

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO**

KENNETH JOHANSEN, individually and on behalf of a class of all persons and entities similarly situated,

Plaintiff,

vs.

THE NORTHWESTERN MUTUAL LIFE INSURANCE COMPANY, ERIC MABRY, and LANDON PILCHER,

Defendants.

Case No. 2:21-cv-00036

Judge Sarah D. Morrison

Magistrate Judge Chelsey M. Vascura

PLAINTIFF’S UNOPPOSED MOTION FOR PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENT AND INCORPORATED MEMORANDUM IN SUPPORT

I. INTRODUCTION

Plaintiff Ken Johansen (“Plaintiff”) and Defendants The Northwestern Mutual Life Insurance Company (“Northwestern Mutual”), Eric Mabry (“Mabry”), and Landon Pilcher (“Pilcher,” and, together with Northwestern Mutual and Mabry, “Defendants”) (Plaintiff and Defendants are collectively referred to as the “Parties”) have reached a class action settlement of this matter.¹ The Settlement includes the establishment of a \$600,000 Settlement Fund to be distributed *pro rata* to Settlement Class Members whose telephone numbers are on the Class List, and who do not submit a request for exclusion, after payment of notice and administration costs (if approved), Plaintiff’s counsel fees and costs (if approved), and a Service Payment to the Plaintiff (if approved).² There is no reverter in the Settlement Fund. Notice will be effectuated through postcards mailed directly to Settlement Class Members identified in records obtained by

¹ Defendants do not oppose this Motion insofar as it supports the proposed settlement. Defendants do not concede or admit Plaintiff’s assertions.

² All capitalized terms not defined herein have the meanings set forth in the Parties’ Settlement Agreement and Release (“Settlement” or “Agreement”), attached as Exhibit A.

Plaintiff in discovery and a website containing the Class Notice. Notably, the Settlement does not even require Settlement Class Members to make a claim. If they don't file an exclusion, they will receive a settlement payment, which is estimated to be more than \$350.

The Settlement was reached by counsel with a keen understanding of the merits of the claim and extensive experience in actions brought under the Telephone Consumer Protection Act ("TCPA"), 47 U.S.C. § 227. The parties negotiated the Settlement with the assistance of a highly skilled and experienced mediator appointed by the Court and exchanged detailed mediation statements. The relief provided meets the applicable standards of fairness when taking into consideration the nature of Plaintiff's claims and the risks inherent in class litigation. Accordingly, Plaintiff respectfully requests that the Court: (1) grant preliminary approval of the Settlement; (2) provisionally certify the proposed Settlement Class; (3) appoint Plaintiff's attorneys as Class Counsel; (4) appoint Plaintiff as representative of the Settlement Class; (5) approve the proposed Notice Plan and Notice; and (6) schedule the Final Approval Hearing and related dates as proposed. A proposed Preliminary Approval Order is attached as Exhibit B and has been lodged with the Court.

II. NATURE AND BACKGROUND OF THE CASE

This case rests on alleged violations of the TCPA, which prohibits, *inter alia*, initiating any telephone solicitation to a residential telephone number listed on the Do Not Call Registry. *See* 47 U.S.C. § 227(c). Plaintiff is an individual residing in Ohio whose telephone number was listed on the Registry and called twice by Defendant Pilcher on behalf of Defendant Mabry. Mabry is an independent insurance agent authorized by contract to sell Northwestern Mutual products along with other insurance companies' products. Pilcher, on the other hand, entered an exclusive arrangement with Mabry to contact persons via telephone and schedule meetings with Mabry for prospective business. On January 6, 2021, Plaintiff filed a putative class action

complaint against Northwestern Mutual and Mabry in the United States District Court for the Southern District of Ohio, captioned *Ken Johansen v. The Northwestern Mutual Life Insurance Company*, No. 2:21-cv-00036 (the “Action”). Plaintiff filed a First Amended Class Action Complaint on April 20, 2021 that added Pilcher as a defendant and alleged, among other things, that Defendants violated the TCPA by, *inter alia*, placing unsolicited telemarketing calls to Plaintiff and members of the putative class who listed their residential telephone line on the National Do Not Call Registry. After engaging in discovery, the Parties participated in a mediation on September 8, 2022, with Richard Coglianesi, Esq., who was appointed by the Court to mediate, during which the Parties discussed the potential settlement of the Action. On or about September 8, 2022, the Parties tentatively agreed to a potential settlement of the Action, the key terms of which are memorialized in the Agreement attached as Exhibit A.

III. THE PROPOSED SETTLEMENT

A. THE SETTLEMENT CLASS

The proposed Settlement would establish a Settlement Class for settlement purposes only, defined as:

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.

(Agreement ¶ 1.24.)

B. SETTLEMENT RELIEF

1. Class Member Relief: Settlement Fund

The proposed Settlement establishes a non-reversionary \$600,000 Settlement Fund, which will exclusively be used to pay: (1) cash settlement awards to Settlement Class Members; (2) Settlement Administration Expenses; (3) court-approved attorneys’ fees of up to one-third of

the total amount of the Settlement Fund; (4) Plaintiff's out of pocket expenses not to exceed \$20,000; and (5) a court-approved Service Payment to the Class Representative of up to \$10,000.

Each Settlement Class Member whose telephone number is on the Class List, and who does not submit a request for exclusion, shall be entitled to receive an equal *pro rata* amount of the Settlement Fund after all Settlement Administrative Expenses, Service Payment, and Fees, Costs, and Expenses Awards are paid out of the Settlement Fund. (*Id.* ¶ 3.2.1.) If all the Fees, Costs and Expenses Awards, Service Payment, and Settlement Administration Expenses are approved as requested, Plaintiff's counsel estimate that the average Settlement Class Member payment would be approximately \$375.00. The Settlement provides for a potential second distribution for any funds remaining due to uncashed settlement distribution checks to those Settlement Class Members that cashed their first distribution checks, to the extent administratively feasible. (*Id.* ¶ 3.6.)

2. Class Representative Service Payment

If approved by the Court, the Plaintiff will receive a Service Payment of \$10,000 from the Settlement Fund. This award will compensate Plaintiff for his time and effort and for the risk he undertook in prosecuting this case.

3. Attorneys' Fees and Costs

If the Settlement receives preliminary approval, Plaintiff's counsel will apply to the Court for a Fees, Costs, and Expenses Award in the amount of up to one-third of the total amount of the Settlement Fund in addition to out-of-pocket expenses. As Plaintiff's counsel will address in their fee application, an award of attorneys' fees and costs will compensate Plaintiff's counsel for the work already performed in relation to the settled claims, as well as the remaining work to be performed in documenting the Settlement, securing Court approval of the Settlement, making sure the Settlement is fairly implemented, and obtaining dismissal of the Action. Plaintiff's

proposed attorney fee award (and costs) is plainly disclosed to the Settlement Class in the proposed notice and is wholly consistent with other cases.

4. Remaining Funds

Any amount remaining in the Settlement Fund after paying all Authorized Claimant Awards, Settlement Administration Expenses, and any Fees, Costs, and Expenses Award and Service Payment will be distributed to a Court-approved *cy pres* recipient.³ This will only include the amount remaining from uncashed checks, to the extent further distribution to the Settlement Class is not administratively feasible.

C. NOTICE AND SETTLEMENT ADMINISTRATION

All Settlement Administration Expenses will be exclusively paid from the Settlement Fund. The Parties have agreed upon, and propose that the Court approve, the nationally-recognized class action administration firm AB Data, Ltd. to be the Settlement Administrator (Agreement ¶ 1.23), to implement the Class Notice, and to administer the Settlement, subject to review by counsel and the Court. The Settlement Administrator's duties will include: (1) sending the Class Notice to the Settlement Class pursuant to the Settlement; (2) responding to inquiries regarding the settlement process from persons in the Settlement Class; (3) processing and evaluating requests for exclusion and objections; and (4) issuing Authorized Claimants' Individual Allocated Payment Amounts.

The Settlement Administrator will send Postcard Notice via the U.S. Postal Service—substantially in the form attached as Exhibit 3 to the Settlement Agreement—to the names and addresses of Settlement Class Members identified as being the owners or users of the phone numbers contained on the Class List. (*Id.* ¶ 4.4.2.) The Settlement Administrator will administer

³ The Plaintiff proposes the National Consumer Law Center as an appropriate *cy pres* recipient.

a Settlement Website, through which Settlement Class Members will be able to obtain further details and information about the Settlement. (*Id.* ¶ 4.3.)

D. OPT-OUT AND OBJECTION PROCEDURES

Persons in the Settlement Class will have the opportunity to exclude themselves from the Settlement or object to its approval. (*Id.* ¶ 5.2.) The procedures and deadlines for filing requests for exclusion and objections will be conspicuously listed in the Class Notice and on the Settlement Website. (*See id.* at Exs. 2-4.) The Class Notice informs Settlement Class Members that they will have an opportunity to appear and have their objections heard by this Court at a Final Approval Hearing. (*Id.*) The Notice also informs Settlement Class Members that they will be bound by the release contained in the Settlement unless they timely exercise their opt-out right. (*Id.*)

E. RELEASE

The release is appropriately tailored to this case involving alleged violations similar to those alleged and is limited to those Settlement Class Members identified in the Class List. In exchange for settlement benefits, the Settlement Class Members who do not timely opt out of the Settlement will release Defendants from any and all claims against the Released Parties, arising out of Defendants' telemarketing records obtained by Plaintiff through discovery. (*Id.* ¶ 1.2, 1.3, 1.21, 1.26.)

