NOTICE OF PENDENCY OF CLASS ACTION, PROPOSED SETTLEMENT, AND COURT APPROVAL HEARING

TO: All persons in the United States who were the users or subscribers of a cellular telephone number to which the Defendants, themselves or through a third party, made a telephone call using the ViciDial technology between June 14, 2013 and August 31, 2018 (the "Class").

THIS IS A COURT NOTICE. PLEASE READ THIS NOTICE CAREFULLY, AS THE PROPOSED SETTLEMENT (REFERRED TO AS THE "SETTLEMENT") DESCRIBED BELOW MAY AFFECT YOUR LEGAL RIGHTS AND PROVIDE YOU POTENTIAL BENEFITS.

IF YOU WISH TO RECEIVE ANY OF THE BENEFITS OF THE SETTLEMENT, YOU MUST COMPLETE AND RETURN THE CLAIM FORM ACCOMPANYING THE POSTCARD NOTICE YOU RECEIVED IN THE MAIL TO THE SETTLEMENT ADMINISTRATOR, POSTMARKED NO LATER THAN APRIL 2, 2019; ELECTRONICALLY SUBMIT A CLAIM THROUGH THIS WEBSITE NO LATER THAN APRIL 2, 2019; OR PRINT AND COMPLETE A CLAIM FORM FROM THIS WEBSITE AND RETURN IT TO THE SETTLEMENT ADMINISTRATOR, POSTMARKED NO LATER THAN APRIL 2, 2019.

I. SUMMARY OF YOUR OPTIONS AND IMPORTANT DEADLINES

| Participate in the Settlement and submit a Claim Form | If you want to participate in and be eligible to receive an amount to be determined, then you must submit a valid Claim Form (as described below in Section V(B) (1)-(2) by April 2, 2019 . If you participate in the Settlement, you will give up certain rights to sue Defendants (as described below in Section V(C)). |
|---|--|
| Opt-out and exclude | If you want to sue Defendants yourself about the matters at issue in this case, then you may |
| yourself from the | opt-out and exclude yourself from the Settlement by April 2, 2019 (as described in Section |
| Settlement | VIII(B) below). You will not receive the benefits of the Settlement if you opt-out. |
| Object to the | If you want object to the Settlement (or any part of it), then you may write to the Court with |
| Settlement | your objections by April 2, 2019 (as described below in Section VIII(C)(1)). |
| Do nothing | If you do no nothing, then you will not receive the benefits of the Settlement and will still give |
| | up certain rights to sue Defendants. |

II. <u>WHAT IS THE PURPOSE OF THIS NOTICE</u>?

The purpose of this Notice is (a) to advise you of the proposed Settlement of a lawsuit (the "Action") pending against Defendants in the United States District Court for the Southern District of Ohio (the "Court"); (b) to summarize your rights under the Settlement; and (c) to inform you of a court hearing to consider whether to finally approve the Settlement to be held on **May 21, 2019 at 10:00 a.m.** before the Honorable Edmund A. Sargus, Jr., United States District Court for the Southern District of Ohio, Joseph P. Kinneary U.S. Courthouse, Courtroom 301, 85 Marconi Boulevard, Columbus, Ohio 43215 (the "Court Approval Hearing").

III. <u>WHAT IS THE ACTION ABOUT</u>?

In the Action, plaintiff Karen Evans ("Plaintiff") alleges that Defendants violated the Telephone Consumer Protection Act (TCPA) by making calls to certain cellular telephone numbers using an automated dialer without the consent of the user or subscriber of that number. The Action was originally filed in 2017, and seeks statutory damages against Defendants. There have been substantial proceedings in the case. Plaintiff's attorneys (referred to as "Plaintiff's Counsel" and identified in Section VI below) have conducted a thorough investigation into, and have engaged in extensive litigation and discovery with respect to, the relevant facts and law. Plaintiff's Counsel has concluded that the outcome of the Action is uncertain and that a settlement is in the best interests of Plaintiff and the Class Members.

