

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO**

KENNETH JOHANSEN, individually and)	
on behalf of a class of all persons and)	
entities similarly situated,)	
)	
Plaintiff,)	No. 2:21-cv-00036
)	
v.)	Judge Sarah D. Morrison
)	
ERIC MABRY, and LANDON PILCHER,)	Magistrate Judge Chelsey M. Vascura
)	
Defendants.)	
)	
)	
)	

NOTICE OF CLASS ACTION AND PROPOSED SETTLEMENT

TO: All persons in the United States (1) whose telephone numbers were on the National Do Not Call Registry for at least 31 days, (2) but who received more than one telemarketing call from or on behalf of Eric Mabry, (3) within a 12-month period, (4) from four years prior to January 6, 2021, may be a class member.

IF YOU ARE A MEMBER OF THIS CLASS OF PERSONS, YOU SHOULD READ THIS NOTICE CAREFULLY BECAUSE IT MAY AFFECT YOUR LEGAL RIGHTS AND OBLIGATIONS.

A FEDERAL COURT AUTHORIZED THIS NOTICE. THIS IS NOT A SOLICITATION FROM A LAWYER.

- A settlement (“Settlement”) has been proposed in the class action lawsuit referenced above pending in the United States District Court for the Southern District of Ohio (“Action”). You may be a class member in the proposed Settlement and may be entitled to participate in the proposed Settlement.
- The United States District Court for the Southern District of Ohio has ordered the issuance of this notice in this Action. The Northwestern Mutual Insurance Company, Eric Mabry and Landon Pilcher (“Defendants”) deny they did anything wrong and has defended themselves throughout the lawsuit. The Court has not decided who is right. Both sides have agreed to settle the dispute to avoid burdensome and costly litigation.
- If the Court gives final approval to the Settlement, Defendants will create a fund of \$600,000. If you do not opt out of the settlement, you may be eligible to obtain a share from this fund in the amount of approximately \$375 depending on the number of exclusions that are submitted. The value of a Settlement Class Member’s individual award will depend upon the number of Settlement Class Members who exclude themselves.

A Summary of Your Rights and Options:

If You:	You Will:
Do Not Exclude Yourself From The Settlement:	<ul style="list-style-type: none"> • Be a member of the Settlement Class • Be eligible to receive an award under the settlement → • Be able to object to the terms of the settlement • Be bound by judgments and orders in the Action • Be prohibited from filing suit asserting Released Claims
<i>or</i>	
Exclude Yourself From The Settlement:	<ul style="list-style-type: none"> • Not be a member of the Settlement Class • Not be eligible to receive an award under the settlement → • Not be able to object to the terms of the settlement • Not be bound by judgments and orders in the Action • Not be prohibited from filing suit asserting Released Claims

- These rights and options—**and the deadlines to exercise them**—are explained in more detail below.
- The Court in charge of this Action has preliminarily approved the Settlement and must decide whether to give final approval to the Settlement. The relief provided to Settlement Class Members will be provided only if the Court gives final approval to the Settlement and, if there are any appeals, after the appeals are resolved in favor of the Settlement. ***Please be patient.***

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BACKGROUND INFORMATION

1. Why did I get this notice?

You received this Notice because a Settlement has been reached in this Action and you may be a class member. If you are a member of the Settlement Class, you may be eligible for the relief detailed below.

This Notice explains the nature of the Action, the general terms of the proposed Settlement, and your legal rights and obligations. To obtain more information about the Settlement, including information about how you can see a copy of the Settlement Agreement (which defines certain capitalized terms used in this Notice), see Section 20 below.

2. What is this lawsuit about?

An individual (the “Plaintiff”) filed a lawsuit against Defendants on behalf of himself and all others similarly situated. The lawsuit alleges that Defendants violated the Telephone Consumer Protection Act, 47 U.S.C. § 227 (the “TCPA”) by, *inter alia*, placing unsolicited telemarketing calls to numbers on the National Do Not Call Registry.

Defendants deny each and every one of the allegations of unlawful conduct, any wrongdoing, and any liability whatsoever, and no court or other entity has made any judgment or other determination of any liability. Defendants further deny that any Class Member is entitled to any relief and, other than for settlement purposes, that this Action is appropriate for certification as a class action.

