

## **NOTICE OF CLASS ACTION SETTLEMENT**

***If you (i) own or have owned a unit in the Summit Hotel, the Shoshone Condominium Hotel, or the Village Center Condominium (together, the “Condo-Hotels”) and (ii) have participated in the Boyne rental management program on or after December 31, 2013, your rights are affected by this class action settlement if you did not previously exclude yourself from the class (opt out).***

***In addition, if you are a current owner in the Condo-Hotels, your rights are affected by this class action settlement.***

*A federal court authorized this Notice.  
This is not a solicitation from a lawyer. Please read carefully.*

This notice is to inform you of your legal rights and options in a proposed settlement in the case called *Lawrence Anderson, et al. vs. Boyne USA, Inc., et al.* (Cause No. 2:21-cv-00095-BMM),<sup>1</sup> pending in the United States District Court for the District of Montana, Butte Division.

As explained in more detail in the Agreement for Settlement and Release of All Claims (“Settlement Agreement”), which is available at [www.condohotelsettlement.com](http://www.condohotelsettlement.com), the case involves two separate classes:

**a. Federal Rule of Civil Procedure 23(b)(3) class (current and past owners who participated in Boyne’s rental management program).**

The lawsuit sought money damages for claims related to Boyne’s operation of the rental management program in the Condo-Hotels. Rule 23(b)(3) class members—those who did not previously opt out—will receive a share of settlement money based on how much Boyne charged guests in their units for breakfast and resort fees as explained in Section 6 below.

**b. Federal Rule of Civil Procedure 23(b)(2) class (current owners).**

The lawsuit also asked the Court to declare legal rights under the Condominium Declarations and Boyne USA, Inc.’s (“Boyne”) rental management agreements. The request for declaratory relief does not involve potential monetary damages. For these claims, opting out was not permitted. If you are a current owner in any of the Condo-Hotels, you are a Rule 23(b)(2) class member.

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<sup>1</sup> For the purposes of this notice, all defendants are referred to as “Boyne” or “Defendants.”

<b>YOUR LEGAL RIGHTS AND OPTIONS</b>	
<b>Do Nothing</b>	<p>If you are a Rule 23(b)(3) class member, you will receive a share of money under the settlement and be bound by the settlement and its release of claims.</p> <ul style="list-style-type: none"> <li>• Payments will be made via check and mailed to you at the address where this notice was mailed.</li> <li>• To update your address, you must visit <a href="http://www.condohotelsettlement.com">www.condohotelsettlement.com</a> and follow the instructions to notify the Settlement Administrator by June 20, 2025.</li> </ul> <p>If you are a Rule 23(b)(2) class member (i.e., a current owner), you will be bound by the settlement of the declaratory relief claims.</p>
<b>Object</b>	<p>If you are a member of either the 23(b)(2) or 23(b)(3) class (or both) and you do not believe the settlement is fair and reasonable, you may write the Court to tell it why. Written objections must be submitted to the Court by May 2, 2025. If the Court rejects your objection and approves the settlement, you will be bound by the terms of the settlement.</p>

### **BASIC INFORMATION**

#### **1. What is the purpose of this notice?**

This notice is to inform you that the Court has preliminarily approved a proposed settlement of the case and to give you information about your legal rights under the settlement. You have been identified as a class member in this case and may receive money from a settlement if you are a Rule 23(b)(3) class member.

The Court has scheduled a hearing on whether to finally approve the settlement on June 12, 2025, at 1:30 p.m. at the Mike Mansfield Federal Courthouse, 400 North Main Street, Room 263, Butte, Montana 59701. The date of the hearing may change without further notice to the class, so check the Court's Public Access to Court Electronic Records ("PACER") website or [www.condohotelsettlement.com](http://www.condohotelsettlement.com) to confirm the date and whether the date of the hearing has changed.

#### **2. What is this lawsuit about?**

In this lawsuit, several current unit owners in the Condo-Hotels (the "Plaintiffs") sued Boyne claiming that the requirement contained in Condo-Hotel Declarations that unit owners wishing to rent their units must hire Boyne as their exclusive rental manager is illegal and unenforceable. Plaintiffs also alleged that Boyne has operated the rental management program in violation of the law, has misappropriated rental revenue belonging

to class members, and has improperly used its control over the rental management program to financially benefit itself at the expense of unit owners in various ways.

Boyne denies the allegations asserted against it and denies any wrongdoing. The parties have agreed to settle the case to avoid the uncertainty and costs of trial and any potential post-trial appeal.