Defendants deny that they acted unlawfully, deny that they violated the TCPA or any other law or legal requirement, and assert numerous defenses against Plaintiff's claims. Defendants further deny that class certification is required or appropriate. Defendants have contested Plaintiff's claims, have contested liability to the Class Members, and have asserted numerous defenses.

The Court never resolved the claims and defenses of the parties in the Action. The Court also never resolved whether Defendants did anything wrong.

This Notice should not be understood as an expression of any opinion by the Court as to the merits of the Plaintiff's claims or Defendants' defenses. Plaintiff and Defendants recognize that to resolve these and other important issues would be time-consuming, uncertain, and expensive.

IV. WHO IS PART OF THE PROPOSED SETTLEMENT?

Plaintiff and Defendants have entered into an agreement to settle the Action (the "Settlement Agreement"). The Court has preliminarily approved the Settlement proposed in the Settlement Agreement as fair, reasonable, and adequate. The Court will hold the Court Approval Hearing, as described in Section IX below, to consider whether to make the Settlement final.

The Court has provisionally certified a Settlement Class, consisting of persons who will be the final Settlement Class if the Settlement is approved, which includes all persons in the United States who were the users or subscribers of a cellular telephone number to which Defendants, themselves or through a third party, made a telephone call using the ViciDial technology between **June 14, 2013** and **August 31, 2018**. Plaintiff and the Defendant Parties agree that the Class Members include only those users or subscribers associated with 313,285 unique cellular telephone numbers.

V. WHAT ARE THE PRINCIPAL TERMS OF THE PROPOSED SETTLEMENT?

The principal terms of the proposed Settlement are as follows:

A. *SETTLEMENT AMOUNT*. The maximum aggregate amount Defendants have agreed to pay under the Settlement, if it gains final approval from the Court, is \$6,000,000 (the "Settlement Amount"). This Settlement Amount includes all amounts that Defendants have agreed to pay, and covers payments:

- (1) to eligible members of the Class in exchange for the Release (as described in Section V(C));
- (2) to Plaintiff as a class representative award (as described in Section V(D));

(3) to Plaintiff's Counsel for attorneys' fees and litigation costs actually incurred in the Action (as described in Section V(D)); and

(4) to the Settlement Administrator for settlement administration costs (as described in Section V(E)).

B. SETTLEMENT BENEFIT. Each member of the Class ("Class Member") who submits a valid Claim Form (as described below in this Section V(B)) and does not exclude himself or herself from the Class (as described in Section VIII(B) (1)-(2) below) will be eligible to receive a check ("Benefit Check") in an amount to be determined that is estimated to be approximately \$100. The actual amount of the Benefit Checks may be higher or lower and depends upon a number of factors, including how many eligible Class Members submit valid Claim Forms. The Benefit Checks will be paid exclusively from, and not in addition to, the Settlement Amount.

To be eligible to receive a Benefit Check, you will need to complete and submit a valid Claim Form to the Settlement Administrator no later than **April 2, 2019**. You may complete and submit a Claim Form either by mail or online – not both.

(1) <u>Claim Form Submission By Mail</u>. To submit your Claim Form by mail, you must complete either the Claim Form accompanying the postcard notice you received in the mail or the Claim Form available on this website and return it by first-class United States mail, postage pre-paid, to: AP&G Settlement Administrator, P.O. Box 505035, Louisville, KY 40233-5035. To be considered valid, your hard-copy Claim Form must meet all of the following criteria: (a) the Claim Form must be completely filled-out; (b) "Yes" must be checked for both of the required statements; (c) the required verification must be signed; and (d) the completed Claim Form must be mailed to the address for the AP&G Settlement Administrator set forth above postmarked no later than April 2, 2019.

(2) <u>Claim For Submission Online</u>. To submit your Claim Form online, you must complete and electronically submit the Claim Form available on this website no later than **April 2, 2019**. To be considered valid, your online Claim Form must meet all of the following criteria: (a) the Claim Form must be completely filled-out; (b) "Yes" must be checked for each of the required statements; (c) the required verification must be electronically signed; and (d) the completed Claim Form must be electronically submitted no later than 11:59 PM (EST) on **April 2, 2019**. Please note that, to complete and submit the Claim Form online, you will need the Claim Number appearing on the first page of the postcard notice you received in the mail above the address line and the cellular telephone number that brings you within the scope of the Class. The website will permit you to submit only one online Claim Form per Claim Number and cellular telephone number. Once you have submitted the online Claim Form, you will have no opportunity to make any changes or corrections.

