

**U.S. residents who used a credit, debit, or other payment card between February 16, 2016 and July 7, 2016 at some Kimpton hotels and restaurants may be eligible for a payment from a class action settlement.**

*A court authorized this notice. This is not a solicitation from a lawyer.*

*Si desea recibir esta notificación en español, visite nuestra página web.*

- A Settlement has been reached with Kimpton Hotel & Restaurant Group, LLC (“Kimpton”) in a class action lawsuit about a data security incident that occurred between February 16, 2016 and July 7, 2016.
- From February 16, 2016 to July 7, 2016, Kimpton was the victim of a cyber-attack in which the attackers installed unauthorized malware on certain servers that processed payment cards used at some Kimpton hotels and restaurants (the “Security Incident”). Kimpton publicly announced the Security Incident on August 31, 2016. The malware used in the Security Incident searched for track data read from the magnetic stripe of payment cards as it was being routed through the affected servers. The malware primarily found track data that contained the card number, expiration date, and internal verification code, but in some instances the malware found the track data that also contains the cardholder name. For a list of affected Kimpton hotels and restaurants, go to [www.KimptonSettlement.com](http://www.KimptonSettlement.com). Subsequently this lawsuit was filed asserting claims against Kimpton relating to the Security Incident.
- The Settlement includes all residents of the United States whose payment card information was compromised as a result of the Security Incident.
- The Settlement provides payments to people who submit valid claims for out-of-pocket expenses and charges that were incurred and plausibly arose from the Security Incident, and for other extraordinary unreimbursed monetary losses.

**Your legal rights are affected even if you do nothing. Read this Notice carefully.**

YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT	
<b>Submit a Claim</b>	The only way to get a payment.
<b>Ask to be Excluded</b>	Get no payment. The only option that allows you to sue Kimpton over the claims resolved by this Settlement.
<b>Object</b>	Write to the Court about why you do not like the Settlement.
<b>Do Nothing</b>	Get no payment. Give up rights to submit a claim or bring another lawsuit against Kimpton over the Security Incident.

- These rights and options – **and the deadlines to exercise them** – are explained in this notice.
- The Court in charge of this case still has to decide whether to grant final approval of the Settlement. Payments will only be made after the Court grants final approval of the Settlement and after any appeals are resolved.

**Questions? Call 1-855-789-0900 or visit [www.KimptonSettlement.com](http://www.KimptonSettlement.com)**

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## BASIC INFORMATION

### 1. Why was this Notice issued?

The Court authorized this notice because you have a right to know about the proposed Settlement in this class action lawsuit and about all of your options before the Court decides whether to give “final approval” to the Settlement. This notice explains the legal rights and options that you may exercise before the Court decides whether to approve the Settlement.

Judge Vince G. Chhabria of the United States District Court for the Northern District of California is overseeing this case. The case is known as *Parsons v. Kimpton Hotel & Restaurant Group, LLC*, Case No. 3:16-cv-05387-VC. The person who sued is called the Plaintiff. Kimpton is called the Defendant.

### 2. What is this lawsuit about?

The lawsuit claims that Kimpton was responsible for the Security Incident that occurred and asserts claims such as breach of implied contract, negligence, and unlawful and unfair conduct under the California Unfair Competition Law. The lawsuit seeks compensation for people who had losses as a result of the Security Incident.

Kimpton denies all of the Plaintiff’s claims and says it did not do anything wrong.

### 3. Why is this lawsuit a class action?

In a class action, one or more people called “Representative Plaintiffs” sue on behalf of all people who have similar claims. All of these people together are the “Class” or “Class Members.” In this case, the Representative Plaintiff is Andrew Parsons. One court resolves the issues for all Class Members, except for those who exclude themselves from the Class.

### 4. Why is there a Settlement?

By agreeing to settle, both sides avoid the cost and risk of a trial, and people who submit valid claims will get compensation. The Class Representative and his attorneys believe the Settlement is fair, reasonable, and adequate and, thus, best for the Class and its members. The Settlement does not mean that Kimpton did anything wrong.

## WHO IS IN THE SETTLEMENT?

### 5. How do I know if I am included in the Settlement?

You are included in the Settlement Class if you reside in the United States and your payment card information was compromised as a result of the Security Incident.

Specifically excluded from the Settlement Class are: (i) Kimpton and its officers and directors; (ii) all Settlement Class Members who timely and validly request exclusion from the Settlement Class; (iii) the Judge assigned to evaluate the fairness of this settlement; and (iv) any other Person found by a court of competent jurisdiction to be guilty under criminal law of initiating, causing, aiding or abetting the criminal activity occurrence of the Security Incident or who pleads *nolo contendere* to any such charge.

