

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

SUPERIOR COURT FOR THE STATE OF ARIZONA
ARIZONA TAX COURT

SABAN RENT-A CAR, LLC; DS
RENTCO, INC.; and, PTNK, individually
and in a representative capacity,

Plaintiffs,

v.

ARIZONA DEPARTMENT OF
REVENUE, a political subdivision of the
State of Arizona; and JOHN A. GREENE,
Director of the Arizona Department of
Revenue,

Defendants,

SPORTS AND TOURISM AUTHORITY
dba THE ARIZONA SPORTS AND
TOURISM AUTHORITY, a political
subdivision of the State of Arizona,

Defendant-Intervenor.

Case No. TX 2013-000093

NOTICE OF CLASS CERTIFICATION
[STADIUM TAX II]

(Assigned to the
Honorable Christopher Whitten)

1 NOTICE IS HEREBY GIVEN THAT A CLASS HAS BEEN CERTIFIED in the above
2 entitled action. This Notice is given pursuant to Arizona Rule of Civil Procedure 23. The
3 plaintiffs are Saban Rent-A-Car, LLC; DS Rentco, Inc., and PTNK ("Plaintiffs"). Plaintiffs
4 have brought an action, individually and in a representative capacity, asserting that the car
5 rental surcharge imposed under A.R.S. § 5-839 violates the Dormant Commerce Clause of
6 the United States Constitution and Article 9, Section 14 of the Arizona Constitution (the
7 "Action"). The defendant is the Arizona Department of Revenue ("Defendant"). The
8 defendant-in-intervention is the Tourism and Sports Authority dba the Arizona Sports and
9 Tourism Authority ("Defendant-in-Intervention"). Defendant and Defendant-in-
10 Intervention have denied that this car rental surcharge violates either the United States
11 Constitution or the Arizona Constitution.

12 This notice is not an expression of any opinion by the Court as to the merits of the Action.
13 By directing that this Notice be given, the Court is not suggesting that the claims being
14 asserted by Plaintiffs are meritorious. The merits of Plaintiffs' claims will be determined in
15 the course of the proceedings. The purpose of this Notice is to inform you of the Court's
16 order certifying the class and to notify you of certain rights and responsibilities you may
17 have.

18 1. Class Certification: Pursuant to the order of the Honorable Christopher Whitten, it
19 was determined that this action shall proceed as a class action. The members of this class are
20 defined as follows:

21 All individuals and entities that have paid any taxes to the Arizona Department
22 of Revenue pursuant to A.R.S. § 5-839 that were reported under class code 153
23 of the Arizona transaction privilege tax return during the period from March
24 2008 through January 2012 (the "Class").

25 All members of the Class automatically will be included in the class unless they request to be
26 excluded. Members of the Class are entitled to the benefits of the litigation and may be
27 bound by any subsequent orders or judgments binding the Class whether favorable or
28 unfavorable.

29 2. Excluding Yourself from the Class: You will be considered a member of the Class
30 unless you request to be excluded or "opt out" of the litigation. A person who requests
31 exclusion will not be included in any judgment. If you decide to exclude yourself from the
32 class, you will remain free to pursue on your own behalf whatever legal rights you may have.

33 To be excluded from the Class, a class member must sign and submit the attached opt out
34 form stating that the class member has elected to "opt out" or desires to be excluded from
35 the Class. This request must include your name, address, and transaction privilege tax
36 license number. The request to be excluded must be postmarked on or before December 30,
37 2016, and mailed to:

38 Arizona Attorney General's Office
39 Attention: Car Rental Surcharge Class Action
40 1275 W. Washington St.
41 Phoenix, Arizona 85007

42 If you do not request exclusion, you may, if you desire, be represented by your own attorney.
43 The cost of individual representation by your own attorney will be at your own expense.

1 3. Class Counsel: Counsel for Plaintiffs and for the members of the Class are:

2 Gregory D. Hanley
3 KICKHAM HANLEY PLLC
4 300 Balmoral Centre
5 32121 Woodward Avenue
6 Royal Oak, MI 48073
7 and

8 Shawn K. Aiken
9 AIKEN SCHENK HAWKINS & RICCIARDI P.C.
10 2390 East Camelback Road, Suite 400
11 Phoenix, Arizona 85016

12 All questions or other communications concerning this notice should be sent to class
13 counsel.

14 The attorneys' fees for Plaintiffs and Class members are contingent on success. The
15 expenses that are incurred in the prosecution of this action are being advanced by Plaintiffs'
16 attorneys. If you remain a Class member, you will have no personal liability for attorneys'
17 fees and expenses in the event Plaintiffs and the Class do not prevail. If Plaintiffs and the
18 Class do prevail, recovery for the benefit of the Class will be first subject to deductions for
19 the expenses of prosecuting the litigation and attorneys' fees as may be allowed by the
20 Court. Class counsel will seek from the Court an award of reasonable attorneys' fees to be
21 paid out of the amount recovered from the class. Such fees will be determined by the Court.