C. *RELEASE.* Plaintiff and each Class Member who does not exclude himself or herself from the Class will release certain claims against Defendants. This is referred to as the "Release." Generally speaking, the Release will prevent any Class Member from bringing any lawsuit or making any claim that Defendants violated the TCPA or any other law or legal requirement by placing telephone calls using an automated dialer to a Class Member who was the user or subscriber of a cellular telephone number between June 14, 2013 and August 31, 2018. The Release will also prevent every Class Member, and certain related parties, from suing or bringing such claims against Defendants, companies related to Defendants, Defendants' employees, and certain other third parties. The terms of Release, as set forth in the Settlement Agreement, are reproduced in the Addendum appearing at the end of this Notice.

The Release, which is set forth in Paragraphs 4.01 to 4.03 of the Settlement Agreement and the Addendum to this Notice, will be effective as to every Class Member who does not exclude himself or herself from the Class regardless of whether or not the Class Member receives and cashes a Benefit Check.

D. ATTORNEY FEE/LITIGATION COST AND CLASS REPRESENTATIVE AWARDS. The Court will determine the amount of attorneys' fees and litigation costs to award to Plaintiffs' Counsel from the Settlement Amount for investigating the facts and law in the Action, litigating the Action, and negotiating the proposed Settlement of the Action (the "Attorney Fee/Litigation Cost Award"). Plaintiffs' Counsel will ask the Court to award them attorneys' fees from the Settlement Amount in an amount up to \$2,000,000 of the Settlement Amount, plus litigation costs incurred in connection with the Action not to exceed \$37,059.65. Plaintiffs' Counsel will make their request for an Attorney Fee/Litigation Cost Award in a motion to be filed with the Court on or before **February 15, 2019**. Copies of that motion will be available from this website, Class Counsel or from the Court after that date, as set forth in Section X below.

Plaintiffs' Counsel will also ask the Court to award Plaintiff, as representative of the Class, an amount of up to \$10,000 from the Settlement Amount for her service in the Action ("Class Representative Award"). Plaintiffs' Counsel will make the request for a Class Representative Award in a motion to be filed with the Court on or before **February 15, 2019**. Copies of that motion will be available from this website, Class Counsel or from the Court after that date, as set forth in Section X below.

Any Attorney Fee/Litigation Cost Award or Class Representative Award will be paid by Defendants exclusively from (and not in addition to) the Settlement Amount.

E. *SETTLEMENT ADMINISTRATION.* The costs of administration of the proposed Settlement will be paid by Defendants exclusively from, and not in addition to, the Settlement Amount.

F. *DISMISSAL OF THE ACTION.* Upon final approval of the Settlement, the Action will be dismissed with prejudice.

If the Settlement is approved by the Court and becomes final, Benefit Checks will be provided to eligible Class Members who submit a valid Claim. If the Settlement is not approved by the Court or does not become final for any reason, the Action will continue, and Class Members will not be entitled to receive the Benefit Check.

SECTIONS V(A)-(F) ABOVE PROVIDE ONLY A GENERAL SUMMARY OF THE TERMS OF THE PROPOSED SETTLEMENT. YOU MUST CONSULT THE SETTLEMENT AGREEMENT FOR MORE INFORMATION ABOUT THE EXACT TERMS OF THE SETTLEMENT. THE SETTLEMENT AGREEMENT IS AVAILABLE ON THIS WEBSITE OR FROM CLASS COUNSEL, AS SET FORTH IN SECTION X BELOW.