The issuance of this Notice is not an expression of the Court’s opinion on the merits or the lack of merits of the Plaintiff’s claims in the Action.

For information about how to learn about what has happened in the Action to date, please see Section 20 below.

3. Why is this a class action?

In a class action lawsuit, one or more people sue on behalf of other people who allegedly have similar claims. For purposes of this proposed Settlement, one court will resolve the issues for all Settlement Class Members. The individuals sued in this case, The Northwestern Mutual Life Insurance Company, Eric Mabry and Landon Pilcher, are called the Defendants.

4. Why is there a Settlement?

Plaintiff has made claims against the Defendants. The Defendants deny that they have done anything wrong or illegal and admit no liability. The Court has **not** decided that the Plaintiff or Defendants should win this Action. Instead, both sides agreed to a Settlement. That way, they avoid the cost of a trial, and the Settlement Class Members will receive relief now rather than years from now, if at all.

5. How do I know if I am part of the Settlement?

The Court has decided that everyone who fits this description is a Class Member for purposes of the proposed Settlement: All persons in the United States (1) whose telephone numbers were on the National Do Not Call Registry for at least 31 days, (2) but who received more than one

telemarketing call from or on behalf of Eric Mabry, (3) within a 12-month period, (4) from four years prior to January 6, 2021.

6. I'm still not sure if I am included.

If you are still not sure whether you are included in the Settlement Class, you can write or call the Settlement Administrator for free help. The Settlement Administrator's contact information is below.

Mabry TCPA Settlement
c/o A.B. Data, Ltd.
P.O. Box 173071
Milwaukee, WI 53217
1-877-307-7871
Email: info@MabryTCPASettlement.com

THE PROPOSED SETTLEMENT

7. What relief does the Settlement provide to the Class Members?

Defendants have created a Settlement Fund of \$600,000 which will be used to pay the Claims of Settlement Class Members, Settlement Class Counsel's Fees, Costs, and Expenses Award (see Section 11 below), Plaintiff's Service Payment (see Section 12 below), and compensation for the Settlement Administrator for providing notice to the Settlement Class and administering the Settlement.

If you are a Settlement Class Member, you are eligible to receive a pro rata share of the Settlement Fund by not submitting an Exclusion request.

HOW TO REQUEST AN AWARD UNDER THE SETTLEMENT – SUBMITTING A CLAIM FORM

8. How can I get a Settlement Award?

To qualify for a Settlement award, you must not send in an exclusion request. Otherwise, you will automatically be included in the Settlement.

9. When will I get a Settlement award?

As described in Sections 17 and 18, the Court will hold a hearing on April 19, 2023, at 10:00 AM to decide whether to approve the Settlement. If the Court approves the Settlement, after that, there may be appeals. It's always uncertain whether these appeals can be resolved, and resolving them can take time, perhaps more than a year. You can check on the progress of the case on the website dedicated to the Settlement at www.MabryTCPASettlement.com. *Please be patient.*

THE LAWYERS IN THIS CASE AND THE PLAINTIFF

10. Do I have a lawyer in this case?

The Court has ordered that the law firms of Paronich Law, P.C., Murray Murphy Moul + Basil, LLP ("Settlement Class Counsel") will represent the interests of all Settlement Class Members.

You will not be separately charged for these lawyers. If you want to be represented by your own lawyer, you may hire one at your own expense.

11. How will the lawyers be paid?

Settlement Class Counsel will petition the Court to receive a Fees, Costs, and Expenses Award of up to one-third of the total amount of the Settlement Fund; Plaintiff's out of pocket expenses not to exceed \$20,000; and a court-approved Service Payment to the Class Representative of up to \$10,000. The Court will make the final decision as to the amount to be paid to the attorneys for their fees and costs. You will not be required to separately pay any attorneys' fees or costs.

12. Will the Plaintiff receive any compensation for his efforts in bringing this Action?

The Plaintiff will be requesting a payment of \$10,000 for his representation of the class member interests. The Court will make the final decision as to the amount to be paid to the Plaintiff.

