

FROM THE COURTS

Judge Pauses Approval of \$725M Facebook Settlement After New Mexico AG Shows Up



SHUTTERSTOCK

At Thursday's preliminary approval hearing in the Cambridge Analytica settlement with Facebook, U.S. District Judge Vince Chhabria repeatedly sparred with Corban Rhodes, an attorney for the New Mexico Attorney General's Office.

by Amanda Bronstad

A federal judge said he was likely to approve a \$725 million privacy settlement with Facebook but wanted more time to review the class action deal after the New Mexico Attorney General's Office flagged last-minute concerns.

U.S. District Judge Vince Chhabria, who is overseeing the multidistrict litigation involving the Cambridge Analytica scandal, entered an order earlier in the week detailing questions he had about the settlement.

But the issue that received the most attention at a preliminary approval hearing on Thursday was whether class members should be notified that the settlement might release their claims in states in which attorney generals had sued Facebook, now Meta Platforms, over the same privacy issues.

That is because, in an unusual twist, a lawyer for the New Mexico Attorney General's Office had asked to appear at the hearing to flag concerns that the settlement would restrict related government actions, like his client's, particularly as it related to restitution.

"It is not my responsibility to decide the effect of this settlement, this proposed settlement, on an action brought by the New Mexico attorney general," Chhabria, in San Francisco, said at the hearing. "But it is my responsibility to make sure that issues are flagged for class members when they are trying to decide whether to opt out of the settlement or not."

'WHY ARE YOU HERE?'

Corban Rhodes, a New York partner at DiCello Levitt representing New Mexico Attorney General Raúl Torres, cited the 2018 class action guidelines in the Northern District of California in raising concerns about the settlement agreement's release.

"Facebook has an obligation to be clear about its position with the settlement agreement's impact beyond this case," he said.

But Chhabria had a more immediate question.

"I don't quite understand what you want from me in this case," he told Rhodes. "Why are you here?"

Rhodes explained that his client had no issues with the settlement's original release language, which appeared to exclude government actions, but sought clarification six weeks ago from Facebook, which, in its response earlier this week, appeared to state otherwise.

That explanation drew a rebuke from Chhabria, who also criticized Rhodes for intervening so late in the game.

"If this was a genuine concern for the state of New Mexico, you should've been here a long time ago," he said. "So stop trashing Facebook."

But Chhabria floated the idea of changing the notice to inform a class of 250 million Facebook users about the New Mexico Attorney General's case.

That issue raised eyebrows from Facebook attorney Rosemarie Ring, a San Francisco partner at Gibson, Dunn & Crutcher, and plaintiffs lawyer Derek Loeser, of Seattle's Keller Rohrback. Both attorneys had concerns about the broader impact such an unprecedented move would have on other class actions against tech companies, many of which have related attorney general actions pending against them. In addition to New Mexico, the District of Columbia Attorney General Brian Schwab has sued Facebook and CEO Mark Zuckerberg over the Cambridge Analytica scandal.

Ring said she has never heard the Northern District of California's class action guidelines interpreted in such a manner and noted that lawyers already sent notices to attorneys general as part of the Class Action Fairness Act.

"I've never seen anything like this added to the notice," she said. "That would be very confusing for consumers."

Loeser mimicked those concerns, calling the New Mexico Attorney General's intervention a "new paradigm" that could jeopardize class action settlements, many of which, like the Facebook case, are contingent on a minimum number of class members opting out.

"I have not seen this before where an attorney general has showed up in a consumer case and involved itself to suggest there needs to be a communication about the attorney general case in the consumer case," he said. "It's pretty obvious to the attorney general when there's a consumer class action. It provides relief to consumers, and attorneys general are pursuing on behalf of police powers, and the recovery is completely different."

Chhabria said he would mull that issue over before he would enter an order to approve the settlement.

"I do not have any significant concerns about this settlement agreement," he said. "That's the only issue I'll be thinking about and want to spend the time to think about it carefully before making a final decision."

Amanda Bronstad is the ALM staff reporter covering class actions and mass torts nationwide. Contact her at abronstad@alm.com.