VI. <u>WHO REPRESENTS THE SETTLEMENT CLASS</u>?

The Court has provisionally appointed JB Hadden, Brian K. Murphy and Jonathan P. Misny (of Murray Murphy Moul + Basil LLP), Anthony Paronich and Edward A. Broderick (of Broderick & Paronich, P.C.), and Samuel J. Strauss (of Turke & Strauss LLP) to act as counsel for the Class (referred to as "Class Counsel") for purposes of the proposed Settlement. Class Counsel can be contacted by mail, telephone and/or email:

| Brian K. Murphy | Matthew P. McCue |
|--------------------------------|------------------------------------|
| Jonathan P. Misny | The Law Office of Matthew P. McCue |
| JB Hadden | 1 South Avenue, Suite 3 |
| Murray Murphy Moul + Basil LLP | Natick, MA 01760 |
| 1114 Dublin Road | mmccue@massattorneys.net |
| Columbus, OH 43215 | (508) 655-1415 |
| murphy@mmmb.com | |
| misny@mmmb.com | |
| (614) 488-0400 | |

| Samuel J. Strauss | Edward A. Broderick |
|---|----------------------------|
| Turke & Strauss LLP | Anthony I. Paronich |
| 936 N. 34 th Street, Suite 300 | Broderick & Paronich, P.C. |
| Seattle, WA 98103 | 99 High Street, Suite 304 |
| sam@turkestrauss.com | Boston, MA 02110 |
| (608) 237-1775 | ted@broderick-law.com |
| | (617) 738-7080 |

VII. WHAT ARE THE REASONS FOR THE PROPOSED SETTLEMENT?

Plaintiff and Defendants agreed on all of the terms of the proposed Settlement through extensive arms-length negotiations between Plaintiff's Counsel and Counsel for the Defendants, and with the assistance of third-party mediators (Peter J. Grilli of Peter J. Grilli Mediation and Hon. Morton Denlow (Ret.) of JAMS). Plaintiff has entered into the proposed Settlement after weighing the benefits of the Settlement against the probabilities of success or failure in the Action, and against the delays that would be likely if the Action proceeded to trial, and after trial to appeal.

Plaintiff and Plaintiff's Counsel have concluded that the proposed Settlement: provides substantial benefits to the Class; resolves substantial issues without prolonged litigation; provides the Class with significant benefits, both individually and as a group; and is in the best interests of the Class. Plaintiff and Plaintiff's Counsel have concluded that the proposed Settlement is fair, reasonable, and adequate, taking into account the costs, risks, and delay of trial and appeal.

Although Defendants deny any wrongdoing and any liability whatsoever, Defendants believe that it is in their best interest to settle the Action on the terms set forth in the Settlement Agreement in order to avoid further expense, uncertainty, and inconvenience in connection with the Action.

VIII. WHAT DO YOU NEED TO KNOW AND DO NOW?

A. YOU CAN PARTICIPATE IN THE SETTLEMENT. If the Settlement is approved at the Court Approval Hearing, you will automatically be included as a participant in the Settlement and be eligible to receive the Benefit Check described in this Notice if you submit a valid Claim Form. If that is what you want, you must only submit a valid Claim Form. You do not need to take any other action.

If you participate, your interests as a Class Member will be represented by Plaintiff and Plaintiffs' Counsel, including the above-listed Class Counsel. You will not be billed for their services. Plaintiffs' Counsel will receive a fee only if the Court approves the Settlement and the fee award, if any, will be set by the Court.

Unless you request to be excluded (as described in Section VIII(B)), you will be bound by any judgment or other final disposition of the Action, including the Release set forth in the Settlement Agreement, and will be precluded from pursuing claims against Defendants separately if those claims are within the scope of the Release.

B. *YOU CAN OPT-OUT*. If you do not wish to be a Class Member, and do not want to participate in the Settlement, you may exclude yourself from the Class by completing and mailing a notice of intention to opt-out (referred to as an "Opt-Out") to the following address, postmarked no later than **April 2, 2019**:

AP&G Settlement Administrator P.O. Box 505035 Louisville, KY 40233-5035

Any Opt-Out must (a) include the case number, your full name, address, and telephone number; (b) contain, to the extent known to the Class Member, the cellular telephone number as to which the Class Member seeks exclusion; (c) contain the personal and original signature of the Class Member or the original signature of a person previously authorized by law, such as a trustee, guardian or person acting under a power of attorney, to act on behalf of the Class Member with respect to a claim or right such as those in the Action (*NOTE:* conformed, reproduced, facsimile, or other non-original signatures are not valid); and (d) state unequivocally the Class Member's intent to be excluded from the Settlement Class, to be excluded from the Settlement, not to participate in the Settlement, and/or to waive all rights to the benefits of the Settlement. Class Members who do not mail in a timely and valid Opt-Out will remain Class Members and will be bound by the Settlement.