The judge in this case is the Honorable Brian Morris, Chief Judge of the U.S. District Court for the District of Montana.

### **3. What is a class action?**

In a class action lawsuit, one or more people or businesses called class representatives (i.e., the Plaintiffs) sue on behalf of others who have similar claims, all of whom together are a “class.” Individual class members do not have to file a lawsuit to participate in the class action or to be bound by the judgment in the class action. One court resolves the issues for everyone in the class, except for those who exclude themselves from the class.

There are several types of Rule 23 class actions, two of which are relevant here. Rule 23(b)(2) classes involve claims for injunctive or declaratory relief. Rule 23(b)(3) classes involve claims for money damages.

### **4. Who is in the settlement classes in this case?**

This case involves both Rule 23(b)(2) and Rule 23(b)(3) classes defined as follows:

- Rule 23(b)(2) class: All persons and entities, other than Defendants, that currently own one or more residential units in the Condo-Hotels, as well as any persons or entities that acquire ownership of one or more residential units in the Condo-Hotels before the Effective Date (“Effective Date” is explained in Section 6 below).
- Rule 23(b)(3) class: All persons and entities, other than Defendants, that (i) own or have owned a unit in the Condo-Hotels; (ii) have participated in Boyne’s rental management program on or after December 31, 2013; and (iii) who did not give timely notice of their election to opt out of the Rule 23(b)(3) class during the opt-out period, i.e., on or before September 20, 2024.

You are a member of one or both classes. You do not need to take any action to remain a class member if you meet any of the definitions above. We have identified the persons in the 23(b)(2) and 23(b)(3) classes from Boyne’s records. Members of the 23(b)(2) class and 23(b)(3) class will be bound by any judgment or settlement entered in this case.

## **5. Who represents the classes?**

The Court appointed the law firms of Crist, Krogh, Alke & Nord, PLLC and Goetz, Geddes & Gardner, P.C. as Class Counsel to represent class members. Contact information for the lead attorneys working on the case is listed below:

Ben Alke  
Crist, Krogh, Alke & Nord, PLLC  
209 S. Willson Ave.  
Bozeman, MT 59715  
(406) 255-0400  
balke@crislaw.com

J. Devlan Geddes  
Goetz, Geddes & Gardner, P.C.  
P.O. Box 6580  
Bozeman, MT 59771  
(406) 587-0618  
devlan@goetzlawfirm.com

If you want to be represented by your own lawyer, you are free to hire one at your own expense.

## **THE SETTLEMENT BENEFITS**

## **6. What are the benefits under the proposed settlement?**

A summary of the 23(b)(3) class and 23(b)(2) class benefits the proposed settlement provides to the class members follows.

### **Rule 23(b)(3) Class**

Defendants have agreed to pay a total of \$18,799,417.50 to settle the 23(b)(3) claims (the “maximum settlement amount”). The maximum settlement amount will be placed into an interest-bearing escrow account pending distribution to create the “settlement fund”. If you are a member of the 23(b)(3) class, you will receive a share of the settlement fund based on the amount Boyne charged guests in your unit(s) for breakfast and resort fees, after deductions discussed below. Each 23(b)(3) class member’s “settlement payment” will be determined as summarized below.

First, a forensic accountant will deduct the following amounts from the settlement fund: (i) any court-awarded attorneys’ fees (which will be no more than 33.33% of the settlement fund) and litigation costs; (ii) any court-awarded incentive awards for the class representatives (which will not exceed \$40,000 combined); and (iii) the fees and expenses for settlement administration (estimated to be approximately \$40,000).

The amount remaining after these deductions will be the “net settlement fund.” Each class member’s settlement payment will consist of a proportional share of the net settlement fund.

To calculate each class member’s proportional share, the forensic accountant will use Boyne’s records to (i) determine the amount Boyne charged guests in each 23(b)(3) class member’s unit(s) for breakfast and resort fees during the class period, and (ii) the

total amount Boyne charged for breakfast and resort fees in all 23(b)(3) class members' units during the class period. Each 23(b)(3) class member will then be assigned a decimal indicating the percentage of the total (i.e., the class member's specific figure (i) divided by figure (ii)). Each 23(b)(3) class member's decimal will then be multiplied by the net settlement fund to calculate each class member's individual settlement payment amount.

Be aware that your settlement payment is taxable, and you will receive an IRS Form 1099 relating to your payment. Class Counsel and the Court cannot provide tax advice. If you have any questions regarding any issues relating to taxes, please check with your tax professional.