## 6. What if I am not sure whether I am included in the Settlement?

If you are not sure whether you are included in the Settlement, you may call 1-855-789-0900 with questions or visit [www.KimptonSettlement.com](http://www.KimptonSettlement.com). You may also write with questions to Kimpton Settlement Administrator, PO Box 4079, Portland, OR 97208-4079.

## THE SETTLEMENT BENEFITS

### 7. What does the Settlement provide?

The Settlement will provide payments to people who submit valid claims.

There are two types of payments that are available: (1) Expense Reimbursement (Question 8) and (2) Extraordinary Expense Reimbursement (Question 9). You may submit a claim for either or both types of payments. In order to claim each type of payment, you must describe each expense and how it related to the Security Incident. You may also provide related documentation (receipts, bank statements, etc.) with your Claim Form if they are available. The Claim Form includes examples of types of expenses you may have incurred and how to document them.

### 8. What payments are available for Expense Reimbursement?

Class Members are eligible to receive reimbursement of up to \$250 (in total) for the following categories of out-of-pocket expenses resulting from the Security Incident:

- unreimbursed bank fees;
- unreimbursed card reissuance fees;
- unreimbursed overdraft fees;
- unreimbursed charges related to unavailability of funds;
- unreimbursed late fees;
- unreimbursed over-limit fees;
- long distance telephone charges;
- cell minutes (if charged by minute), Internet usage charges (if charged by the minute or by the amount of data usage and incurred solely as a result of the Security Incident), and text messages (if charged by the message and incurred solely as a result of the Security Incident);
- unreimbursed charges from banks or credit card companies;
- postage;
- interest on payday loans due to card cancelation or due to over-limit situation;
- reimbursement of up to five hours of documented lost time (at \$25 per hour) spent dealing with replacement card issues or in reversing fraudulent charges or otherwise dealing with the Security Incident, but only if at least one full hour was spent;
- an additional \$15 payment for each credit or debit card on which documented fraudulent charges were incurred that were later reimbursed;
- costs of credit report(s) purchased between February 1, 2016 and the Claims Deadline, but only if it was purchased primarily because of the Security Incident;
- costs of credit monitoring and identity theft protection (not to exceed \$80) purchased between February 1, 2016 and the Claims Deadline, but only if it was purchased primarily because of the Security Incident.

**Questions? Call 1-855-789-0900 or visit [www.KimptonSettlement.com](http://www.KimptonSettlement.com)**

## 9. What payments are available for Extraordinary Expense Reimbursement?

Class Members who had other extraordinary unreimbursed monetary out-of-pocket losses as a result of the Security Incident are eligible to make a claim for reimbursement of up to \$10,000. As part of the claim, the Class Member must show that: (1) it is an actual, documented, and unreimbursed monetary loss; (2) the loss was more likely than not caused by the Security Incident; (3) the loss occurred during the time period from February 1, 2016 through the Claims Deadline; (4) the loss is not already covered by one or more of the categories in Question 8; and (5) a reasonable effort was made to avoid or seek reimbursement for the loss (including exhaustion of all available credit monitoring insurance and identity theft insurance).

More details are provided in the Settlement Agreement, which is available at [www.KimptonSettlement.com](http://www.KimptonSettlement.com).

## HOW TO GET BENEFITS

### 10. How do I get benefits?

To ask for a payment, you must complete and submit a Claim Form. Claim Forms are available at [www.KimptonSettlement.com](http://www.KimptonSettlement.com) or by calling 1-855-789-0900. Read the instructions carefully, fill out the Claim Form, and mail it postmarked no later than **August 22, 2019** (the Claims Deadline) to:

Kimpton Settlement Claims  
PO Box 4079  
Portland, OR 97208-4079

### 11. How will claims be decided?

The Claims Administrator will initially decide whether the information provided on a Claim Form is complete and valid. The Claims Administrator may require additional information from any claimant. If the required information is not provided timely, the claim will be considered invalid and will not be paid.

If the claim is complete and the Claims Administrator denies the claim entirely or partially, the claimant will be provided an opportunity to have their claim reviewed by an impartial Claim Referee who has been appointed by the Court.

## REMAINING IN THE SETTLEMENT

### 12. Do I need to do anything to remain in the Settlement?

You do not have to do anything to remain in the Settlement, but if you want a payment you must submit a Claim Form postmarked by **August 22, 2019**.