C. YOU CAN OBJECT OR TAKE OTHER ACTIONS IN THE ACTION.

Objections to the Settlement. Any Class Member who has not elected to be excluded from the (1)Class may object to the approval of the Settlement, to any aspect of the Settlement or the Settlement Agreement, to the application for attorneys' fees and costs, and/or to the application for a Class Representative Award to Plaintiff. To object, you must mail or hand-deliver any objection to the Clerk of Court, United States District Court for the Southern District of Ohio, Joseph P. Kinneary U.S. Courthouse, 85 Marconi Boulevard, Columbus, Ohio 43215 on or before April 2, 2019, and must mail or hand-deliver a copy of the objection to Class Counsel and Counsel for the Defendants at the addresses set forth in Section XI below by that same date. To be timely, objections that are mailed must be postmarked by April 2, 2019 and objections that are hand-delivered must be received by the Court, Class Counsel and Counsel for the Defendants by April 2, 2019. To be valid, each objection must (a) include the case number, and set forth the Class Member's full name, current address, and telephone number; (b) identify the cellular telephone number of the Class Member that brings him or her within the scope of the Settlement Class; (c) contain the Class Member's original signature (conformed, reproduced, facsimile, or other non-original signatures will not be valid); (d) state that the Class Member objects to the Settlement, in whole or in part; (e) set forth a statement of the specific legal and factual basis for the objection; (f) state whether your objection applies only to you, to a specific subset of the class, or to the entire class; and (g) provide copies of any documents that the Class Member wishes to submit in support of his/her position. Objections may be filed by counsel for a Class Member. Objections that are not timely mailed or hand-delivered to the Court, Class Counsel and Counsel for the Defendants, and/or are otherwise invalid shall not be treated as a valid Objection to the Settlement.

(2) <u>Appearances at the Court Approval Hearing</u>. It is not necessary for you to appear at the Court Approval Hearing. If you have not excluded yourself from the Settlement and wish to appear and/or speak at the Court Approval Hearing, whether personally or through a lawyer, then you must mail or hand-deliver a Notice of Appearance to the Clerk of Court, United States District Court for the Southern District of Ohio, Joseph P. Kinneary U.S. Courthouse, 85 Marconi Boulevard, Columbus, Ohio 43215, on or before **April 2, 2019**, and you must mail or hand-deliver a copy of the Notice of Appearance to Class Counsel and Counsel for the Defendants at the addresses set forth in Section XI below by **April 2, 2019**. Further, if you wish to appear at the Court Approval Hearing, you will not be permitted to raise matters that you could have, but did not, raise in a properly submitted Objection (as described in Section VIII(C)(1)) without approval of the Court. To be considered timely, Notices of Appearances that are mailed must be postmarked by **April 2, 2019** and Notices of Appearance that are hand-delivered must be received by the Court, Class Counsel and Counsel for the Defendants by **April 2, 2019**.

(3) Other Motions or Submissions Concerning the Action or the Settlement. It is not necessary for you to submit any motion concerning the Action or Settlement to the Court. If you have not excluded yourself from the Settlement and want to submit a motion to the Court concerning the Settlement or the Action, however, then you must mail or hand-deliver a motion, together with all supporting documents, to the Clerk of Court, United States District Court for the Southern District of Ohio, Joseph P. Kinneary U.S. Courthouse, 85 Marconi Boulevard, Columbus, Ohio 43215 on or before **April 2, 2019**, and must mail or hand-deliver a copy of the motion, together with all supporting documents, to Class Counsel and Counsel for the Defendants at the addresses set forth in Section XI below by **April 2, 2019**. To be considered timely, motions that are mailed must be postmarked by **April 2, 2019** and motions that are hand-delivered must be received by the Court, Class Counsel and Counsel for the Defendants by **April 2, 2019**.

