

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF WESTCHESTER

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CHRISTOPHER R. LONNER, individually and :
on behalf of all others similarly situated, : Index No. 04-2246
Plaintiff, : (Scheinkman, J.)
vs. :
SIMON PROPERTY GROUP, INC. :
Defendant. :
-----X
ALIZA GOLDMAN, individually and :
on behalf of all others similarly situated, :
Plaintiff, :
vs. :
SIMON PROPERTY GROUP, INC. :
Defendant. :
-----X

NOTICE OF PENDENCY OF CLASS ACTION

TO: (A) ALL PERSONS RESIDING WITHIN THE STATE OF NEW YORK WHO HOLD OR HELD **SIMON GIFT CARDS** SOLD BETWEEN JANUARY 1, 2001 AND APRIL 29, 2005 (“GIFT CARD(S)”) THAT ARE OR WERE SUBJECT TO A DECREASE IN VALUE RESULTING FROM THE IMPOSITION BY SIMON PROPERTY GROUP, INC. (“SIMON”) OF \$2.50 MONTHLY CHARGES AUTOMATICALLY DEDUCTED BY SIMON FROM ANY GIFT CARD BALANCE REMAINING MORE THAN SIX MONTHS AFTER CARD ISSUANCE (“DORMANCY FEES”); AND (B) ALL OTHER PERSONS WHO HOLD OR HELD **SIMON GIFT CARDS** SOLD WITHIN THE STATE OF NEW YORK BETWEEN JANUARY 1, 2001 AND APRIL 29, 2005 THAT ARE OR WERE SUBJECT TO THE DORMANCY FEES DESCRIBED ABOVE (THE “CLASS”). EXCLUDED FROM THE CLASS ARE SIMON, ITS OFFICERS, DIRECTORS, AFFILIATES, SUBSIDIARIES AND SUCCESSORS.

**PLEASE READ THIS NOTICE CAREFULLY.
IT RELATES TO THE PENDENCY OF THIS LAWSUIT,
AND IT CONTAINS IMPORTANT INFORMATION
THAT MAY AFFECT YOUR LEGAL RIGHTS.**

This is a notification that you are or may be a member of a New York State class consisting of all persons who held a Simon Gift Card purchased between January 1, 2001 and April 29, 2005 that were charged Dormancy Fees in a class action against Simon in the New York Supreme Court for Westchester County. Simon’s current gift card program is not affected by this lawsuit.

The purpose of this Notice is to explain to you:

1. What the Lawsuit is about.
2. The Certified Class, and Your Rights as a Class Member.
3. Further Court Proceedings.
4. How to Get More Information.

1. What the Lawsuit Is About

Plaintiffs Christopher R. Lonner and Aliza Goldman (“Plaintiffs”) have asserted claims against Simon in connection with Simon’s practice of automatically deducting monthly Dormancy Fees of \$2.50 from any Gift Card balance remaining more than six months after the Gift Card was issued. Plaintiffs allege that, under New York law, Simon’s practice of deducting the Dormancy Fees was deceptive, caused Simon to be unjustly enriched, and breached the duty of good faith and fair dealing. The lawsuit also alleges that the term regarding the Dormancy Fees in the Cardholder Agreement and on the Gift Card was not legally enforceable. Among other things, Plaintiffs specifically allege that the Dormancy Fee term in the Cardholder Agreement and on the Gift Card was in a print size too small to be enforceable under New York law, and that the placement of the Dormancy Fee term and the general description of the Dormancy Fees in a print size of less than 8 points and not clear and legible on the cardboard sleeve that accompanied the Simon Gift Card and on the back of the Simon Gift Card was a violation of New York law.

Simon has denied and continues to deny the allegations made by Plaintiffs, and has asserted affirmative defenses. Simon alleges that each Simon Gift Card contained a disclosure that a \$2.50 monthly fee would be charged beginning with the seventh month from the month of purchase on the back of the Card and on the cardboard sleeve included with each card sold. In addition, Simon alleges that the fee was disclosed in numerous other ways. Furthermore, Simon contends that neither of the Plaintiffs was deceived or sustained any damage as a result of the fees charged under the Simon Gift Card program.

The Court has made no determination on the merits of Plaintiffs’ claims or Simon’s defenses.