IV. THE SETTLEMENT WARRANTS PRELIMINARY APPROVAL

As a matter of public policy, settlement is a strongly favored method for resolving disputes. This is particularly true in class actions and other complex cases where substantial resources can be conserved by avoiding the time, cost, and rigors of prolonged litigation. *See Rankin v. Rots*, No. 02-CV-71045, 2006 U.S. Dist. LEXIS 45706, at *8-9 (E.D. Mich. June 28, 2006) (“[T]he Court should consider the vagaries of litigation and compare the significance of

immediate recovery by way of the compromise to the mere possibility of relief in the future, after protracted and expensive litigation.”); *Enter. Energy Corp. v. Columbia Gas Transmission Corp.*, 137 F.R.D. 240, 246 (S.D. Ohio 1991) (“The law generally favors and encourages the settlement of class actions.”).

Federal Rule of Civil Procedure 23(e)(1) requires court approval of any settlement of a certified class action. The procedure for approving a class action settlement includes three steps: (1) the court preliminarily approves the settlement; (2) the members of the class then are given notice of the settlement; and (3) the court then holds a hearing to determine whether the settlement is fair, reasonable, and adequate. *See Tenn. Ass’n of Health Maint. Orgs., Inc. v. Grier*, 262 F.3d 559, 565-66 (6th Cir. 2001); *Williams v. Vukovich*, 720 F.2d 909, 921-22 (6th Cir. 1983). With the amendment of Rule 23, the Court is additionally required to specifically consider whether the Representative Plaintiff and Class Counsel have adequately represented the Settlement Class in the proceeding to date; whether the proposed Settlement was negotiated at arm’s length; whether the proposed relief available to the Settlement Class appears to be adequate, taking into account the costs, risks, and delay of trial and appeal; the anticipated effectiveness of the proposed method for distributing the proposed relief available to the Settlement Class, including the proposed method of processing class-member claims; whether the terms of any proposed award of attorney’s fees, including timing of payment, are reasonable; and whether the proposed Settlement treats members of the Settlement Class equitably relative to each other. As is set forth below, Plaintiff submits that all of the requirements of Amended Rule 23 are readily met here.

At this juncture, the parties request that the Court grant preliminary approval of the Settlement so that notice may be sent to the Class. The final determination of whether the proposed Settlement is fair, reasonable, and adequate is made only after notice of the Settlement

has been given to the members of the Class and after they have been given an opportunity to voice their views regarding the Settlement. *See* 5 James Wm. Moore, *Moore's Federal Practice* §23.83[1], at 23-336.2 to 23-339 (3d ed. 2002).

A. THE SETTLEMENT IS FAIR, REASONABLE, AND ADEQUATE

In determining whether preliminary approval is warranted, the issue before the Court is whether the Settlement: (1) is within the range of what might be found fair, reasonable, and adequate, and (2) does not disclose grounds to doubt its fairness or other obvious deficiencies, such that notice of the proposed Settlement should be given to Class Members and a hearing scheduled to consider final settlement approval. *In re Inter-Op Hip Prosthesis Liab. Litig.*, 204 F.R.D. 359, 379 (N.D. Ohio 2001); *see also Manual for Complex Litigation* §13.14, at 173 (4th ed. 2004) (“First, the judge reviews the proposal preliminarily to determine whether it is sufficient to warrant public notice and a hearing. If so, the final decision on approval is made after the hearing.”).

“Preliminary approval of a proposed settlement is based upon the court’s familiarity with the issues and evidence, as well as the arms-length nature of the negotiations prior to the proposed settlement, ensuring that the proposed settlement is not illegal or collusive.” *Miracle v. Bullitt County*, No. 05-130-C, 2008 U.S. Dist. LEXIS 62603, at *14 (W.D. Ky. Aug. 14, 2008) (citations omitted). Here, the Settlement was reached after hard-fought litigation and arduous settlement negotiations with the substantial assistance of Richard Coglianese, Esq. The Settlement provides an immediate and substantial benefit of \$600,000 in cash for the benefit of the Class which will result in an anticipated per class member payout of \$375.00. Given the complexities of this litigation and the substantial risks of continued litigation, the Settlement represents a very good resolution of this Action and eliminates the risk that the Class might not recover anything if the litigation were to continue. There is no question that the Settlement is

within the range of what has been found fair, reasonable, and adequate, such that notice of the proposed Settlement should be given to Class Members and a hearing scheduled to consider final settlement approval.

B. FACTORS CONSIDERED IN CONNECTION WITH FINAL APPROVAL OF CLASS ACTION SETTLEMENTS SUPPORT GRANTING PRELIMINARY APPROVAL

Moreover, reference to certain of the factors considered by courts in connection with final approval of class action settlements lend support to the proposition that the Settlement is well within the range of possible approval. In determining whether a proposed settlement is fair, adequate, and reasonable, the Sixth Circuit and the district courts therein have established factors for a court to consider, including: (1) the plaintiffs' likelihood of ultimate success on the merits balanced against the amount and form of relief offered in the settlement; (2) the complexity, expense, and likely duration of the litigation; (3) the risk of fraud or collusion; (4) the stage of the proceedings and the amount of discovery completed; (5) the judgment of experienced trial counsel; (6) the nature of the negotiations; (7) the objections raised by the class members; and (8) the public interest. *Williams*, 720 F.2d at 921; *In re Telectronics Pacing Sys.*, 137 F. Supp. 2d 985, 1008 (S.D. Ohio 2001). Courts have emphasized that these factors should not be applied in a "formalistic" fashion. *Thompson v. Midwest Found. Indep. Physicians Ass'n*, 124 F.R.D. 154, 157 (S.D. Ohio 1988) ("A class action settlement cannot be measured precisely against any particular set of factors, however, and the court may be guided by other factors, 'the relevancy of which will vary from case to case.'") (citation omitted). Here, any objections raised by class members will be after notice is sent and a settlement will be in the public's interest. *See Telectronics*, 137 F. Supp. 2d at 1027 ("Being a preferred means of dispute resolution, there is a strong presumption by courts in favor of settlement."). This is especially true in complex class actions such as this. *See Franks v. Kroger Co.*, 649 F.2d 1216, 1224 (6th Cir. 1981). These

factors largely overlap with the additional requirements imposed by Amended Rule 23. The factors are evaluated below.

1. Plaintiff's Likelihood of Ultimate Success on the Merits Balanced Against the Amount and Form of Relief Offered in the Settlement

The initial factor that courts consider in reviewing a class action settlement is the likelihood of success on the merits balanced against the amount and form of relief offered in settlement. *See Williams*, 720 F.2d at 922. While Plaintiff's counsel believes that the claims asserted in the litigation have merit, they recognize and acknowledge the expense, length, and uncertainty of continued proceedings necessary to prosecute the litigation against Defendants through summary judgment, trial, and appeals. Specifically, in this case, the Defendants were expected to challenge the ascertainability of the class and to argue that determining which outbound calls were related to telemarketing and which were not would create predominance concerns that would require de-certification. Plaintiff's counsel also has taken into account the uncertain outcome and risk of any litigation, especially in complex actions such as this Action, as well as the difficulties and delays inherent in such litigation. In addition, Plaintiff's counsel is mindful of the inherent problems of proof under, and possible defenses to, the violations asserted in the litigation. *See In re Broadwing, Inc. ERISA Litig.*, 252 F.R.D. 369, 373-74 (S.D. Ohio 2006) (exploring "the difficulty Plaintiffs would encounter in proving their claims, the substantial litigation expenses, and a possible delay in recovery due to the appellate process, provides justifications for th[e] Court's approval of the proposed Settlement").

2. The Complexity, Expense, and Likely Duration of the Litigation.

This litigation has been pending now for nearly two years. Over the course of those years, Plaintiff's counsel took extensive discovery. This is not a case where a settlement was reached quickly and without fulsome investigation. The ultimate outcome of this matter at trial

and then on appeal, however, was uncertain. The Class faced a considerable risk of obtaining no settlement. The Settlement avoids these risks and provides immediate and certain relief. *See, e.g., In re Prudential Ins. Co. Am. Sales Practice Litig. Agent Actions*, 148 F.3d 283, 318 (3d Cir. 1998) (settlement was favored where “the trial of this class action would be a long, arduous process requiring great expenditures of time and money on behalf of both the parties and the court”); *In re Enron Corp. Sec.*, 228 F.R.D. 541, 566 (S.D. Tex. 2005) (“The settlement at this point would save great expense and would give the Plaintiffs hard cash, a bird in the hand.”).

3. The Risk of Fraud or Collusion and the Nature of Negotiations.

The terms of the proposed Settlement are the product of extensive arm’s-length negotiations between the parties, with the substantial assistance of an experienced mediator appointed by the Court. During these negotiations, Plaintiff’s counsel zealously advanced their position and were fully prepared to continue to litigate rather than accept a settlement that was not in the best interest of the Settlement Class. Defendants were also represented by highly capable and experienced lawyers. Counsel for the Defendants zealously represented Defendants during the settlement negotiations and throughout the litigation. The Settlement was reached only after extensive arm’s-length negotiations by experienced counsel on both sides, each with a well-developed understanding of the strengths and weaknesses of each party’s respective claims and defenses. Indeed, Plaintiff’s counsel carefully considered and evaluated a number of factors, including the relevant legal authorities and evidence pertaining to the claims asserted against Defendants, the likelihood of prevailing on these claims, the risk, expense, and duration of continued litigation, and any appeals and subsequent proceedings. After considering these factors, Plaintiff’s counsel reasonably concluded that the Settlement is not only fair, reasonable, and adequate but is a very good result for the Settlement Class.