### **Rule 23(b)(2) Class**

In addition to the monetary benefits, the settlement provides important benefits to current owners.

#### **A. Structure and governance benefits.**

In light of Plaintiffs' claims for declaratory and injunctive relief and allegations that various provisions of the Summit Declarations, Shoshone Declarations, and Village Center Declarations are invalid and unenforceable, the Parties have agreed to certain prospective relief to resolve the declaratory and injunctive relief claims of the Rule 23(b)(2) Settlement Class, some of which require modification of recorded instruments at issue in the Action. To implement this Settlement Agreement, the Parties stipulate to certain changes as follows, to be confirmed by the Court. Specifically:

- The Condo-Hotel Declarations will be amended to remove Boyne's right as exclusive rental manager. In particular, the following provisions will be deleted: Shoshone Declaration Art. X, Section (3)(b); Summit Declaration Art. X, Section 1; and Village Center Declaration Art. VIII, Section 8.2.
- The Condo-Hotel Declarations will also be amended to remove Boyne's right to veto amendments to the Declarations. In particular, the following provisions will be deleted: Shoshone Declaration Art. VIII, Section 4; Summit Declaration Art. VIII, Section 4; and Village Center Article XV, Section 15.5.
- The homeowners' associations ("Associations") of the Condo-Hotels are not required to use Boyne as hotel manager and are free to hire the hotel manager of their choosing, subject to certain agreed terms. Article VIII, Section 8.1 of the Village Center Declarations and Article X, Section 3 of the Summit Hotel's Declarations will be amended accordingly.
- In the Summit Hotel, Boyne will have the right to appoint one board member and otherwise shall be permitted to vote its ownership interests for other residential owners who are not Boyne employees as candidates for the five-member board. All other board members of the Associations must be elected based on a vote of the members of the Associations, except Boyne's one appointee to the Village

Center Association's board who represents Boyne's interests as a commercial owner. Further, Boyne's employees, agents, or representatives serving on any Association board will abstain from votes related to selecting a hotel operator if Boyne has submitted a proposal to serve in that role, as well as from board votes on whether to select, approve, or authorize Boyne as a rental manager. Additionally, Boyne will not participate in the Associations' votes related to expenditures of any CAPEX Contributions (as defined below), unless Boyne's ownership interests must be voted to satisfy quorum requirements, in which case Boyne will vote its interests with the majority of other unit owners. The limitations on Boyne shall not apply to any work or project under consideration by a Homeowners' Association for which less than fifty percent (50%) of the anticipated project costs are allocated from the CAPEX Contributions.

- Section 8.1 of the Village Center Declaration and Section 3 of the Summit Declaration will be amended to clarify that there is no requirement that the hotel manager and rental manager be the same entity.
- Failure to file a timely objection to the settlement will be treated as a vote in favor of amending the recorded documents as provided in this Section and as further described in Sections 4.2, 4.3, 4.4, and 4.5 of the Settlement Agreement.
- Boyne will not retaliate against any unit owners for participating in the Action or choosing to hire a rental company other than Boyne for a unit in the Condo-Hotels by banning the owners from participating in the Boyne-sponsored rental management program at the Condo-Hotels or by prohibiting access to Big Sky Resort facilities or amenities (to the extent owned or controlled by Boyne) that are open to the general public. Boyne reserves the right to enforce its rules and regulations that are generally applicable to all customers, guests, and owners at the resort.

**B. Transition period.**

Any unit owners currently renting through Boyne will remain in Boyne's rental management program until the "Effective Date" of the settlement, which means the day after final Court approval of the settlement and the entry of final judgment, provided there are no objections submitted to the settlement. If any class members file objections to the settlement, the Effective Date will be the later of: (a) 30 days after final Court approval of the settlement and the entry of final judgment if no appeals are filed; or (b) if one or more appeals are filed, then the earlier of 30 days after the last appellate court ruling affirming the Court's approval of the settlement or 30 days after the entry of a dismissal of the appeal.

For every unit owner participating in Boyne's rental management program after the Court grants final approval of the settlement and until such time that the unit owner enters into a new rental management agreement, Boyne will discontinue mandatory package breakfast and breakfast will be optional for all new guest bookings, at the guest's choice

for an additional fee. For reservations booked through Boyne’s rental management program after the Court grants final approval of the settlement and until such time that the unit owner enters into a new rental management agreement, if Boyne chooses to charge a resort fee, Boyne shall share 40% of such resort fee after the deduction of state lodging taxes with the unit owner.