D. YOU MUST NOTIFY YOUR TRUSTEE AND TAKE OTHER ACTIONS IF YOU HAVE BEEN IN BANKRUPTCY AT ANY TIME SINCE JUNE 14, 2013. The Settlement Agreement requires that if (i) you are in active bankruptcy proceedings or previously were a party to a bankruptcy proceeding during the period between June 14, 2013 through the date of this Notice and (ii) all or any of the claims that may be released as part of this Settlement are or may be part of your bankruptcy estate, then you must advise your current or prior bankruptcy trustee of this Agreement and the benefits conferred by the Settlement in time for the trustee to exercise any rights or object to the Settlement. In addition, under the terms of the Settlement Agreement, you must comply with any direction from the trustee with respect to this Settlement and the benefits conferred by the Settlement Agreement, and (iii) in the event of any disagreement between you and the trustee, you must seek relief from the appropriate bankruptcy court.

IX. <u>WHAT WILL TAKE PLACE AT THE COURT APPROVAL HEARING</u>?

The Court will hold the Court Approval Hearing in the courtroom of the Honorable Edmund A. Sargus, Jr., United States District Court for the Southern District of Ohio, Joseph P. Kinneary U.S. Courthouse, Courtroom 301, 85 Marconi Boulevard, Columbus, Ohio 43215 on **May 21, 2019 at 10:00 a.m.** At that time, the Court will determine, among other things, (a) whether the Settlement should be finally approved as fair, reasonable and adequate; (b) whether the Action

should be dismissed with prejudice pursuant to the terms of the Settlement Agreement; (c) whether Class Members should be bound by the Release set forth in the Agreement; (d) whether Class Members should be subject to a permanent injunction that, among other things, bars Class Members from filing, commencing, prosecuting, intervening in, or participating in (as Class Members or otherwise) any lawsuit, claim, demand or proceeding in any jurisdiction that is based on or related to, directly or indirectly, matters within the scope of the Release; (e) the amount of attorneys' fees and costs to be awarded to Plaintiffs' Counsel, if any; and (f) the amount of the award to be made to Plaintiff for her service as class representative, if any. In making these determinations, the Court will consider, among other things, whether Plaintiff and Class Counsel have adequately represented the Settlement Class in the Action; the Settlement was negotiated at arm's length; the relief available under the Settlement is adequate, taking into account the costs, risks, and delay of trial and appeal; the proposed method for processing claims and distributing the relief available under the Settlement to eligible members of the Settlement Class is effective; the requested award of attorneys' fees and litigation costs (and the timing of the proposed payment) is reasonable and appropriate in the context of the case; there are any other agreements required to be disclosed; and the settlement treats Class Members equitably relative to one another. The Court Approval Hearing may be postponed, adjourned or continued by Order of the Court without further notice to the Class.

X. <u>HOW CAN YOU GET ADDITIONAL INFORMATION ABOUT THE ACTION, THE PROPOSED</u> <u>SETTLEMENT, THE SETTLEMENT AGREEMENT, OR THE NOTICE</u>?

The descriptions of the Action, the Settlement, and the Settlement Agreement that are contained in this Notice are only a general summary. In the event of a conflict between this Notice and the Settlement Agreement, the terms of the Settlement Agreement shall control. All papers filed in this case, including the full Settlement Agreement, are available for you to inspect and copy (at your cost) at the office of the Clerk of Court, United States District Court for the Southern District of Ohio, Joseph P. Kinneary U.S. Courthouse, 85 Marconi Boulevard, Columbus, Ohio 43215, during regular business hours. A copy of the Settlement Agreement is available on this website or may be obtained from Class Counsel by contacting them at the addresses or telephone numbers set forth in Section XI below.

Any questions concerning this Notice, the Settlement Agreement, or the Settlement may be directed to Class Counsel in writing at the addresses or emails set forth in Sections VI and XI or by calling them at the numbers listed for them in Section XI below.