4. The Stage of the Proceedings and the Amount of Discovery Completed

Additionally, the stage of the proceedings supports approval of the Settlement. *Telectronics*, 137 F. Supp. 2d at 1015. By the time the Settlement was reached, Plaintiff's counsel had sufficient knowledge and a significant understanding of the merits of the claims alleged in the litigation and the defenses that would be asserted by Defendants to intelligently determine that the Settlement is in the best interest of the Settlement Class. Here, fact discovery was nearly complete. The Plaintiff had retained an expert who analyzed the calling records. Plaintiff and his counsel's vigorous representation of the putative class readily satisfies the requirement of Amended Rule 23(e) of adequate representation of the proposed Settlement Class.

In addition, the Parties participated in an arm's-length mediation with Attorney Coglianesse where the strengths and weaknesses of the claims asserted were fully vetted. Prior to the mediation, the parties exchanged detailed mediation statements that further highlighted the factual and legal issues in dispute. The "arm's-length" negotiation requirement of Amended Rule 23(e) is also satisfied.

5. The Judgment of Experienced Trial Counsel.

Plaintiff's counsel has significant experience and expertise in TCPA and other complex class action litigation and has negotiated numerous other substantial class action settlements throughout the country, and they support the Settlement. *See* Declarations of Brian Murphy and Anthony Paronich, attached hereto as Exhibits C and D, respectively. The Sixth Circuit has determined that a court should "defer to the judgment of experienced counsel who has competently evaluated the strength of his proofs." *See Williams*, 720 F.2d at 922-23; *Telectronics*, 137 F. Supp. 2d at 1015 ("The Court heeds the recommendation of such experienced, professional, and competent Counsel."); *Thacker v. Chesapeake Appalachia*,

L.L.C., 695 F. Supp. 2d 521, 532 (E.D. Ky. 2010) (“In deciding whether a proposed settlement warrants approval, the informed and reasoned judgment of plaintiffs’ counsel and their weighing of the relative risks and benefits of protracted litigation are entitled to great deference.”), *aff’d sub nom. Poplar Creek Dev. Co. v. Chesapeake Appalachia, L.L.C.*, 636 F.3d 235 (6th Cir. 2011).

Based on their thorough evaluation, Plaintiff’s counsel believes the benefits of the Settlement merit approval, particularly when weighed against the expense, risks, and uncertainty of continued litigation. While there is always a chance of a greater recovery down the road, such a result is by no means guaranteed, and any such expectation must be tempered by a recognition that any compromise involves concessions on the part of all Parties. Indeed, “the very essence of a settlement is compromise, ‘a yielding of absolutes and an abandoning of highest hopes.’” *Officers for Justice v. Civil Serv. Comm’n*, 688 F.2d 615, 624 (9th Cir. 1982) (citations omitted). As the Fifth Circuit noted in *Cotton v. Hinton*, 559 F.2d 1326 (5th Cir. 1977), “[t]he trial court should not make a proponent of a proposed settlement ‘justify each term of settlement against a hypothetical or speculative measure of what concessions might have been gained’” *Id.* at 1330 (citation omitted).

In light of the risks of continued litigation laid out above, and the determination of experienced counsel that the Settlement represents an excellent result for the class, Plaintiff’s counsel respectfully submit that the proposed Settlement meets the requirement of Amended Rule 23(e) that the proposed relief be found adequate, taking into account the costs, risks, and delay of trial and appeal.

V. THE PROPOSED NOTICE AND FUND DISTRIBUTION PROGRAM IS APPROPRIATE

Rule 23(e) governs notice requirements for settlements or “compromises” in class actions. The Rule provides that a class action shall not be dismissed or compromised without the

approval of the court and that notice of the proposed dismissal or compromise shall be given to all members of the class in such manner as the court directs. Fed. R. Civ. P. 23(e). In addition, the Rule provides, “The court must direct notice in a reasonable manner to all class members who would be bound by the proposal.” Fed. R. Civ. P. 23(e)(1).

Here, the Parties have negotiated the content of the Notice of Class Action and Proposed Settlement (the “Notice”) to be disseminated to all persons who fall within the definition of the Class and whose names and addresses can be identified. The best practicable notice is that which is “reasonably calculated, under all the circumstances, to apprise interested parties of the pendency of the action and afford them an opportunity to present their objections.” *Mullane v. Cent. Hanover Bank & Trust Co.*, 339 U.S. 306, 314 (1950). According to the Manual for Complex Litigation, § 21.312, a settlement notice should do the following:

- Define the class;
- Describe clearly the options open to the class members and the deadlines for taking action;
- Describe the essential terms of the proposed settlement;
- Disclose any special benefits provided to the class representatives;
- Indicate the time and place of the hearing to consider approval of the settlement, and the method for objecting to or opting out of the settlement;
- Explain the procedures for allocating and distributing settlement funds, and, if the settlement provides different kinds of relief for different categories of class members, clearly set out those variations;
- Provide information that will enable class members to calculate or at least estimate their individual recoveries; and
- Prominently display the address and phone number of class counsel and the procedures for making inquiries.

The proposed Class Notice, attached as Exhibits 2 and 3 to the Settlement Agreement, satisfy all of the above criteria. The Notice describes the nature of the litigation; sets forth the definition of

the Class; states the Class claims; and discloses the right of Class Members to exclude themselves from the Class, as well as the deadline and procedure for doing so, and warns of the binding effect of the settlement approval proceedings on Class Members who do not exclude themselves. In addition, the Notice describes the Settlement; sets forth the Settlement Fund; explains the distribution and claims process; states the parties' disagreement over damages and other issues; and sets out the amount of attorneys' fees and expenses that Plaintiff's counsel intends to seek in connection with final settlement approval. The Notice also provides contact information for Plaintiff's counsel and the Settlement Administrator and summarizes the reasons the Parties are proposing the Settlement. The Notice also discloses the date, time, and place of the formal fairness hearing, and the procedures for objecting to the Settlement and appearing at the hearing. The contents of the Notice therefore satisfy all applicable requirements. In addition, the Settlement Agreement calls for distribution of Authorized Claimant Awards within 45 calendar days after entry of the Final Approval Order.

All Settlement Class members whose telephone number is on the Class List and who does not submit a request for exclusion will be entitled to an equal payment made by a Settlement Administrator experienced and proficient in administering class settlements, thereby satisfying the twin requirements of Amended Rule 23(e) that the method for distribution of payments be effective, and that the proposed settlement treat settlement class members equitably relative to each other.

VI. SCHEDULE OF EVENTS

In connection with preliminary approval of the Settlement, the Court must set a final approval hearing date, dates for mailing and publication of the Notice and Summary Notice and deadlines for objecting to the Settlement, opting out of the Class, and filing papers in support of the Settlement. The Parties propose the following schedule:

Last day for Plaintiff to provide the Settlement Administrator the Class List	On or before 14 days after entry of the Preliminary Approval Order
Last day for the Settlement Administrator to publish the Settlement Website and begin operating a toll-free telephone line, email address, and P.O. Box to accept inquiries from Settlement Class Members	On or before 30 days after the entry of the Preliminary Approval Order
Settlement Administrator provides Postcard Notice to Settlement Class Members	On or before 30 days after the entry of the Preliminary Approval Order
Last day for Settlement Class Counsel to file motion in support of Fees, Costs, and Expenses Award and apply for Service Payment	On or before 49 days after entry of the Preliminary Approval Order
Last day for Settlement Class Members to object, or request exclusion from the Settlement Class	On or before 60 days after entry of the Preliminary Approval Order
Last day for Settlement Class Counsel to file motion in support of Final Approval	On or before 14 days before Final Approval Hearing
Last day for Defendants to file optional brief in support of Settlement	On or before 7 days before Final Approval Hearing

VII. CONCLUSION

For the reasons set forth above and the entire record in this litigation, the Settlement warrants this Court's preliminary approval, and Plaintiff's counsel respectfully requests that the motion be granted.

Respectfully submitted,

/s/ Brian K. Murphy

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Counsel for Plaintiff

CERTIFICATE OF SERVICE

I, hereby certify that on November 22, 2022, I caused the foregoing to be filed via the Court CM/ECF filing system which will effect service on all counsel of record.

/s/ Brian K. Murphy

Brian K. Murphy

EXHIBIT A

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

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
)	
THE NORTHWESTERN MUTUAL LIFE	)	Magistrate Judge Chelsey M. Vascura
INSURANCE COMPANY, ERIC)	
MABRY, and LANDON PILCHER,)	
)	
Defendants.)	

SETTLEMENT AGREEMENT AND RELEASE

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[PROPOSED] PRELIMINARY APPROVAL ORDER	EXHIBIT 1
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[PROPOSED] FINAL APPROVAL ORDER	EXHIBIT 5

PREAMBLE

It is hereby stipulated and agreed by and among the undersigned Parties (defined below), subject to the approval of the Court, that the settlement of this Action (defined below) shall be effectuated pursuant to the terms and conditions set forth in this Settlement Agreement and Release (the “Agreement” or “Settlement Agreement”).

RECITALS

The following recitals are incorporated by reference and are considered part of the Settlement Agreement:

A. On January 6, 2021, plaintiff Kenneth Johansen (“Plaintiff”) filed a putative class action complaint (the “Complaint”) in the United States District Court for the Southern District of Ohio against The Northwestern Mutual Life Insurance Company (“Northwestern Mutual”) captioned *Johansen v. The Northwestern Mutual Life Insurance Company*. The Plaintiff later filed an Amended Complaint that added Eric Mabry and Landon Pilcher as defendants (Northwestern Mutual, Mabry, and Pilcher are collectively referred to as the “Defendants”) (Defendants and together with Plaintiff, the “Parties”). The case received the civil action number 2:21-cv-00036 (the “Action”).

B. Eric Mabry is an independent insurance agent authorized by contract to sell Northwestern Mutual products along with other insurance companies’ products.

C. Pilcher entered an exclusive arrangement with Mabry to contact persons via telephone and schedule meetings with Mabry for prospective business.