CITY OF DORAL NOTICE OF PUBLIC HEARING

All residents, property owners and other interested parties are hereby notified of a **COUNCIL ZONING MEETING** on **March 22, 2023 beginning at 6:00 PM** to consider the proposed site plan for the property located at 2525 NW 82 Avenue. The meeting will be held at the **City of Doral, Government Center, Council Chambers located at 8401 NW 53rd Terrace, Doral, Florida, 33166.**

The City of Doral proposes to adopt the following Resolution:

RESOLUTION No. 23-

A RESOLUTION OF THE MAYOR AND THE CITY COUNCIL OF THE CITY OF DORAL, FLORIDA, APPROVING THE SITE PLAN MODIFICATION FOR EWE WAREHOUSE INVESTMENTS XXXII, LTD. FOR THE PROPERTY LOCATED AT 2525 NW 82 AVENUE, PURSUANT TO SECTION 53-184(F) OF THE CITY'S LAND DEVELOPMENT CODE; AND PROVIDING FOR AN EFFECTIVE DATE

HEARING NO.: 23-03-DOR-03

APPLICANT: EWE Warehouse Investments XXXII, LTD (the "Applicant")

PROJECT NAME: Legacy at Doral

PROPERTY OWNER: EWE Warehouse Investments XXXII, LTD

LOCATION: 2525 NW 82 Avenue, Doral, Florida 33122

FOLIO NUMBER: 35-3027-024-0010

SIZE OF PROPERTY: ±9.26 acres

FUTURE LAND USE MAP DESIGNATION: Doral Décor District

ZONING DESIGNATION: Industrial District (I) and Doral Décor Overlay District (DDOD)

REQUEST: The Applicant proposes to develop a six (6) story residential building consisting of 185 dwelling units, amenity space, and a parking structure.

LEGAL DESCRIPTION: Tract "A" of "NORTON TIRE COMPANY", according to the Plat thereof recorded in Plat Book 127, at Page 90, of the Public Records of Dade County, Florida

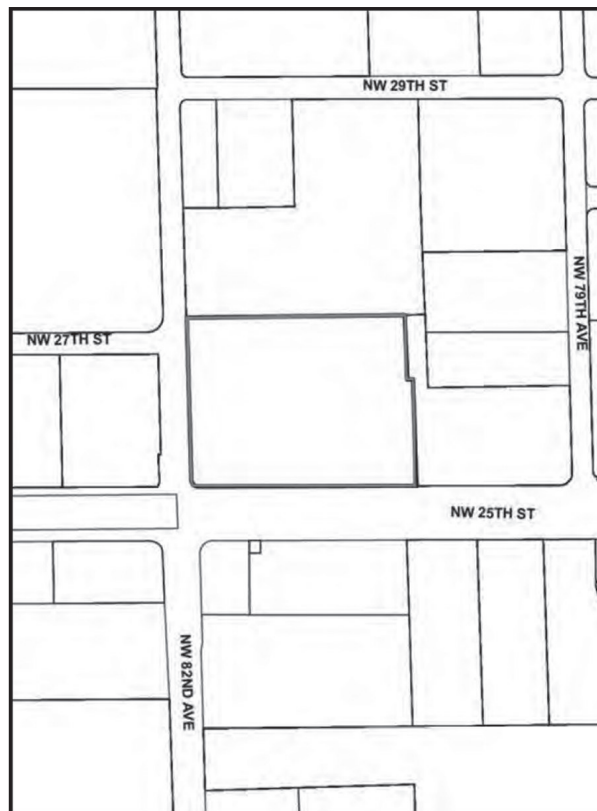
LESS:

The Westerly 2.00 feet thereof;

AND LESS:

The external area of a circular curve lying within said Tract "A", being concave to the Northeast, having a radius of 25 feet and tangent to a line 2.00 feet East of and parallel to the West Line of said Tract "A", and tangent to the South Line of said Tract "A".

Location Map



Inquiries regarding the item may be directed to the Planning and Zoning Department at 305-59-DORAL. The application file may be examined at the City of Doral *Planning and Zoning Department* located at 8401 NW 53 Terrace, Doral, FL 33166.

Pursuant to Section 286.0105, Florida Statutes, if a person decides to appeal any decisions made by the City Council with respect to any matter considered at such meeting or hearing, they will need a record of the proceedings and, for such purpose, may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based. This notice does not constitute consent by the City for introduction or admission of otherwise inadmissible or irrelevant evidence, nor does it authorize challenges or appeals not otherwise allowed by law. In accordance with the Americans with Disabilities Act, any person who are disabled and who need special accommodations to participate in this meeting because of that disability should contact the Planning and Zoning Department at 305-59-DORAL no later than three (3) business days prior to the proceeding.

Connie Diaz, MMC
City Clerk
City of Doral