DISMISSAL OF ACTION AND RELEASE OF ALL CLAIMS

13. What am I giving up to obtain relief under the Settlement?

If the Court approves the proposed Settlement, you will be releasing your claims against Defendants and the other entities allegedly involved in the calls at issue unless you have excluded yourself from the Settlement. This generally means that you will not be able to file or pursue a lawsuit against Defendants or be part of any other lawsuit against Defendants asserting claims that were or could have been asserted in the Action. The Settlement Agreement, available on the Internet at the website www.MabryTCPASettlement.com contains the full terms of the release.

HOW TO EXCLUDE YOURSELF FROM THE SETTLEMENT

14. How do I exclude myself from the Settlement?

You may exclude yourself from the Class and the Settlement. You can submit a request for exclusion to the Settlement Administrator electronically (through the Settlement Website) or by postal mail. If you want to be excluded, you must either complete the Opt-Out Form available on the Settlement Website located at www.MabryTCPASettlement.com, or write the Settlement Administrator stating: **(a)** the name and case number of the action – "*Johansen v. Mabry, et. al., S.D. Oh. Case No. 21-cv-00036*"; **(b)** the full name and the unique identification number for the Settlement Class Member assigned by the Settlement Administrator; **(c)** the address, telephone number, and email address (optional) of the Settlement Class Member seeking exclusion; **(d)** that the requestor does not wish to participate in the Settlement; and **(e)** be signed personally by you. If you are not using the Opt-Out Form on the Settlement Website, the request for exclusion must be sent to the Settlement Administrator at:

Mabry TCPA Settlement
c/o A.B. Data, Ltd.
P.O. Box 173001
Milwaukee, WI 53217
www.MabryTCPASettlement.com

Your request for exclusion must be submitted electronically or be postmarked no later than February 13, 2023 at 11:59 pm (Pacific). If you submit your request for exclusion by postal mail, you are responsible for your postage.

If you validly and timely request exclusion from the Settlement Class, you will be excluded from the Settlement Class, you will not be bound by the Settlement Agreement or the judgment entered in the Action, you will not be eligible to make a Claim for any benefit under the terms of the Settlement Agreement, you will not be entitled to submit an objection to the Settlement, and you will not be precluded from prosecuting any timely, individual claim against Defendants based on the conduct complained of in the Action.

HOW TO OBJECT TO THE SETTLEMENT

15. How do I tell the Court that I disagree with the Settlement?

At the date, time, and location stated in Section 18 below, the Court will hold a Fairness Hearing to determine if the Settlement is fair, reasonable, and adequate, and to also consider the attorneys who initiated the Action's request for a Fees, Costs, and Expenses Award, and a Service Payment to the Plaintiff.

If you wish to object to the fairness, reasonableness, or adequacy of the Settlement Agreement or the proposed Settlement, you must write to the Court and must: **(a)** clearly identify the case name and number – “*Johansen v. Mabry, et. al., S.D. Oh. Case No. 21-cv-00036*”; **(b)** include the full name and the unique identification number for the Settlement Class Member assigned by the Settlement Administrator; **(c)** include the address, telephone number, and email address (optional) of the objecting Settlement Class Member; **(d)** include the full name, address, telephone number, and email address of the objector's counsel, and the state bar(s) to which counsel is admitted (if the objector is represented by counsel); and **(e)** provide a detailed explanation stating the specific reasons for the objection, including any legal and factual support and any evidence in support of the objection. The objection will not be valid if it only objects to the lawsuit's appropriateness or merits. Objections may be submitted to the Settlement Administrator electronically by email or by postal mail. The Settlement Administrator will then have the objections submitted to the Court. Or you may submit the objections directly to the Court. If an objection is submitted by postal mail, the Settlement Class Member must pay for postage. The Settlement Administrator's contact information is below.

Mabry TCPA Settlement
c/o A.B. Data, Ltd.
P.O. Box 173001
Milwaukee, WI 53217
Email: info@MabryTCPASettlement.com

The mailing address to the Court is:

Clerk of the Court
United States District Court Southern District of Ohio
85 Marconi Boulevard
Columbus, Ohio 43215

The objection must be submitted electronically or be postmarked no later than February 13, 2023, at 11:59 pm (Pacific).