D. Northwestern Mutual is an insurance company headquartered in Milwaukee, Wisconsin, involved in the business of underwriting, issuing, and servicing insurance policies and annuities, as well as offering investment products and services. Northwestern Mutual does not

directly solicit prospective customers to apply for its insurance products. Northwestern Mutual does not hire employees to sell its products.

E. Northwestern Mutual exclusively markets its policies and annuities through a network of independent insurance agents who individually contract with “General Agents” to sell those products. General Agents are independent contractors who solicit applications from potential customers. They may also enter into separate agreements with “District Agents” and/or “Field Directors” to expand their agencies. Like General Agents, neither District Agents nor Field Directors are employees of Northwestern Mutual, but instead are licensed insurance agents who operate their own businesses. District Agents and Field Directors may in turn contract with Financial Representatives. The agreements that Financial Representatives sign with General Agents, District Agents, and/or Field Directors provide that these individuals are independent contractors and not employees of the General Agent, District Agent, Field Director, or Northwestern Mutual. Financial Representatives’ agreements also permit them to sell insurance products from companies other than Northwestern Mutual.

F. Northwestern Mutual has established and implemented written procedures that ensure compliance with the National Do-Not-Call (“DNC”) Registry and its rules, in addition to the rules of state registries. These written procedures—which all General Agent, District Agent, Field Director, and Financial Representative independent contractor agreements require them to follow—were in place in June and July 2020. Northwestern Mutual also trains independent insurance agents on its DNC compliance procedures and how to access its DNC database.

G. Northwestern Mutual’s online DNC database combines the national DNC registry, state DNC registries, and the phone numbers of individuals who have specifically requested not to

be contacted by anyone connected with Northwestern Mutual or on its behalf. Northwestern Mutual routinely updates its DNC database to ensure accurate and up-to-date reporting.

H. Mabry, a Financial Representative, warranted on an annual basis that he read and would comply with Northwestern Mutual's DNC policies and training.

I. The amended Complaint alleged that the Defendants violated the Telephone Consumer Protection Act, 47 U.S.C. § 227 (the "TCPA") by, *inter alia*, placing unsolicited telemarketing calls to Plaintiff and members of the putative class who listed their residential telephone line on the National Do Not Call Registry.

J. In the course of litigation, Northwestern Mutual produced "the identity of every independent contractor (Financial Representative) formally or informally alleged to have made outbound calls in violation of the TCPA on or after January 6, 2017." Mabry was the only independent contractor (Financial Representative) formally or informally alleged to have made outbound calls in violation of the TCPA on or after January 6, 2017. The only such allegations were made by the plaintiff in this lawsuit.

K. The Defendants dispute the Plaintiff's allegations in his Complaint and maintain that they complied with the TCPA and all applicable laws. The Parties are entering into this Agreement to avoid the risk and expense of further litigation, to resolve all disputes that have arisen between them, and to settle any and all claims that do or may exist in the past, present, or future.

L. This Settlement Agreement is the result of good faith, arm's-length settlement negotiations. The Parties have exchanged information through discovery, have participated in mediation, and have had a full and fair opportunity to evaluate the strengths and weaknesses of their respective positions.

M. The Parties understand, acknowledge, and agree that the execution of this Settlement Agreement constitutes the settlement and compromise of disputed claims. This Settlement Agreement is inadmissible as evidence against any of the Parties except to enforce the terms of the Settlement Agreement and is not an admission of wrongdoing or liability on the part of any Party to this Settlement Agreement. The Parties desire and intend to effect a full, complete, and final settlement and resolution of all existing disputes and claims as set forth herein.

N. The Parties hereby stipulate and agree that, in consideration of the agreements, promises, and covenants set forth in this Settlement Agreement, and subject to approval of the Court, the Action shall be fully and finally settled and the Action dismissed with prejudice under the following terms and conditions.

AGREEMENT

1. DEFINITIONS

In addition to the definitions included above, and in the Distribution Plan (Section 3) of the Agreement, the following shall be defined terms for purposes of this Settlement Agreement. Some of the definitions in this section use terms that are defined later in the section. All defined terms are in bold-face font and listed in alphabetical order:

1.1 Agreement or Settlement Agreement. This document, including all exhibits.

1.2 Authorized Claimant. A Settlement Class Member who does not validly request exclusion from the Settlement Class.

1.3 Class List. The database that Plaintiff's Counsel provides, subject to approval from Settlement Class Counsel, to the Settlement Administrator, which includes, among other things, the phone number and, if any, and postal addresses, if any, of Settlement Class Members.

1.4 Class Period. From January 6, 2017, through November 9, 2022.

1.5 Court. United States District Court, Southern District of Ohio

1.6 Cy Pres Recipient. The National Consumer Law Center

1.7 Distribution Plan. The plan, set forth in Section 3, for distributing the Settlement Fund.

1.8 Effective Date. The first date after which the following events and conditions have occurred: (a) the Court has entered a Final Judgment; and (b) the Final Judgment has become final in that the time for appeal or writ has expired or, if any appeal and/or petition for review is taken and the settlement is affirmed, the time period during which further petition for hearing, appeal, or writ of certiorari can be taken has expired. If the Final Judgment is set aside, materially modified, or overturned by the trial court or on appeal, and is not fully reinstated on further appeal, this Agreement will be terminated and cancelled and the Parties will be returned to their positions *status quo ante* with respect to the Action as if this Agreement had not been entered into.

1.9 Fees, Costs, and Expenses Award. The amount of attorneys' fees and reimbursement of costs and expenses awarded to Settlement Class Counsel by the Court from the Settlement Fund.

1.10 Fairness Hearing or Final Approval Hearing. The hearing held by the Court to consider evidence and argument for the purpose of determining whether to enter the Final Approval Order and Final Judgment, and evaluating the Fees, Costs and Expenses Award and request for an award of Service Payment to Plaintiff.

1.11 Final Approval Order. The order finally certifying the Settlement Class, and approving the settlement as fair, reasonable, and adequate, substantially in the form attached as Exhibit 6.

1.12 Individual Allocated Payment Amount. Defined by mathematical formula in the Distribution Plan.

1.13 Initial Payments. The sum of the following amounts: Service Payment, and any Fees, Costs, and Expenses Award, and any fees and costs of the Settlement Administrator due to be paid from the Settlement Fund pursuant to Section 2.1.

1.14 Long-Form Notice. The long-form version of the notice of the settlement that is to be provided on the Settlement Website. The Long-Form Notice submitted to the Court for approval must be substantially in the form attached as Exhibit 2.

1.15 Opt-Out Form. The document Settlement Class Members submit to request to be excluded from this Agreement. The Opt-Out Form submitted to the Court for approval must be substantially in the form attached as Exhibit 4.

1.16 Net Settlement Fund. The Settlement Fund, reduced by the Initial Payments.

1.17 Postcard Notice. The summary notice of the settlement that is mailed to Settlement Class Members pursuant to Section 3, providing the URL of the Settlement Website and contact information for the Settlement Administrator. The Postcard Notice submitted to the Court for approval must be substantially in the form attached as Exhibit 3.

1.18 Preliminary Approval Order. The Order of Preliminary Approval of Settlement to be entered by the Court substantially in the form attached as Exhibit 1.

1.19 Released Claims. Any and all claims, causes of action, suits, obligations, debts, demands, agreements, promises, liabilities, damages, losses, controversies, costs, expenses, and attorneys' fees of any nature whatsoever, whether based on any federal law, state law, common law, territorial law, foreign law, contract, rule, regulation, any regulatory promulgation (including, but not limited to, any opinion or declaratory ruling), common law or equity, whether known or unknown, suspected or unsuspected, asserted or unasserted, foreseen or unforeseen, actual or contingent, liquidated or unliquidated, punitive or compensatory, of every nature and description

whatsoever, as of the date of the Preliminary Approval Order, that arise out of or relate in any way to outbound telecommunications included, but not limited to, calls and text messages made by or on behalf of the Released Parties to members of the Settlement Class. This release expressly includes, but is not limited to, all claims under the Telephone Consumer Protection Act, 47 U.S.C. § 227, et seq. (the “TCPA”), the TCPA’s implementing regulations, 47 C.F.R. § 64.1200, et seq., the Telemarketing Sales Rule, 16 C.F.R. § 310, et seq. (the “TSR”), any corollary or state laws similar to the TCPA and TSR, or enactment of any other statutory, regulatory or common law claim arising thereunder.

1.20 Released Parties. Defendants and each of their past, present, and future members, owners, direct and indirect parents, subsidiaries, managers, divisions, predecessors, successors, holding companies, and affiliated companies and corporations, and each of the past, present, and future directors, officers, managers, employees, contractors, general partners, limited partners, investors, controlling persons, owners, trustees, principals, agents, associates, administrators, insurers, reinsurers, shareholders, attorneys, accountants, advisors, consultants, assignors, assignees, representatives, fiduciaries, predecessors, successors, divisions, joint ventures, or related entities of those companies including, but not limited to, the vendors, subvendors, contractors, subcontractors, and service providers retained to make calls (or which was involved in making calls for which another of the Released Parties). The release of any third parties is limited to any actions taken on behalf of Defendants or actions that might have led to calls underlying any of the released claims.

1.21 Releasing Parties. Plaintiff and the Members of the Settlement Class (whether or not such Members submit Claim Forms), and their respective assigns, heirs, successors, predecessors, parents, subsidiaries, officers, directors, shareholders, members, managers, partners,

principals, representatives, and employees (each solely in their respective capacity as such), and all those who claim through them or who assert claims (or could assert claims) on their behalf.

1.22 Response Deadline. The date by which a Settlement Class Member must object to this Agreement or submit a request for exclusion to the Settlement Administrator. The Response Deadline shall be sixty (60) days after entry of the Preliminary Approval Order.