2. The Certified Class, and Your Rights as a Class Member

By Decision and Order dated June 25, 2009, the New York Supreme Court, Westchester County, granted Plaintiffs' motion for class certification. Plaintiffs' motion sought to certify the following Class:

(A) All persons (excluding defendant Simon Property Group, Inc., its officers, directors, affiliates, subsidiaries and successors (collectively "Simon")) residing within the State of New York who hold or held Simon Gift Cards sold on or before April 29, 2005 ("Card(s)") that are or were subject to a decrease in value resulting from the imposition by Simon of \$2.50 monthly charges automatically deducted by Simon from any Card balance remaining more than six months after Card issuance ("Dormancy Fees"); and (B) All other persons (excluding Simon) who hold or held Cards sold within the State of New York on or before April 29, 2005 that are or were subject to the Dormancy Fees (the "Class");

In its June 25, 2009 Decision and Order, the New York Supreme Court, Westchester County, also certified Plaintiffs Christopher R. Lonner and Aliza Goldman as Class Representatives. Additionally, the Court certified the following Class Counsel for Plaintiffs and the Class:

LAW OFFICES OF WILLIAM R. WEINSTEIN
500 Fifth Avenue, Suite 1610
New York, NY 10110
(212) 575-2205

TRIEF & OLK
150 East 58th Street, 34th Floor
New York, NY 10022
(212) 486-6060

IF YOU WISH TO REMAIN IN THE CLASS, YOU DO NOT NEED TO TAKE ANY ACTION. If you remain in the Class, you will be bound by any decision, favorable or unfavorable, in the case, and will be entitled to share in benefits, if any, that ultimately may be awarded to the Class by way of judgment or other resolution.

IF YOU DO NOT WISH TO REMAIN IN THE CLASS, THEN YOU MUST MAKE A WRITTEN REQUEST TO EXCLUDE YOURSELF. If you exclude yourself from the Class, then you will not participate in any settlement or favorable judgment or other resolution of the Lawsuit, but you also will not be bound by any unfavorable judgment. If you exclude yourself, you will be subject to applicable limitations regarding the time you have to bring your own action.

Your written request to exclude yourself must provide your name and address and a statement that you wish to be excluded from the Class in the *Lonner v. Simon Property Group, Inc.* and *Goldman v. Simon Property Group, Inc.* Lawsuit. **The exclusion request must be sent by first class mail to both Plaintiffs' Class Counsel identified above with a notation on the envelope "Exclusion Request - Simon Gift Cards," and must be postmarked no later than April 5, 2010.** If you request exclusion on behalf of anyone other than yourself, then you must describe your legal authority to do so.

If you do not request exclusion, you will be represented by Plaintiffs and Plaintiffs' Class Counsel. By remaining in the Class, you will not subject yourself to any obligation to pay the costs of the Lawsuit. All costs and expenses, including attorney's fees, will be paid if an action is successful from any recovery obtained on behalf of the Class or by Simon, as may be approved and ordered by the Court.

3. Further Court Proceedings

Motions seeking summary judgment as a matter of law on the merits of Plaintiffs' claims or Simon's defenses have been filed by the parties and are awaiting determination by the Court. Additionally, no trial is presently scheduled to decide the merits of Plaintiffs' claims. At trial or on motion, either Plaintiffs or Simon could win on the merits.

4. How to Get More Information

For more information regarding the Lawsuit, please refer to the pleadings and other papers filed in this action, which may be inspected at the Office of the Clerk, New York Supreme Court, Westchester County, 111 Dr. Martin Luther King, Jr. Blvd., White Plains, New York, 10601, during regular business hours each day.

Additional information concerning the Lawsuit, including a copy of the Plaintiffs' Amended Class Action Complaints, and the June 25, 2009 Decision and Order of the Supreme Court, Westchester County, granting Class certification, are available for your review at the website of Plaintiffs' Class Counsel, www.wweinsteinlaw.com (follow the link for Cases), and www.triefandolk.com (follow the link). Additional information is also available on Simon's website, www.simongiftcard.com.

Any questions you may have concerning the Lawsuit or the matters described in this Notice should be directed to Class Counsel by asking for William R. Weinstein of the Law Offices of William R. Weinstein, or Barbara Olk at Trief & Olk, at the addresses and phone numbers described above. **DO NOT CALL THE COURT OR SIMON.**

Dated: White Plains, New York
October 30, 2009

BY ORDER OF THE NEW YORK
SUPREME COURT, WESTCHESTER COUNTY

HONORABLE ALAN D. SCHEINKMAN