22 4. Record Requests: The Arizona Department of Revenue may request documents
23 relating to the Action. As a Class member, you must preserve relevant documents and
24 provide such documents to the Department upon written request.

25 5. Discovery Obligations: You are expected to respond to any discovery requests
26 propounded by Defendant and/or Defendant-in-Intervention as part of your class member
27 obligations, with the exception of any requests successfully objected to by Plaintiffs.

28 6. Disclosure Authorization: With respect to those Class members who do not opt-out
of the class action, it may be necessary for the Department to disclose and discuss
confidential information relating to members of the Action to Class counsel. This
information may be shared with Plaintiffs and other representatives who might be engaged to
review the records on behalf of counsel. In order to disclose such information, the Class
member must complete the attached disclosure authorization form and mail it to:

Arizona Attorney General's Office
Attention: Car Rental Surcharge Class Action
1275 West Washington St.
Phoenix, Arizona 85007

7. Claims Forms: In the event that Plaintiffs and the Class prevail in this case, you may
be entitled to a refund. To analyze the amount of such refund, you will be required to
complete a claim form, which will be provided to you if and when such event occurs.

8. Change of Address: If you change your address before this case is finally resolved or
this Notice reached you at an address other than the address printed on the Notice you
should immediately notify the Arizona Attorney General's Office by letter to:

1 Arizona Attorney General's Office
2 Attention: Car Rental Surcharge Class Action
3 1275 W. Washington St.
4 Phoenix, Arizona 85007
5 Fax: (602) 542-1726

6 9. Examination of Papers: All of the above descriptions of allegations, responses and
7 other matters in this Action, are only summaries and do not include all important matters
8 relating to the action. The pleadings and other papers filed in this Action are public records
9 and are available for inspection during regular business hours at the Clerk's Office,
10 Maricopa County Superior Court Customer Service Center at 601 W. Jackson Street,
11 Phoenix, Arizona 85003. If you have any further questions with respect to this Action or
12 about this Notice, you may direct such questions to Elena Cordero, Paralegal, at Aiken
13 Schenk Hawkins & Ricciardi P.C.

14 PLEASE DO NOT TELEPHONE THE JUDGE OR THE COURT CLERK'S OFFICE.
15
16
17
18
19
20
21
22
23
24
25
26
27
28

DISCLOSURE AUTHORIZATION

Car Rental Surcharge Class Action

Saban Rent-A-Car, LLC, et. al, v. Arizona Department of Revenue

Arizona Tax Court No. TX2013-000093 [Stadium Tax II]

As a member of the class action, it may be necessary for the Department to disclose and discuss confidential information as defined under A.R.S. § 42-2001 to Class counsel. In order to disclose such information, you must complete this form and submit it to:

Arizona Attorney General's Office
Attention: Car Rental Surcharge Class Action
1275 West Washington St.
Phoenix, Arizona 85007

CLASS MEMBER

Name: _____

Address: _____

Transaction Privilege Tax License Number: _____

DISCLOSURE OF CONFIDENTIAL INFORMATION

Please select one of the two options listed below concerning the extent to which you authorize disclosure of confidential information by checking the appropriate box:

- I hereby authorize the Department to release my name and contact information to Class counsel.

- I hereby authorize the Department to disclose and discuss any and all confidential tax information relating to the class action to Class Counsel. I further understand that this information may be submitted to the Court in this action and may be shared with the Class Representative.

RECORD REQUESTS

The Department of Revenue may request documents relating to the class action. I understand that class members must preserve relevant documents and provide such documents to the Department upon written request.

SIGNATURE

I hereby certify to the Arizona Department of Revenue that I am authorized to receive and discuss any and all confidential information concerning the above-mentioned corporation(s), limited liability company(ies), trust(s), partnership(s), and/or individual(s) pursuant to A.R.S. § 42-2003(A).

SIGNATURE

DATE

PRINT NAME

TITLE

ELECTION TO OPT OUT OF CLASS ACTION
Car Rental Surcharge Class Action

ONLY COMPLETE THIS OPT OUT FORM IF YOU WANT TO OPT OUT OF THE CLASS ACTION KNOWN AS *Saban Rent-A-Car, LLC, et. al. v. Arizona Department of Revenue*, Arizona Tax Court No. TX2013-000093 [Stadium Tax II]. If you opt out, you will not be included in any judgment, whether favorable or unfavorable.

Please type or print the following identifying information:

Taxpayer Name: _____

Mailing address: _____

Transaction Privilege Tax License Number: _____

The above referenced taxpayer hereby elects to opt out and not be included in this class action.

SIGNATURE DATE

PRINT NAME

TITLE

THIS FORM MUST BE POSTMARKED TO:

Arizona Attorney General's Office
Attention: Car Rental Surcharge Class Action
1275 W. Washington St.
Phoenix, Arizona 85007

ON OR BEFORE DECEMBER 30, 2016, OR ELSE YOU WILL LOSE YOUR RIGHT TO OPT OUT OF THE ACTION.