1.23 Settlement Administrator. Subject to Court approval, AB Data, Ltd.

1.24 Settlement Class or Class. 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.

1.25 Settlement Class Counsel. Paronich Law, P.C., Murray Murphy Moul + Basil, LLP.

1.26 Settlement Class Member(s) or Class Member(s). All persons or entities who fall within the Settlement Class.

1.27 Settlement Fund. Defendants agree to pay six hundred thousand dollars (\$600,000) to create a non-reversionary, capped Settlement Fund. Defendants shall owe no interest on the Settlement Fund. The Settlement Fund shall represent the maximum payment to be paid by Defendants, and will be used to pay all approved payments, costs of administration, and permitted fees, costs and/or service awards.

1.28 Settlement Website. A website created and maintained by the Settlement Administrator for the purpose of providing the Settlement Class with notice of the proposed settlement. This website will allow Settlement Class Members to opt-out of the Agreement.

2. SETTLEMENT CONSIDERATION (BENEFITS AND RELEASE OF CLAIMS)

2.1 Settlement Fund.

2.1.1 Payment of the Settlement Fund. On or before fourteen (14) calendar days after entry of the Preliminary Approval Order, Defendants shall pay the Settlement Fund to the Settlement Administrator.

2.1.2 Settlement Class Member Benefits. Settlement Class Members shall be eligible to receive monetary benefits from the Net Settlement Fund in accordance with the Distribution Plan.

2.1.3 Settlement Class Counsel's Fees, Costs, and Expenses. Settlement Class Counsel may make a reasonable request for fees, costs, and expenses to the Court. Defendants reserve the right to respond to such fee request as they deem appropriate. Any attorneys' fees, costs, and expenses awarded by the Court shall be paid by the Settlement Administrator from the Settlement Fund. The finality or effectiveness of the settlement will not be dependent on the Court awarding Settlement Class Counsel any particular amount on their Fees, Costs, and Expenses Award.

2.1.4 Settlement Administrator and Notice and Administrative Costs. Notice and Administrative Costs shall be paid from the Settlement Fund, or in the event such costs and expenses are incurred (not to exceed \$75,000) but the Effective Date does not occur, shall be paid by Defendants.

2.1.5 No Additional Amounts Due. In no event shall Defendants be required to pay more than six hundred thousand dollars (\$600,000) under this Agreement.

2.2 Releases.

2.2.1 Release of Settlement Class Claims. The Parties intend that this Agreement will fully and finally dispose of the Action and any and all Released Claims against

the Released Parties. As of the Effective Date, each Releasing Party will be deemed to have completely released and forever discharged the Released Parties, and each of them, from and for any and all Released Claims.

3. DISTRIBUTION PLAN

3.1 Initial Payments. Except as otherwise provided, on or before thirty (30) calendar days after the Effective Date, the Settlement Administrator shall deduct all Initial Payments from the Settlement Fund and deliver them to the appropriate individuals or entities entitled to them, in accordance with the terms of the Agreement and the Court's Final Approval Order and Final Judgment.

3.1.1 Additional Instructions Regarding Fees, Costs, and Expenses Award.

Settlement Class Counsel shall provide the Settlement Administrator the relevant Form W-9 and any instructions for payment. The Settlement Administrator shall have no obligation to pay forward the Fees, Costs, and Expenses Award until it receives the Form W-9 (or Form W-9s, if applicable) and payment instructions.

3.1.2 Additional Instructions for Individual Allocated Payment Amounts.

Settlement Class Members will be asked to provide either a taxpayer identification or a social security number if they are receiving \$600 or more in an Individual Allocated Payment Amount due to Internal Revenue Service reporting requirements. The Settlement Administrator will issue a written notice to Settlement Class Members who will receive a payment of \$600 or more as Individual Allocated Payment Amounts, once the allocation of Individual Allocated Payment Amounts is determined following Final Approval. If no taxpayer identification or social security number is timely provided, payment of the Individual Allocated Payment Amount may be subject to backup withholding as required by Internal Revenue Service regulations.

3.2 Authorized Claimant Settlement Award Calculations. The awards to Authorized Claimants shall be calculated and apportioned as follows:

3.2.1 A Settlement Class Member is eligible to claim a pro rata share of the Net Settlement Fund provided they do not submit a request for exclusion and their telephone number is on the Class List.

3.3 Distribution of Authorized Claimant Awards. Authorized Claimants' Individual Allocated Payment Amounts shall be mailed as a check by the Settlement Administrator within forty-five (45) calendar days following the Effective Date.

3.4 Address Verification / Returned Checks. Prior to mailing checks under this settlement, the Settlement Administrator shall attempt to update the last known addresses of Authorized Claimants through the National Change of Address database. No skip-tracing shall be done as to any checks that are returned by the postal service with no forwarding address. Authorized Claimants' checks returned with a forwarding address shall be re-mailed to the new address within seven (7) calendar days.

3.5 Uncashed Settlement Checks. Any checks issued under this settlement shall be negotiable for at least ninety (90) calendar days. Individual checks that have not been negotiated within ninety (90) calendar days after issuance, if any, shall be void, and the underlying funds shall be paid by the Settlement Administrator to the Cy Pres Recipients.

3.6 Second Eligible Payment. Prior to the Cy Pres payment, Settlement Class Members who received an eligible payment pursuant to the Agreement will receive a second pro rata payment to the extent such a payment is economically feasible (e.g., more than \$5.00) (the "Second Eligible Payment").

3.7 Cy Pres Distribution. Any remaining funds will be paid to the Cy Pres Recipients under this Agreement within thirty (30) days following the Second Eligible Payment.

3.8 No Claims Related to Distribution Calculations. No person or entity shall have any claim against Released Parties, Released Parties' counsel, Defendants, Defendants' counsel, Plaintiff, the Settlement Class Members, Settlement Class Counsel, or any Settlement Administrator based on distributions and payments made in accordance with this Agreement.

4. CLASS NOTIFICATION PROCEDURES

4.1 CAFA Notice. Within ten (10) calendar days after this Agreement is filed with the Court, Defendants, through the Settlement Administrator, shall serve upon relevant government officials notice of the proposed settlement in accordance with 28 U.S.C. § 1715. The Settlement Administrator shall thereafter complete a declaration attesting to the completion of notice pursuant to 28 U.S.C. § 1715 such that it can be filed with the Court in advance of the hearing on Plaintiff's motion for entry of the Preliminary Approval Order.

4.2 Class List. Unless otherwise ordered by the Court, within fourteen (14) calendar days after entry of the Preliminary Approval Order, Settlement Class Counsel shall provide the Settlement Administrator the Class List.

4.3 Settlement Website. Unless otherwise ordered by the Court, within thirty (30) calendar days after entry of the Preliminary Approval Order, the Settlement Administrator will activate the Settlement Website. The Settlement Website shall be designed and constructed to accept electronic Opt-Out Form submissions. To help protect against fraudulent submissions, the Settlement Administrator may use CAPTCHA for each electronic form submission. Additionally, the Settlement Administrator shall post on the Settlement Website: (a) the operative Complaint, (b) the Agreement, (c) the Preliminary Approval Order, (d) the Long-Form Notice. The Settlement

Website will be active until the last date Authorized Claimants have to negotiate any checks sent pursuant to Section 3.

4.4 Notice to Settlement Class Members.

4.4.1 Postal Appends. For each Settlement Class Member, the Settlement Administrator shall perform a postal address appends through a commercially available database in an attempt to identify a postal address for such Settlement Class Member.

4.4.2 Postcard Notice. Unless otherwise ordered by the Court, on or before thirty (30) calendar days after entry of the Preliminary Approval Order, the Settlement Administrator shall send Postcard Notice (attached hereto as Exhibit 3) to Settlement Class Members. Prior to mailing the Postcard Notice under this settlement, the Settlement Administrator shall attempt to update the last known addresses of the Class Members through the National Change of Address database.

4.5 Inquiries from Settlement Class Members. The Settlement Administrator will establish an email account and P.O. Box to which Class Members may submit questions regarding the settlement. The Settlement Administrator will monitor the email account and P.O. Box and respond promptly to inquiries received from Class Members. Additionally, no later than thirty (30) calendar days after entry of the Preliminary Approval Order, the Settlement Administrator shall establish a toll-free telephone number that Settlement Class Members can call and listen to a set of Frequently Asked Questions and corresponding answers or obtain the unique identifier assigned by the Settlement Administrator to each Settlement Class Member.

4.6 Settlement Administrator Interim Reports. Beginning one week after the deadline to provide notices under Section 4, the Settlement Administrator shall provide weekly

reports to Defendants' Counsel and Settlement Class Counsel concerning any opt outs or objections received during the prior week and the amount claimed to date.

5. OBJECTIONS AND REQUESTS FOR EXCLUSION

5.1 Objections. Any Settlement Class Member who has not submitted a timely written request for exclusion and who wishes to object to the fairness, reasonableness, or adequacy of the Settlement Agreement, the Fees, Costs, and Expenses Award, or the Service Payment must comply with the following requirements. Objections may be submitted to the Settlement Administrator by email, or to either the Settlement Administrator or the Court by postal mail. If an objection is submitted by postal mail, the Settlement Class Member must pay for postage.

5.1.1 Content of Objections. All objections and supporting papers must be in writing and must: (a) clearly identify the case name and number; (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.

5.1.2 Deadline for Objections. Objections must be submitted by the Response Deadline. If submitted by email, objections must be received on or before the Response Deadline by 11:59 p.m. PST. If submitted by postal mail, objections must be postmarked by the Response Deadline. The date of the postmark on the envelope containing the written statement objecting to the Settlement shall be the exclusive means used to determine whether an objection has been timely

submitted. In the event a postmark is illegible, the date of mailing shall be deemed to be three (3) days prior to the date that the Settlement Administrator received a copy of the objection.