You may also seek the advice and counsel of your own attorney, at your own expense, if you desire.

DO NOT WRITE OR TELEPHONE THE COURT, THE CLERK'S OFFICE, OR DEFENDANTS IF YOU HAVE ANY QUESTIONS ABOUT THIS NOTICE, THE SETTLEMENT, OR THE SETTLEMENT AGREEMENT.

XI. WHAT ARE THE ADDRESSES YOU MAY NEED?

Class Counsel:

| Brian K. Murphy Jonathan P. Misny JB Hadden Murray Murphy Moul + Basil LLP 1114 Dublin Road Columbus, OH 43215 (614) 488-0400 | Matthew P. McCue The Law Office of Matthew P. McCue 1 South Avenue, Suite 3 Natick, MA 01760 (508) 655-1415 |
|---|---|
| Samuel J. Strauss Turke & Strauss LLP 936 N. 34 th Street, Suite 300 Seattle, WA 98103 (608) 237-1775 | Edward A. Broderick Anthony I. Paronich Broderick & Paronich, P.C. 99 High Street, Suite 304 Boston, MA 02110 (617) 738-7080 |

Brooks R. Brown W. Kyle Tayman GOODWIN PROCTER LLP 901 New York Avenue, NW Washington, DC 20001 (202) 346-4000

Settlement Administrator:

AP&G Settlement Administrator P.O. Box 505035 Louisville, KY 40233-5035

XII. <u>WHAT INFORMATION MUST YOU INCLUDE IN ANY DOCUMENT</u> <u>THAT YOU SEND REGARDING THE ACTION</u>?

Dated: January 25, 2019

In sending any document to the Settlement Administrator, to the Court, to Class Counsel, or to Counsel for the Defendant, it is important that both your envelope and any documents inside contain the following case name and identifying number: *Evans v. American Power & Gas, LLC,* Case No. 2:17-CV-515. In addition, you must include your full name, address, and a telephone number at which you can be reached.

/s/ Edmund A. Sargus, Jr.

UNITED STATES DISTRICT JUDGE

ADDENDUM

As described above in Section V(C) of the Notice, the terms of the Release (which are contained in Paragraphs 4.01 to 4.03 of the Settlement Agreement) are reproduced below:

RELEASE

Upon Final Approval, and in consideration of the promises and covenants set forth in this Settlement 4.01 Agreement, Representative Plaintiff and each Class Member whose phone number appears on the Class Member List and is not a Successful Opt-Out, and each of their respective spouses, children, executors, representatives, guardians, wards, heirs, estates, successors, predecessors, next friends, legal representatives, attorneys, agents and assigns, and all those who claim through them or who assert claims (or could assert claims) on their behalf, and each of them (collectively and individually, the "Releasing Persons"), and Class Counsel and each of their past and present law firms, partners, or other employers, employees, agents, representatives, successors, or assigns (the "Counsel Releasing Parties") will completely release and forever discharge the Defendants, as that term is defined in Paragraph 1.17 above, from any and all past, present and future claims, counterclaims, lawsuits, set-offs, costs, losses, rights, demands, charges, complaints, actions, causes of action, obligations, or liabilities of any and every kind for calls concerning the goods or services of Defendants, including without limitation (i) those known or unknown or capable of being known, (ii) those which are unknown but might be discovered or discoverable based upon facts other than or different from those facts known or believed at this time, including facts in the possession of and concealed by any Released Person, and (iii) those accrued, unaccrued, matured or not matured, all from the beginning of the world until today (collectively, the "Released Rights"), that arise out of or in any way relate or pertain to (a) Released Rights that were asserted, or attempted to be asserted, or could have been asserted in the Action; (b) the cellphone provision (47 U.S.C. § 227(b)(1)(A)(iii)) of the TCPA, and any other laws similar in coverage or intent to that provision of the TCPA; (c) attorneys' fees and costs of any kind or nature, by statute or otherwise, except as provided in the Settlement Agreement; (d) calls, text messages, or other communications by Defendants or any of the Released Persons to any telephone number(s) appearing on the Class Phone Number List and subscribed to or used by the Representative Plaintiff or any Class Member at any time prior to August 31, 2018; (e) the use by any or all of the Defendants of any "automatic telephone dialing system," "automatic dialer," "automated dialer," "dialer," and/or an "artificial or prerecorded voice" to make "calls" to any number appearing on the Class Phone Number List; (f) statutory or common