Any change to the hotel operator, other than for cause, must be conducted during a shoulder season (meaning, April 15 to June 1 and October 1 to November 15) following the Association’s decision to make such a change.

Any unit owner who is presently in a rental management agreement with Boyne may terminate that rental management agreement as of the Effective Date by notifying Boyne in writing. In the event of such termination, all existing reservations booked through Boyne’s rental management program and existing as of the Effective Date will be honored by the applicable unit owner and that owner’s successor rental management agent (if any).

**C. Boyne’s CAPEX Contributions to the Associations.**

Boyne will pay a total of \$6,200,582.50 (less attorneys’ fees addressed below) in capital expenditure contributions to the Associations over the next two years (the “CAPEX Contributions”). The CAPEX Contributions will be made to the Homeowners’ Associations to benefit members of the Rule 23(b)(2) Settlement Class for the overall improvement of operations, attractiveness, and functionality of the Condo-Hotels, including to facilitate any business changes arising from the Rule 23(b)(2) structure and governance benefits (described above), among other purposes. Such payments shall be made to the Associations by April 1, 2026, and April 1, 2027, respectively. The CAPEX Contributions will be allocated to each of the three Associations pro rata based on the total number of residential units in each Condo-Hotel compared to the total number of all residential units in the three Condo-Hotels. The CAPEX Contributions for 2026 and 2027, respectively, will be \$3,100,291.25 each, less attorneys’ fees, which Boyne will pay directly to Class Counsel.

<p><b>7. What am I giving up in return for receiving the settlement benefits?</b></p>
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Rule 23(b)(3) and Rule 23(b)(2) class members fully release the Defendants, their insurers, and their affiliates from any and all claims seeking any form of relief, whether monetary, legal, or equitable in nature, arising out of or in any way related to the claims asserted in this class action lawsuit, or arising out of or relating to any terms, requirements, or benefits provided by the settlement, including but not limited to the Rule 23(b)(2) structure and governance requirements, as of the date the Court grants final approval to the class settlement. For the sake of clarity, any person or entity that timely opted-out of the Rule 23(b)(3) class does not release any claims that were asserted on behalf of the 23(b)(3) class.

## **8. How will Class Counsel be paid?**

Class Counsel will request an award of attorneys' fees of up to 33.33% of the Rule 23(b)(3) settlement fund and reimbursement of their litigation costs from the Rule 23(b)(3) settlement fund. These costs consist primarily of the amounts paid for deposition transcripts, travel for depositions, expert witness fees, Plaintiffs' portion of the mediator's fees and costs, and the costs of the prior rounds of notices sent to the classes certified for litigation. Class Counsel will also request an award of attorneys' fees up to 33.33% of the CAPEX Contributions. Class Counsel's motion for an award of fees and costs will include the final amount of fees and costs requested and the supporting law and facts. The motion will be filed with the Court by April 18, 2025, and will be available on PACER and the Settlement Administrator's website ([www.condohotelsettlement.com](http://www.condohotelsettlement.com)). The Court will determine the actual amounts to award Class Counsel for fees and costs after the final approval hearing once it has ensured the amounts are reasonable.

The Settlement Administrator will pay any court-awarded attorneys' fees and costs from the Rule 23(b)(3) settlement fund. Defendants will pay any court-awarded attorneys' fees from the CAPEX Contributions at the time those contributions are paid.

## **9. Why are the class representatives asking for incentive awards?**

In addition to the amounts they are entitled to receive by participating in the settlement, the four class representatives who brought this lawsuit will ask the Court to approve "incentive awards" for them. Incentive awards are amounts given to individuals who bring a class action to recognize the risk they took in bringing the lawsuit and the effort they put into advancing the interests of the class by doing things like answering written discovery and sitting for depositions. The four class representatives will request incentive awards of up to \$10,000 each. The motion for incentive awards will be filed with the Court by April 18, 2025, and will be available on PACER and at [www.condohotelsettlement.com](http://www.condohotelsettlement.com). The Court will decide the actual amount, if any, of the incentive award to be given to each class representative after the final approval hearing.

## **YOUR RIGHTS AND OPTIONS**

## **10. How will I receive my share of the settlement?**

If you are Rule 23(b)(3) class member, once the settlement approval process and settlement administration is finalized, you will be sent a check for your pro rata portion of the net settlement fund to the address where this notice was mailed. To update your mailing address, you must visit [www.condohotelsettlement.com](http://www.condohotelsettlement.com) and follow the instructions to notify the Settlement Administrator by June 20, 2025.