5.1.3 Failure to Object. Settlement Class Members who fail to submit timely written objections in the manner specified above shall be deemed to have waived any objections and shall be forever barred from making any objection to the Agreement and the proposed settlement by appearing at the Final Approval Hearing, appeal, collateral attack, or otherwise.

5.1.4 Attendance at Final Approval Hearing. Any Class Member who timely submits a written objection has the option to appear and request to be heard at the Final Approval Hearing, either in person or through personal counsel. However, Settlement Class Members (with or without their attorneys) intending to make an appearance at the Final Approval Hearing must include on a timely and valid objection a statement substantially similar to “Notice of Intention to Appear.” Only Settlement Class Members who submit timely objections including Notices of Intention to Appear may speak at the Final Approval Hearing. If a Settlement Class Member makes an objection through an attorney, the Settlement Class Member will be responsible for his or her personal attorney’s fees and costs.

5.2 Requests for Exclusion. This Settlement Agreement will not bind Settlement Class Members who timely and validly request to be excluded (also known as opting-out) of the settlement. Individual requests for exclusion may be submitted to the Settlement Administrator electronically (through the Settlement Website) or by postal mail, but if submitted by postal mail, each Settlement Class Member must pay for postage. No mass opt-outs are allowed.

5.2.1 Contents of a Request for Exclusion. All requests for exclusion must be in writing and must: (a) clearly identify the case name and number; (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 Settlement Class Member seeking exclusion; (d) contain a statement that the requestor does not wish to participate in the settlement; and (e) be signed personally by the Settlement Class Member. The Settlement Website shall contain a copy of an Opt-Out Form, substantially in the form attached as Exhibit 4, that Settlement Class Members may (but are not required to) use to request exclusion from the settlement.

5.2.2 Deadline to Request Exclusion. To be excluded from the settlement, the request for exclusion must be submitted by the Response Deadline. If submitted electronically (through the Settlement Website), the request for exclusion must be received no later than 11:59 p.m. PST on or before the Response Deadline. If submitted by postal mail, the request for exclusion must be date-and-time-stamped, or postmarked, no later than the Response Deadline. In the event a postmark is illegible, the date of mailing shall be deemed to be three (3) days prior to the date that the Settlement Administrator received a copy of the request for exclusion.

5.2.3 Effect of Requesting Exclusion. Any person or entity who falls within the definition of the Settlement Class and who validly and timely requests exclusion from the Settlement Class shall not be a Settlement Class Member; shall not be bound by the Settlement Agreement; shall not be bound by any judgment entered in the Action; shall not be eligible to make a Claim for any benefit under the terms of the Settlement Agreement; and shall not be entitled to submit an objection to the settlement. However, if a Settlement Class Member submits a Claim Form and request for exclusion, the request for exclusion shall be invalid and the Settlement Class Member shall remain a member of the Settlement Class.

5.2.4 Exclusion List. No later than fourteen (14) calendar days after the Response Deadline, the Settlement Administrator shall provide Settlement Class Counsel and

Defendants' counsel with a list of all persons and entities who have timely and validly excluded themselves from the settlement. The exclusion list shall be filed with the Court as part of Plaintiff's motion for entry of the Final Approval Order and Final Judgment.

6. COURT APPROVAL PROCEDURES

6.1 Provisional Class Certification and Preliminary Approval Order.

6.1.1 Settlement Class. For settlement purposes only, the Parties agree that Plaintiff will move for certification of the Settlement Class pursuant to Fed. R. Civ. P. 23(b)(3) within seven (7) calendar days following the execution of this Agreement. Defendants agree not to contest certification of the Settlement Class but specifically disputes that a class would otherwise be manageable in this action and deny that a litigation class properly could be certified on the claims asserted in the Action. However, solely for purposes of avoiding the expense and inconvenience of further litigation, Defendants do not oppose and hereby agrees to certification of the Settlement Class for settlement purposes only, pursuant to Fed. R. Civ. P. 23(b)(3).

6.1.2 Certification of the Settlement Class for settlement purposes will not be deemed a concession that certification of any litigation class in the Action is, or was, appropriate, nor will Defendants be precluded from challenging class certification in further proceedings in the Action or in any other action if the Settlement Effective Date does not arise. If the Settlement is not finally approved by the Court for any reason whatsoever, the certification of the Settlement Class resulting from this Agreement will be void, and no doctrine of waiver, estoppel or preclusion will be asserted in any proceedings involving Defendant. No agreements made by or entered into by Defendants in connection with the Settlement may be used by Plaintiff, any person in the Class or any other person to establish any of the elements of class certification in any litigated certification proceedings, whether in the Action, or any other judicial proceeding.

6.1.3 Preliminary Settlement Approval. Contemporaneously with his motion for provisional certification of the Settlement Class, Plaintiff shall move the Court for a Preliminary Approval Order substantially in the form attached as Exhibit 1 and setting the Final Approval Hearing at least one hundred (100) calendar days after entry of the Preliminary Approval Order.

6.1.4 Defendants' Brief. Defendants shall be permitted, but not required, to file their own brief or statement of non-opposition in support of the Preliminary Approval Order.

6.2 Final Approval Hearing and Final Judgment.

6.2.1 Settlement Class Counsel's Motion for Fees, Costs, and Expenses Award and Service Payment. At least twenty-one (21) calendar days before the Response Deadline, Settlement Class Counsel shall file with the Court: (a) their motion in support of a Fees, Costs, and Expenses Award; and (b) any applications by Plaintiff for award of a Service Payment.

6.2.2 Declarations In Support of Final Approval. No later than twenty-one (21) calendar days before the Final Approval Hearing, the Settlement Administrator will provide to Settlement Class Counsel a sworn declaration verifying that notice was provided to Class Members. In addition, the Settlement Administrator's declaration shall include information regarding the persons who have requested exclusion from the Settlement Class and any objections sent to the Settlement Administrator.

6.2.3 Motion for Final Settlement Approval. At least fourteen (14) calendar days before the Final Approval Hearing, Plaintiff will request that the Court enter the Final Approval Order substantially in the form attached as Exhibit 5.

6.2.4 Defendants' Brief. Defendants shall be permitted, but not required, to file their own brief or statement of non-opposition in support of the Final Approval Order and Final Judgment.

6.3 Modifications Suggested by the Court. If the Court suggests any modifications to the Agreement or conditions entry of the Preliminary Approval Order, Final Approval Order, or Final Judgment on modifications to the Agreement, the Parties shall, working in good faith and consistent with the Agreement, endeavor to cure any such deficiencies identified by the Court. However, Defendants shall not be obligated to make any additions or modifications to the Agreement that would affect the benefits provided to Settlement Class Members, or the cost to or burden on Defendants, or the scope of any of the releases contemplated in this Agreement. If the Court orders or proposes such additions or modifications, Defendants shall have the right to terminate the Settlement Agreement within fourteen (14) calendar days from the date of the Court's order or proposal.

7. ADDITIONAL PROVISIONS, REPRESENTATIONS, AND WARRANTIES

7.1 Entire Agreement. This Agreement contains the entire agreement between the Parties and supersedes all prior understandings, agreements, or writings regarding the subject matter of this Agreement.

7.2 No Admissions of Liability. This Agreement does not constitute, is not intended to constitute, and will not under any circumstances be deemed to constitute, an admission of wrongdoing or liability by any Party, such wrongdoing and liability being expressly denied and no final adjudication having been made. The Parties have entered into the Agreement solely as a compromise of all claims for the purpose of concluding the disputes between them, and the Agreement may not be used by any third party against any Party. Pursuant to Federal Rule of Evidence 408, and any similar state rule, the entering into and carrying out of the Agreement, and

any negotiations or proceedings related to it, shall not be construed as, or deemed evidence of, an admission or concession by any of the Parties or a waiver of any applicable statute of limitations, and shall not be offered or received into evidence in any action or proceeding against any Party in any court, administrative agency, or other tribunal for any purpose whatsoever.

7.3 Bar to Future Suits. Upon entry of the Final Judgment, Plaintiff and other Settlement Class Members shall be enjoined from prosecuting any claim they have released in the preceding paragraphs in any proceeding against any of the Released Parties or based on any actions taken by any of the Released Parties that are authorized or required by this Agreement or by the Final Judgment. It is further agreed that the settlement may be pleaded as a complete defense to any action instituted that is inconsistent with this Agreement.

7.4 Agreement Binding on Successors in Interest. This Agreement shall be binding on and inure to the benefit of the respective heirs, successors, and assigns of the Parties.

7.5 Best Efforts. Plaintiff and Defendants agree that the terms of the Agreement reflect a good-faith settlement of disputed claims. They consider the settlement effected by this Agreement to be fair and reasonable and will use their best efforts to seek preliminary approval and, if granted, final approval of the Agreement by the Court, including in responding to any objectors, intervenors, or other persons or entities seeking to preclude entry of the Final Judgment and, if the settlement is granted final approval, to effectuate the settlement's terms. They each represent and warrant that they have not, nor will they (a) attempt to void this Agreement in any way, or (b) solicit, encourage, or assist in any fashion any effort by any person (natural or legal) to object to the settlement under this Agreement.

7.6 Additional Duties of the Settlement Administrator. In addition to its duties identified above, the Settlement Administrator shall comply with all tax reporting obligations such

as issuing any necessary United States Internal Revenue Service 1099 Forms, including but not limited to obtaining any necessary information from Settlement Class Counsel, Plaintiff, and Authorized Claimants for tax reporting purposes. The Settlement Administrator shall ensure that the information that it receives from the Parties and Settlement Class Members is secured and managed in such a way as to protect the security and confidentiality of the information from third parties. The Settlement Administrator shall also perform any other duties necessary to administer the settlement and/or to which the Parties otherwise agree in writing.

