

If you are deaf or hard of hearing and unable to use assistive listening devices and have attended a non-concert event at the Pepsi Center since November 10, 2014, you may be a member of the Class affected by this lawsuit. This is a court-authorized notice.

PLEASE READ THIS NOTICE CAREFULLY. YOUR RIGHTS MAY BE AFFECTED BY LEGAL PROCEEDINGS IN THIS CASE.

NOTICE OF CLASS ACTION

The purpose of this notice is to inform you of a proposed settlement in a pending class action lawsuit brought against Kroenke Arena Company (“KAC”) on behalf of individuals who are deaf or hard of hearing and unable to use assistive listening devices, who have attended a non-concert event at the Pepsi Center since November 10, 2014. The case is entitled *Kurlander v. Kroenke Arena Co*, No. 16-cv-02754-WYD-NYW, and is pending in the United States District Court for the District of Colorado. The proposed class action settlement (“Settlement”) is set forth in a proposed Consent Decree, which must be approved by the United States District Court.

BACKGROUND

This lawsuit alleges that KAC failed to provide effective communication for deaf and hard of hearing patrons, and thus violated the Americans with Disabilities Act, by failing to provide open captioning at non-concert events at the Pepsi Center.

This is a class action. In a class action, one or more people or organizations, called the Class Representative (in this case Kirstin Kurlander), sue on behalf of people who have similar legal claims. All of these people are a Class or Class Members. One court resolves the issues for all Class Members. United States District Judge Wiley Y. Daniel is in charge of this class action.

The Court did not decide in favor of either Plaintiff or KAC in this case. Instead, both sides agreed to a settlement. That way, they avoid the cost, delay, and uncertainty of a trial, and settlement benefits go to the Class Members. The Class Representative and Class Counsel (the attorneys appointed by the Court to represent the Class) think the proposed settlement is in the best interests of the Class Members, taking into account the benefits of the settlement, the risks of continued litigation, and the delay in obtaining relief for the Class if the litigation continues.

THE CLASS

The Class all Pepsi Center patrons who are deaf or hard of hearing and unable to hear using assistive listening devices, who have been, since November 10, 2014, or in the future will be, denied full and equal enjoyment of the goods, services, facilities, advantages, or accommodations of the Pepsi Center based on Defendant’s failure to provide open captioning of aural content during non-concert events for which the center-hung display is used.

SUMMARY OF THE PROPOSED SETTLEMENT

The following is a summary of certain provisions of the Settlement. The complete Settlement, set forth in the proposed Consent Decree, is available as set forth below.

The Settlement requires KAC to caption all aural content spoken over the public address system as well as the lyrics of songs selected at least 24 hours before the event for any non-concert event for which the center-hung display is used. KAC will provide open captioning on four LED displays mounted on the face of the third level of the Pepsi Center and generally visible throughout the arena. Such captioning is to start with the first preseason Avalanche game of the 2018 season. Each board will show two lines of captioning in a font that is at least 10 inches high. Each board will provide space for captioning that is at least 45 characters long.

KAC will provide information concerning captioning at various locations in the Pepsi Center and on relevant websites and publications of the Pepsi Center.

The Settlement requires KAC to retain a third party consultant to monitor the quality of captioning provided pursuant to the Settlement.

RELEASE OF CLAIMS

By way of summary, the Settlement resolves and releases, through its three-year term, all claims for injunctive, declaratory, or other non-monetary relief that were brought, could have been brought, or could be brought in the future relating to or arising from any of KAC's alleged actions, omissions, incidents, or conduct related its failure to provide open captioning at non-concert events. The Agreement does not provide for any monetary relief to the Class, and it does not release any damages claims that Class members may have.

REASONABLE ATTORNEYS' FEES, COSTS AND EXPENSES

The Class is represented by the Civil Rights Education and Enforcement ("Class Counsel"). KAC has agreed to pay Class Counsel their reasonable attorneys' fees, expenses, and costs in an amount not to exceed \$200,000 for work through final approval of the Settlement, and amounts not to exceed \$75,000 for work related to monitoring the settlement over the next two years. These amounts are subject to the approval by the Court.

FAIRNESS OF SETTLEMENT

The Class Representatives and Class Counsel have concluded that the terms and conditions of the proposed Settlement are fair, reasonable, adequate, and in the best interests of the Class. In reaching this conclusion, the Class Representatives and Class Counsel have considered the benefits of the settlement, the possible outcomes of continued litigation of these issues, the expense and length of continued litigation, and actual and possible appeals.

THE COURT'S FINAL APPROVAL/FAIRNESS HEARING

The Court has preliminarily approved the Settlement, and has scheduled a hearing for April 5 2018, at 10:00 A.M., in Courtroom A-1002, Alfred A. Arraj Courthouse, 901 19th Street, Denver, CO 80294 to decide whether the proposed settlement is fair, reasonable, and adequate, and should be finally approved. Although you are not required to attend, as a Class Member, you have the right to attend and be heard at this hearing, as specified in the next section below. At the hearing, the Court will consider any objections to the Settlement. Judge Daniel will listen to people who have asked to speak at the hearing. After the hearing, the Court will decide whether to approve the Settlement. The Court will also consider the agreed upon amount to award Class Counsel as reasonable attorneys' fees, costs and litigation expenses. We do not know how long this decision will take.

If the Court approves the Settlement, all Class members will be bound by the specific provisions of the Settlement with respect to claims against KAC, summarized as for injunctive relief, declaratory relief and attorneys' fees and costs under the Americans with Disabilities Act and state law relating to open captioning of non-concert events at the Pepsi Center, and any such claims will be barred for a period of three years.

OBJECTIONS TO THE SETTLEMENT

If you wish to object to the Settlement or to speak at the hearing, you must send any objection and/or notice of your intent to appear at the hearing to the Court in writing on or before February 22, 2018, and include the case number (Civil Action No. 16-cv-02754-WYD-NYW), to the following address: Clerk of the Court, US Courthouse, 901 19th Street, Denver, CO 80294.

Please note that the Court can only approve or deny the settlement. The Court cannot change the settlement's terms.

All objections must be filed with the clerk of the court on or before February 22, 2018.

Any Class Member who does not object at or before the Final Approval Hearing will be deemed to have approved the Settlement and to have waived such objections and shall not be able to make any objections (by appeal or otherwise) to the Settlement.

**IF YOU DO NOT OPPOSE THIS SETTLEMENT, YOU NEED NOT
APPEAR OR FILE ANYTHING IN WRITING.**

FURTHER INFORMATION

The terms of the Settlement are only summarized in this notice. For the precise and full terms and conditions of the settlement, please see the Settlement Agreement available at www.creeclaw.org/PepsiCenterSettlement, or by accessing the Court docket on this case through the Court's Public Access to Electronic Records (PACER) system at <https://www.pacer.gov>, or by visiting the office of the Clerk of the Court for the United States District Court for the District of Colorado, 901 19th Street, Denver, CO 80294, between 8:00 a.m. and 5:00 p.m., Monday through Friday, excluding Court holidays.

You can also obtain more detailed information about the settlement or a copy of the Settlement Agreement from Class Counsel at any of the following addresses:

Amy F. Robertson
Civil Rights Education and Enforcement Center
104 Broadway, Suite 400
Denver, CO 80203
303.757.7901
arobertson@creeclaw.org

Please do not direct questions to the District Court.

To obtain copies of this Notice or the Consent Decree in alternative accessible formats, please contact Class Counsel listed above.