Payments will be made after the Effective Date.

If you do not cash your settlement check within 180 days after issuance, the Settlement Administrator will consider your share "unclaimed." The Settlement



Administrator will use any funds unclaimed after 180 days to make additional payments to the Associations.

If the Court grants final approval of the settlement and the settlement becomes effective, no amount of money will be returned to Boyne under any circumstances.

#### **11. Can I object to the settlement?**

You may object to the settlement. You can ask the Court to deny approval by filing an objection. You cannot ask the Court to order a different settlement; the Court can only approve or reject the settlement. If the Court denies approval, no settlement payments will be made, no CAPEX Contributions will be made, no structure and governance changes will be made, and the lawsuit will continue. If that is what you want to happen, you must object.

Failure to file a timely objection to the settlement will be treated as a vote in favor of amending the recorded documents as provided above and as further described in Sections 4.2, 4.3, 4.4, and 4.5 of the Settlement Agreement.

Any objection to the proposed settlement must be in writing. If you file a timely written objection, you may, but are not required to, appear at the final approval hearing, either in person or through your own attorney. If you appear through your own attorney, you are responsible for hiring and paying that attorney. All written objections and supporting papers must: (a) comply with the objection requirements of Section 8.4 of the Settlement Agreement; (b) clearly identify the case name and number (*Lawrence Anderson, et al. vs. Boyne USA, Inc., et al.*, No. 2:21-cv-00095-BMM); (c) be submitted to the Court either by mailing them to Mike Mansfield Federal Courthouse 400 North Main Street, Room 263, Butte, Montana 59701 or by filing them in person at any location of the United States District Court for the District of Montana; (d) be submitted to Class Counsel, Defendants' counsel, and the Settlement Administrator; and (e) be filed or postmarked on or before May 2, 2025.

**EVEN IF YOU OBJECT, YOU WILL RECEIVE YOUR SHARE OF THE SETTLEMENT FUND AND BE BOUND BY THE RELEASE OF CLAIMS IF THE COURT APPROVES THE SETTLEMENT OVER YOUR OR ANY OTHER OBJECTION.**

#### **12. What happens if I previously excluded myself from the 23(b)(3) class?**

If you previously submitted a valid request for exclusion, your previous request remains in effect, and you will not be subject to the release of claims related to the Rule 23(b)(3) class or receive any money from the settlement. If you are a current owner, you will still be bound by the settlement related to the 23(b)(2) class and the release of claims related to the Rule 23(b)(2) class upon approval of this settlement by the Court.

## **THE FINAL APPROVAL HEARING**

### **13. When and where will the Court decide whether to approve the settlement?**

The Court will hold a final approval hearing at 1:30 p.m. on June 12, 2025, at the U.S. District Court for the District of Montana, 400 North Main Street, Butte, Montana 59701, in Courtroom 263 on the 2<sup>nd</sup> floor. At the hearing, the Court will listen to anyone who wishes to speak in support or in opposition of the settlement and will consider whether the settlement is fair, reasonable, and adequate. The Court will also consider class counsel's request for attorneys' fees and costs and the request for the class representatives' incentive awards. The Court may reschedule the final approval hearing without further notice to the classes. Please check the Court's PACER system to verify the date has not changed.

WHILE YOU ARE WELCOME TO ATTEND THE FINAL APPROVAL HEARING EITHER PERSONALLY OR BY COUNSEL HIRED AT YOUR OWN EXPENSE, YOU DO NOT NEED TO APPEAR. CLASS COUNSEL WILL APPEAR AT THE HEARING ON BEHALF OF THE SETTLEMENT CLASS, INCLUDING YOU.

### **GETTING MORE INFORMATION**

This notice only summarizes the proposed settlement. You can find the Settlement Agreement by accessing the Court docket or visiting [www.condohotelsettlement.com](http://www.condohotelsettlement.com). You may access the Court docket and any other publicly filed documents in this case, for a fee, through the Court's PACER system at <https://pacer.gov>, or by visiting the office of the Clerk of Court for the United States District Court for the District of Montana between 9:00 a.m. and 4:00 p.m., Monday through Friday, excluding Court holidays.

If you have questions about the settlement process, please contact Class Counsel (contact information in Section 5, above) or the court-appointed Settlement Administrator, JND Legal Administration:

Email: andersonvboyne@jnd.legal

Mailing Address: Anderson v. Boyne USA, Inc.  
c/o JND Legal Administration  
P.O. Box 91205  
Seattle, WA 98111