7.7 Taxes. Any person or entity that receives a distribution from the Settlement Fund shall be solely responsible for any taxes or tax-related expenses owed or incurred by that person or entity by reason of that distribution. Such taxes and tax-related expenses shall not be paid from the Settlement Fund. In no event shall Defendants or any of the other Released Parties have any responsibility or liability for taxes or tax-related expenses arising in connection with the payment or distribution of the Settlement Fund to Plaintiff, Settlement Class Members, Settlement Class Counsel, or any other person or entity.

7.8 Amendment or Modification. This Agreement may be amended or modified only by a written instrument signed by all Parties or their successors in interest or their duly authorized representatives.

7.9 Headings and Formatting of Definitions. The various headings used in this Agreement are solely for the convenience of the Parties and shall not be used to interpret this Settlement Agreement. Similarly, bolding and italicizing of definitional words and phrases is solely for the Parties' convenience and may not be used to interpret this Settlement Agreement. The headings and the formatting of the text in the definitions do not define, limit, extend, or describe the Parties' intent or the scope of this Settlement Agreement.

7.10 Notices. Any communication, verification, or notice sent by any Party in connection with this Agreement shall be sent by email and overnight mail as follows:

To Plaintiff:

Anthony Paronich
Paronich Law, P.C.
350 Lincoln Street, Suite 2400
Hingham, MA 02043
Telephone: (617) 485-0018
Email: anthony@paronichlaw.com

To Defendants:

John D. Dalton
O'Hagan Meyer LLC
One East Wacker Drive, Suite 3400
Chicago, IL 60601
Telephone: (312) 422-6100
Email: jdalton@ohaganmeyer.com

John D. Tripoli
Eimer Stahl LLP
10 East Doty Street, Suite 621
Madison, WI 53703
Telephone: (608) 620-8345
Email: jtripoli@eimerstahl.com

7.11 Time Periods. The time periods and dates described in this Agreement with respect to the giving of notices and hearings are subject to Court approval and modification by the Court or by written stipulation of Settlement Class Counsel and Defendants' Counsel.

7.12 Governing Law. This Agreement is intended to and shall be governed by the laws of the State of Ohio without regard to its choice of law principles.

7.13 No Construction Against Drafter. This Agreement shall be deemed to have been drafted by the Parties, and any rule that a document shall be interpreted against the drafter shall not apply to this Agreement.

7.14 Execution Date. This Settlement Agreement shall be deemed executed upon the last date of execution by all of the undersigned.

7.15 Execution in Counterparts. This Agreement shall become effective upon its execution by all of the Parties. The signatories may execute this Agreement in counterparts. Each

counterpart shall be deemed to be an original, and execution of counterparts shall have the same force and effect as if all signatories had signed the same instrument.

7.16 Signatures. Each person executing this Agreement warrants that such person has the full authority to do so. Signatures sent in pdf format by email will constitute sufficient execution of this Agreement.

7.17 Continuing Jurisdiction. The Court shall retain jurisdiction to enforce this Agreement's terms and the Final Judgment.

IN WITNESS WHEREOF, the Parties hereby accept and agree to the Agreement, as reflected by their signatures below.

Dated: 11/9/2022 _____

Dated: _____

Dated: _____

Dated: _____

DocuSigned by:
Kenneth Johansen
DD6ECCB301FC477...

Kenneth Johansen

Eric Mabry

Landon Pilcher

The Northwestern Mutual Life
Insurance Company

By: _____

Its: _____

counterpart shall be deemed to be an original, and execution of counterparts shall have the same force and effect as if all signatories had signed the same instrument.

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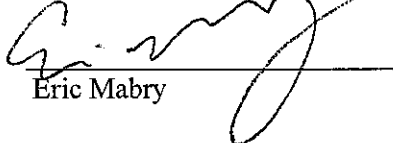
Dated: _____

Dated: 11-9-2022

Dated: _____

Dated: _____

Kenneth Johansen


Eric Mabry

Landon Pilcher

The Northwestern Mutual Life
Insurance Company

By: _____

Its: _____

counterpart shall be deemed to be an original, and execution of counterparts shall have the same force and effect as if all signatories had signed the same instrument.

7.16 Signatures. Each person executing this Agreement warrants that such person has the full authority to do so. Signatures sent in pdf format by email will constitute sufficient execution of this Agreement.

7.17 Continuing Jurisdiction. The Court shall retain jurisdiction to enforce this Agreement's terms and the Final Judgment.

IN WITNESS WHEREOF, the Parties hereby accept and agree to the Agreement, as reflected by their signatures below.

Dated: _____

Kenneth Johansen

Dated: _____

Eric Mabry

Dated: 11/11/22

Landon Pilcher

Landon Pilcher

Dated: _____

The Northwestern Mutual Life
Insurance Company

By: _____

Its: _____

counterpart shall be deemed to be an original, and execution of counterparts shall have the same force and effect as if all signatories had signed the same instrument.

7.16 Signatures. Each person executing this Agreement warrants that such person has the full authority to do so. Signatures sent in pdf format by email will constitute sufficient execution of this Agreement.

7.17 Continuing Jurisdiction. The Court shall retain jurisdiction to enforce this Agreement's terms and the Final Judgment.

IN WITNESS WHEREOF, the Parties hereby accept and agree to the Agreement, as reflected by their signatures below.

Dated: _____

Kenneth Johansen

Dated: _____

Eric Mabry

Dated: _____

Landon Pilcher

Dated: 11/10/2022

Jeff Schloemer

The Northwestern Mutual Life
Insurance Company

By: Jeff Schloemer

Its: VP-Compliance

EXHIBIT 1
[PROPOSED] PRELIMINARY APPROVAL ORDER

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

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.)	
)	
)	

[PROPOSED] PRELIMINARY APPROVAL ORDER

This Court has reviewed the motion for preliminary approval of class settlement filed in this Action, including the Settlement Agreement and Release (“Settlement Agreement”).¹ Based on this review and the findings below, the Court finds good cause to grant the motion.

FINDINGS:

1. The Court hereby preliminarily approves the Settlement Agreement and the terms and conditions of settlement set forth therein, subject to further consideration at the Final Approval Hearing.

2. The Court has conducted a preliminary assessment of the fairness, reasonableness, and adequacy of the Agreement and hereby finds that the settlement falls within the range of reasonableness meriting possible final approval. The Court therefore preliminarily approves the proposed settlement as set forth in the Settlement Agreement.

¹ Capitalized terms in this Order, unless otherwise defined, have the same definitions as those terms in the Settlement Agreement.

3. The Long-Form Notice, Postcard Notice, and Opt-Out Form (all attached to the Settlement Agreement), and their manner of transmission, comply with Rule 23 and due process because the notices and forms are reasonably calculated to adequately apprise class members of (i) the pending lawsuit, (ii) the proposed settlement, and (iii) their rights, including the right to either participate in the settlement, exclude themselves from the settlement, or object to the settlement.

4. For settlement purposes only, the Class is so numerous that joinder of all Class Members is impracticable.

5. For settlement purposes only, Plaintiff's claims are typical of the Settlement Class's claims.

6. For settlement purposes only, there are questions of law and fact common to the Settlement Class which predominate over any questions affecting only individual Settlement Class Members.

7. For settlement purposes only, class certification is superior to other available methods for the fair and efficient adjudication of the controversy.

IT IS ORDERED THAT:

8. **Settlement Approval.** The Settlement Agreement, including the Long-Form Notice, Postcard Notice, and Opt-Out Form attached to the Settlement Agreement as Exhibits 2-5 are preliminarily approved.

9. **Appointment of the Settlement Administrator and the Provision of Class Notice.** AB Data, Ltd. is appointed as the Settlement Administrator. Defendants and the Settlement Administrator will notify Class Members of the settlement in the manner specified under Section 4 of the Settlement Agreement.

10. Claim for a Settlement Award. Class Members who want to receive an award under the Settlement Agreement must not request Exclusion from the Settlement.

11. Objection to Settlement. Any Class Member who has not submitted a timely written exclusion request pursuant to paragraph 13 below and who wishes to object to the fairness, reasonableness, or adequacy of the Settlement Agreement, the Fees, Costs, and Expenses Award, or the Service Payment must deliver written objections to the Settlement Administrator (by postal mail or electronically) or the Court no later than sixty (60) calendar days after the entry of this Order. Written objections must: (a) clearly identify the case name and number; (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. Any Class Member who timely submits a written objection, as described in this paragraph, has the option to appear at the Final Approval Hearing, either in person or through personal counsel, to object to the fairness, reasonableness, or adequacy of the Settlement Agreement or the proposed settlement, the Service Payment, or to the Fees, Costs, and Expenses Award. However, Settlement Class Members (with or without their attorneys) intending to make an appearance at the Final Approval Hearing must include on a timely and valid objection a statement substantially similar to "Notice of Intention to Appear." Only Settlement Class Members who submit timely objections including Notices of Intention to Appear may speak at the Final Approval Hearing. If a Settlement Class Member makes an objection through an attorney,

the Settlement Class Member will be responsible for his or her personal attorney's fees and costs. The objection will not be valid if it only objects to the lawsuit's appropriateness or merits.

12. Failure to Object to Settlement. Settlement Class Members who fail to object to the Settlement Agreement in the manner specified above will: (1) be deemed to have waived their right to object to the Settlement Agreement; (2) be foreclosed from objecting (whether by a subsequent objection, intervention, appeal, or any other process) to the Settlement Agreement; and (3) not be entitled to speak at the Final Approval Hearing.