You may, but need not, submit your objection through counsel of your choice. If you do make your objection through an attorney, you will be responsible for your personal attorney's fees and costs.

IF YOU DO NOT TIMELY MAKE AN OBJECTION, YOU WILL BE DEEMED TO HAVE WAIVED ALL OBJECTIONS AND WILL NOT BE ENTITLED TO SPEAK AT THE FAIRNESS HEARING.

If you submit a written objection, you have the option to appear and request to be heard at the Fairness Hearing, either in person or through personal counsel. You are not required, however, to appear. However, if you, or your attorney, intend to make an appearance at the Fairness Hearing, you must include on your timely and valid objection a statement substantially similar to "Notice of Intention to Appear." Only those who submit timely objections including Notices of Intention to Appear may speak at the Fairness Hearing. If you make an objection through an attorney, you will be responsible for your attorney's fees and costs.

16. What is the difference between excluding myself and objecting to the Settlement?

Objecting is simply telling the Court that you disagree with something about the Settlement. You can object only if you stay in the Settlement Class. Excluding yourself is telling the Court that you don't want to be part of the Settlement Class. If you exclude yourself, you have no basis to object because the Settlement no longer affects you.

FAIRNESS HEARING

17. What is the Fairness Hearing?

The Court has preliminarily approved the Settlement and will hold a hearing to decide whether to give final approval to the Settlement. The purpose of the Fairness Hearing will be for the Court to determine whether the Settlement should be approved as fair, reasonable, adequate, and in the best interests of the Settlement Class; to consider the Fees, Costs, and Expenses Award to the attorneys who initiated the Action; and to consider the request for a Service Payment to the Plaintiff.

18. When and where is the Fairness Hearing?

On April 19, 2023 at 10:00 AM, a hearing will be held on the fairness of the proposed Settlement. At the hearing, the Court will be available to hear any objections and arguments concerning the proposed Settlement's fairness. The hearing will take place before the Honorable Sarah Morrison, United States District Court Southern District of Ohio, 85 Marconi Boulevard, Columbus, Ohio 43215 on April 19, 2023 at 10:00 AM. The hearing may be postponed to a different date or time or location without notice. Please check www.MabryTCPASettlement.com for any updates about the Settlement generally or the Fairness Hearing specifically. If the date or time of the Fairness Hearing changes, an update to the Settlement Website will be the only way you will be informed of the change.

19. May I speak at the hearing?

At that hearing, the Court will be available to hear any objections and arguments concerning the fairness of the Settlement. You may attend, but you do not have to. As described above in Section 15, you may speak at the Fairness Hearing only if (a) you have timely submitted an objection, and (b) you have timely and validly provided a Notice of Intent to Appear. If you have requested exclusion from the Settlement, however, you may not speak at the Fairness Hearing.

ADDITIONAL INFORMATION

20. How do I get more information?

To see a copy of the Settlement Agreement, the Court's Preliminary Approval Order, the application for a Fees, Costs, and Expenses Award, and the operative Complaint filed in the Action, please visit the Settlement Website located at: www.MabryTCPASettlement.com. Alternatively, you may contact the Settlement Administrator at the email address info@MabryTCPASettlement.com or the U.S. postal (mailing) address P.O. Box 173071 Milwaukee, WI 53217. You may also obtain information by calling 1-877-307-7871.

This description of this Action is general and does not cover all of the issues and proceedings that have occurred. In order to see the complete file, you should visit www.pacer.gov or the Clerk's office at United States District Court Southern District of Ohio, 85 Marconi Boulevard, Columbus, Ohio 43215. The Clerk will tell you how to obtain the file for inspection and copying at your own expense.

21. What if my address or other information has changed or changes?

It is your responsibility to inform the Settlement Administrator of your updated information. You may do so at the address below:

Mabry TCPA Settlement
c/o A.B. Data, Ltd.
P.O. Box 173071
Milwaukee, WI 53217
1-877-307-7871
Email: info@MabryTCPASettlement.com

* * * *

DO NOT ADDRESS ANY QUESTIONS ABOUT THE SETTLEMENT OR THE LITIGATION TO THE CLERK OF THE COURT OR THE JUDGE.