### 13. What am I giving up as part of the Settlement?

If the Settlement becomes final, you will give up your right to sue Kimpton for the claims being resolved by this Settlement. The specific claims you are giving up against Kimpton are described in Section 1.19 of the Settlement Agreement. You will be “releasing” Kimpton and all related people or entities as described in Section 7 of the Settlement Agreement. The Settlement Agreement is available at [www.KimptonSettlement.com](http://www.KimptonSettlement.com).

**Questions? Call 1-855-789-0900 or visit [www.KimptonSettlement.com](http://www.KimptonSettlement.com)**

The Settlement Agreement describes the released claims with specific descriptions, so read it carefully. If you have any questions you can talk to the law firms listed in Question 17 for free or you can, of course, talk to your own lawyer if you have questions about what this means.

## **EXCLUDING YOURSELF FROM THE SETTLEMENT**

If you do not want a payment from this Settlement, but you want to keep the right to sue Kimpton about issues in this case, then you must take steps to get out of the Settlement Class. This is called excluding yourself from – or is sometimes referred to as “opting out” of – the Settlement Class.

### **14. If I exclude myself, can I get a payment from this Settlement?**

No. If you exclude yourself, you will not be entitled to any benefits of the Settlement, but you will not be bound by any judgment in this case.

### **15. If I do not exclude myself, can I sue Kimpton for the same thing later?**

No. Unless you exclude yourself, you give up any right to sue Kimpton for the claims that this Settlement resolves. You must exclude yourself from the Settlement Class to start your own lawsuit or to be part of any different lawsuit relating to the claims in this case. If you exclude yourself, do not submit a Claim Form to ask for a payment.

### **16. How do I exclude myself from the Settlement?**

To exclude yourself, send a letter that says you want to be excluded from the Settlement in *Parsons v. Kimpton Hotel & Restaurant Group, LLC*, Case No. 3:16-cv-05387-VC. Include your name, address, and signature. You must mail your Exclusion Request postmarked by **June 8, 2019**, to:

Kimpton Settlement Exclusions  
PO Box 4079  
Portland, OR 97208-4079

## **THE LAWYERS REPRESENTING YOU**

### **17. Do I have a lawyer in this case?**

Yes. The Court appointed the following lawyer as “Lead Counsel”: John A. Yanchunis of Morgan & Morgan Complex Litigation Group, 201 N. Franklin Street, 7th Floor, Tampa, FL 33602, and Michael Ram of Robins Kaplan, 2440 West El Camino Real, Suite 100, Mountain View, CA 94040. You will not be charged for these lawyers. If you want to be represented by your own lawyer, you may hire one at your own expense.

### **18. How will the lawyers be paid?**

Class Counsel will request the Court’s approval of an award for attorneys’ fees of up to \$800,000, inclusive of reasonable costs and expenses. Class Counsel will also request approval of an incentive award of \$5,000 for the Representative Plaintiff. Any amount that the Court awards for attorneys’ fees, costs, expenses, and an incentive award will be paid separately by Kimpton and will not reduce the amount of payments to Class Members who submit valid claims.

**Questions? Call 1-855-789-0900 or visit [www.KimptonSettlement.com](http://www.KimptonSettlement.com)**

## OBJECTING TO THE SETTLEMENT

You can tell the Court that you do not agree with the Settlement or some part of it.

### 19. How do I tell the Court that I do not like the Settlement?

You can object to the Settlement if you do not like it or some part of it. The Court will consider your views. To do so, you must file a written objection in this case, *Parsons v. Kimpton Hotel & Restaurant Group, LLC*, Case No. 3:16-cv-05387-VC, with the Clerk of the Court at the address below. This requirement may be excused upon a showing of good cause.

Your objection must state: (i) your full name, address, telephone number, and e-mail address (if any); (ii) information identifying you as a Settlement Class Member, including proof that you are a member of the Settlement Class (e.g., copy of notice, copy of original notice of the Security Incident); (iii) a written statement of all grounds for the objection, accompanied by any legal support for the objection that you believe is applicable; (iv) the identity of all counsel representing you; (v) the identity of all counsel representing you who will appear at the Final Fairness Hearing; (vi) a list of all persons who will be called to testify at the Final Fairness Hearing in support of the objection; (vii) a statement confirming whether you intend to personally appear and/or testify at the Final Fairness Hearing; (viii) your signature and the signature of your duly authorized attorney or other duly authorized representative (along with documentation setting forth such representation); (ix) a list, by case name, court, and docket number, of all other cases in which you (directly or through counsel) have filed an objection to any proposed class action settlement within the last 3 years; (x) a list, by case name, court, and docket number, of all other cases in which your counsel (on behalf of any person or entity) has filed an objection to any proposed class action settlement within the last 3 years; and (xi) a list, by case name, court, and docket number, of all other cases in which you have been a named plaintiff in any class action or served as a lead plaintiff or class representative. The Court will only require substantial compliance with the requirements for submitting an objection.