law claims predicated upon any alleged violations of the cellphone provision of TCPA and any other law similar in coverage or intent to the cellphone provisions of the TCPA, including without limitation any claim under or for violation of federal or state unfair and deceptive practices statutes, violations of any federal or state debt collection practices acts (including, but not limited to, the Fair Debt Collection Practices Act, 15 U.S.C. § 1692 et seq.), invasion of privacy, conversion, breach of contract, unjust enrichment, specific performance and/or promissory estoppel; and (g) the negotiation, execution and delivery of the Settlement Agreement.

4.02 The Representative Plaintiff and the Releasing Persons expressly agree that, upon Final Approval, each will waive and release any and all provisions, rights, and benefits conferred either (a) by Section 1542 of the California Civil Code or (b) by any law of any state or territory of the United States, or principle of common law, which is similar, comparable, or equivalent to section 1542 of the California Civil Code, with respect to the claims released pursuant to Paragraph 4.01 above. Section 1542 of the California Civil Code reads:

Section 1542. General Release; extent. A general release does not extend to claims which the creditor does not know or suspect to exist in his or her favor at the time of executing the release, which if known by him or her must have materially affected his or her settlement with the debtor.

Whether a beneficiary of California law or otherwise, Plaintiff and each of the Releasing Persons acknowledge that he or she may hereafter discover facts other than or different from those that he or she knows or believes to be true with respect to the subject matter of the claims released pursuant to the terms of this Settlement Agreement, but each of those individuals expressly agree that, upon entry of the final judgment contemplated by the Settlement Agreement, he and she shall have waived and fully, finally, and forever settled and released any known or unknown, suspected or unsuspected, asserted or unasserted, contingent or non-contingent claim with respect to the claims released pursuant to the Settlement Agreement, whether or not concealed or hidden, without regard to subsequent discovery or existence of such different or additional facts.

4.03 Upon Final Approval, Class Counsel, for themselves, Plaintiff's Counsel, and each of his, her or their present and former owners, predecessors, successors, partners, shareholders, agents (alleged or actual), experts, representatives, employees and affiliates ("Attorney Releasors"), will unconditionally and irrevocably remise, waive, satisfy, release, acquit, and forever discharge the Defendant Parties and the Released Persons from any and all right, lien, title or interest in any attorneys' fee or award or any claim for reimbursement of costs in connection with the Action or the Released Rights, except as otherwise provided in the Settlement Agreement.¹

¹ As set forth in Paragraphs 1.28 and 1.17 of Settlement Agreement, the term "Released Persons," as used in the Release, means "(a) American Power & Gas, LLC; Consumer Sales Solutions, LLC; AP&G Holdings, LLC; American Power & Gas of CA, LLC; American Power & Gas of CT, LLC; American Power & Gas of IL, LLC; American Power & Gas of MA, LLC; American Power & Gas of MD, LLC; American Power & Gas of ME, LLC; American Power & Gas of NJ, LLC; American Power & Gas of Ohio, LLC; American Power & Gas of Pennsylvania, LLC; American Power & Gas of TX, LLC; and CSS Columbia, SAS (collectively, the "AP&G and CSS Entities"); (b) all subsidiaries or affiliates of any of the AP&G and CSS Entities; (c) all persons or entities for or on behalf of which any of the AP&G and CSS Entities made calls to a cellular telephone number of any Class Member bringing the Class Member within the scope of the Settlement Class; and (d) all past, present and future predecessors, successors, assigns, affiliates, parents, subsidiaries, divisions, owners, shareholders, officers, directors, attorneys, vendors, accountants, agents (alleged or actual), representatives, and employees of each of the entities or persons in subparagraphs (a), (b), and (c) above."