To be timely, your objection must be **filed** with the Clerk of the Court for the United States District Court for the Northern District of California no later than **June 8, 2019**. In addition, you may **mail** a copy of your objection to both Class Counsel and Defense Counsel, postmarked no later than **June 8, 2019**:

COURT	LEAD CLASS COUNSEL	DEFENSE COUNSEL
Clerk of the Court United States District Court 450 Golden Gate Avenue San Francisco, CA 94102	John A. Yanchunis Morgan & Morgan Complex Litigation Group One Tampa City Center 201 N. Franklin Street, 7 <sup>th</sup> Floor Tampa, FL 33602	Douglas L. Shively Baker & Hostetler LLP 127 Public Square Suite 2000 Cleveland, OH 44114

### 20. What is the difference between objecting and asking to be excluded?

Objecting is telling the Court that you do not like the Settlement and why you do not think it should be approved. You can object only if you do not exclude yourself from the Class. Excluding yourself is telling the Court that you do not want to be part of the Class. If you exclude yourself, you have no basis to object because the case no longer affects you.

Questions? Call 1-855-789-0900 or visit [www.KimptonSettlement.com](http://www.KimptonSettlement.com)

## THE COURT'S FAIRNESS HEARING

The Court will hold a hearing to decide whether to approve the Settlement.

### 21. When and where will the Court decide whether to approve the Settlement?

The Court will hold a Fairness Hearing at 10:00 a.m. on **June 20, 2019**, at the United States District Court for the Northern District of California located at the San Francisco Courthouse, Courtroom 4 - 17th Floor, 450 Golden Gate Avenue, San Francisco, CA 94102. The hearing may be moved to a different date or time without additional notice, so it is a good idea to check [www.KimptonSettlement.com](http://www.KimptonSettlement.com) or call 1-855-789-0900. At this hearing, the Court will consider whether the Settlement is fair, reasonable, and adequate. If there are timely objections, the Court will consider them and will listen to people who have asked to speak at the hearing if such a request has been properly made. The Court will also rule on the request for an award of attorneys' fees and reasonable costs and expenses, as well as the request for an incentive award for the Representative Plaintiff. After the hearing, the Court will decide whether to approve the Settlement. We do not know how long these decisions will take.

### 22. Do I have to attend the hearing?

No. Class Counsel will present the Settlement Agreement to the Court. You or your own lawyer are welcome to attend at your expense, but you are not required to do so. If you send an objection, you do not have to come to the Court to talk about it. As long as you filed your written objection on time with the Court and mailed it according to the instructions provided in Question 19, the Court will consider it.

### 23. May I speak at the hearing?

You may ask the Court for permission to speak at the Fairness Hearing. To do so, you must file an objection according to the instructions in Question 19, including all the information required by items (v), (vi), and (vii). Your Objection must be **filed** with the Clerk of the Court for the United States District Court for the Northern District of California no later than **June 8, 2019**. In addition, you must **mail** a copy of your objection to both Class Counsel and Defense Counsel listed in Question 19, postmarked no later than **June 8, 2019**:

## IF YOU DO NOTHING

### 24. What happens if I do nothing?

If you do nothing, you will get no benefits from this Settlement. Unless you exclude yourself, after the Settlement is granted final approval and the judgment becomes final, you will not be able to start a lawsuit, continue with a lawsuit, or be part of any other lawsuit against Kimpton about the legal issues in this case, ever again.

## GETTING MORE INFORMATION

### 25. How do I get more information?

This Notice summarizes the proposed Settlement. More details are in a Settlement Agreement. You can get a copy of the Settlement Agreement at [www.KimptonSettlement.com](http://www.KimptonSettlement.com). You may also write with questions to Kimpton Settlement Administrator, PO Box 4079, Portland, OR 97208-4079. You can also get a Claim Form at the website, or by calling the toll free number, 1-855-789-0900.

**Questions? Call 1-855-789-0900 or visit [www.KimptonSettlement.com](http://www.KimptonSettlement.com)**