13. Requesting Exclusion. Settlement Class Members may elect not to be part of the Class and not to be bound by this Settlement Agreement. Individual requests for exclusion may be submitted to the Settlement Administrator electronically (through the Settlement Website) or by postal mail, but if submitted by postal mail, each Settlement Class Member must pay for postage. No mass opt-outs are allowed. All requests for exclusion must be in writing and must: (a) clearly identify the case name and number; (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 Settlement Class Member seeking exclusion; (d) contain a statement that the requestor does not wish to participate in the settlement; and (e) be signed personally by the Settlement Class Member. A request for exclusion must be submitted no later than ninety (90) calendar days after entry of this Order.

14. Provisional Certification. The Settlement Class is provisionally certified as 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.

15. Conditional Appointment of Class Representative and Class Counsel. Plaintiff is conditionally certified as the class representative to implement the Parties' settlement in accordance with the Settlement Agreement. The law firms of Paronich Law, P.C., Murray Murphy Moul + Basil, LLP are conditionally appointed as Settlement Class Counsel. Plaintiff and Settlement Class Counsel must fairly and adequately protect the Settlement Class's interests.

16. Stay of Other Proceedings. The Court hereby orders that any actions or proceedings in any court in the United States involving any Released Claims asserted by any Releasing Parties, except any matters necessary to implement, advance, or further the approval of the Settlement Agreement are stayed pending the Final Approval Hearing and issuance of any Final Order and Judgment.

17. Termination. If the Settlement Agreement terminates for any reason, the following will occur: (a) class certification will be automatically vacated; (b) Plaintiff and Settlement Class Counsel will stop functioning as the class representative and class counsel, respectively, except to the extent previously appointed by the Court; and (c) this Action will revert to its previous status in all respects as it existed immediately before the Parties executed the Settlement Agreement, other than as to payments made to, or owed for work already incurred by, the Settlement Administrator (not to exceed \$75,000). Neither the settlement nor this Order will waive or otherwise impact the Parties' rights or arguments.

18. No Admissions. Nothing in this Order is, or may be construed as, an admission or concession on any point of fact or law by or against any Party.

19. Stay of Dates and Deadlines. All discovery and pretrial proceedings and deadlines are stayed and suspended until further notice from the Court, except for such actions as are necessary to implement the Settlement Agreement and this Order.

20. Modifications. Counsel for the Parties are hereby authorized to utilize all reasonable procedures in connection with the administration of the settlement which are not materially inconsistent with either this Order or the terms of the Agreement. The Parties may further modify the Settlement Agreement prior to the Final Approval Hearing so long as such modifications do not materially change the terms of the settlement provided therein. The Court may approve the Settlement Agreement with such modifications as may be agreed to by the Parties, if appropriate, without further notice to Settlement Class Members.

21. Final Approval Hearing. On _____ (month) ____ (day), 2023, at _____, this Court will hold a Fairness Hearing to determine whether the Settlement Agreement should be finally approved as fair, reasonable, and adequate. Plaintiff's motion in support of the Final Judgment shall be filed on or before fourteen (14) calendar days before the Final Approval Hearing. Any brief Defendants may choose to file shall be filed on or before seven (7) calendar days before the Final Approval Hearing. This Court may order the Fairness Hearing to be postponed, adjourned, or continued. If that occurs, the updated hearing date shall be posted on the Settlement Website, but other than the website posting, the Parties will not be required to provide any additional notice to Settlement Class Members.

22. Summary Timeline. The Agreement and this Order provide for the following timeline dates and deadlines related to the provision of notice and the Final Approval Hearing:

Last day for Plaintiff to provide the Settlement Administrator the Class List	On or before 14 days after entry of this Order
Last day for the Settlement Administrator to publish the Settlement Website and begin operating a toll-free telephone line, email address, and P.O. Box to accept inquiries from Settlement Class Members	On or before 30 days after entry of this Order
Settlement Administrator provides Postcard Notice to Settlement Class Members	On or before 30 days after entry of this Order
Last day for Settlement Class Counsel to file motion in support of Fees, Costs, and Expenses Award and apply for Service Payment	On or before 49 days after entry of this Order
Last day for Settlement Class Members to object, or request exclusion from the Settlement Class	On or before 60 days after entry of this Order
Last day for Settlement Class Counsel to file motion in support of Final Approval	On or before 14 days before Final Approval Hearing
Last day for Defendants to file optional brief in support of Settlement	On or before 7 days before Final Approval Hearing

SO ORDERED this ___ day of _____, 2022.

 THE HONORABLE SARAH D. MORRISON
 UNITED STATES DISTRICT COURT

EXHIBIT 2
LONG-FORM NOTICE

**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.***

WHAT THIS NOTICE CONTAINS

BACKGROUND INFORMATION ##

1. Why did I get this notice?
2. What is this lawsuit about?
3. Why is this a class action?
4. Why is there a Settlement?
5. How do I know if I am part of the Settlement?
6. I'm still not sure if I am included.

THE PROPOSED SETTLEMENT..... ##

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

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

8. How can I get a Settlement award?

9. When will I get a Settlement award?

THE LAWYERS IN THIS CASE AND THE PLAINTIFF..... ##

10. Do I have a lawyer in this case?

11. How will the lawyers be paid?

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

DISMISSAL OF ACTION AND RELEASE OF ALL CLAIMS ##

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

HOW TO EXCLUDE YOURSELF FROM THE SETTLEMENT ##

14. How do I exclude myself from the Settlement?

HOW TO OBJECT TO THE SETTLEMENT ##

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

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

FAIRNESS HEARING..... ##

17. What is the Fairness Hearing?

18. When and where is the Fairness Hearing?

19. May I speak at the hearing?

ADDITIONAL INFORMATION..... ##

20. How do I get more information?

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

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 _____
[Address]
[City] [State], [Zip Code]
1-8XX-XXX-XXXX
Email: [xxxx]@[xxxx].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 [Month] [Day], [Year] at [time] 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.\[xxxx\].com](http://www.[xxxx].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 up to \$XXX(total). 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.\[xxxx\].com](http://www.[xxxx].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.\[xxxx\].com](http://www.[xxxx].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 _____
[Address]
[City] [State], [Zip Code]
[www.\[xxxx\].com](http://www.[xxxx].com)

Your request for exclusion must be submitted electronically or be postmarked no later than [Month] [Day], [Year] 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 _____
[Address]
[City] [State], [Zip Code]
Email: [xxxx]@[xxxx].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 [Month] [Day], [Year] 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 [Month] [Day], [Year] at [time], 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 [Month] [Day], [Year], at ___ am/pm. The hearing may be postponed to a different date or time or location without notice. Please check [www.\[xxxx\].com](http://www.[xxxx].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.\[xxxx\].com](http://www.[xxxx].com). Alternatively, you may contact the Settlement Administrator at the email address [\[xxxx\]@\[xxxx\].com](mailto:[xxxx]@[xxxx].com) or the U.S. postal (mailing) address: [Address] [City], [State], [Zip Code]. You may also obtain information by calling 1-8XX-XXX-XXXX.

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 _____
[Address]
[City] [State], [Zip Code]
1-8XX-XXX-XXXX
Email: [\[xxxx\]@\[xxxx\].com](mailto:[xxxx]@[xxxx].com)

* * * *

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

EXHIBIT 3
POSTCARD NOTICE

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.

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

Why did I get this notice? A settlement (“Settlement”) has been proposed in a class action lawsuit pending in the U.S. District Court for the Southern District of Ohio titled *Kenneth Johansen v. Eric Mabry, et. al.*, Case No. 2:21-cv-00036 (“Action”). According to available records, you might be a “Settlement Class Member.” The purpose of this notice is to inform you of the Action and the Settlement so that you may decide what steps to take in relation to it.

What is the Action about? The Action was filed against The Northwestern Mutual Life Insurance Company, Eric Mabry and Landon Pilcher (collectively, “Defendants”) by an individual alleging the Defendants, and individuals on their behalf, made unsolicited telemarketing calls. Defendants deny wrongdoing and liability, and both sides disagree on how much, if anything, the Class could have recovered after trial. **The Court has not decided which side is right. But both sides have agreed to settle the Action and provide certain benefits to Settlement Class Members in order to avoid the costs of continued litigation.**

Am I a Settlement Class Member? You are a “Settlement Class Member” if you are a person in the United States (1) whose telephone number was 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.

What relief does the Settlement provide? The Settlement provides \$600,000 to pay (1) payments to Settlement Class Members; (2) a Fees, Costs, and Expenses Award to Settlement Class Counsel; (3) a service payment to the Plaintiff; and (4) costs of Settlement administration and notice. If you are a Settlement Class Member, you are eligible to receive a share of the Settlement based on the number of calls you received. It is presently estimated that Class Members who do not request an exclusion may receive \$375. This amount may change, as it depends on the number of timely and valid exclusion requests are submitted by Settlement Class Members and the number of calls associated with those other Settlement Class Members’ claims.

What are my other options? If you don’t want to be legally bound by the Settlement, you must exclude yourself by [Month] [Day], [Year], or you won’t be able to sue Defendants or others involved with the calls at issue about the legal claims in the Action ever again. If you stay in the Settlement, you may object to it by [Month] [Day], [Year]. The detailed notice available at [www.\[xxxx\].com](http://www.[xxxx].com) describes the claims you will be releasing if you do not request exclusion and explains how to request exclusion or to object. The Court will hold a hearing on [Month] [Day], [Year] at [time] to consider whether to approve the Settlement and a request by the lawyers representing all Class Members for up to \$ _____ for a Fees, Costs, and Expenses Award, and for the Plaintiff’s request of \$10,000 for his work bringing this matter as a class action. You may ask to appear at the hearing, but you don’t have to.

More information? For complete information about the Settlement, to view the Settlement Agreement and related court documents, and to learn more about how to exercise your various options under the Settlement, visit [www.\[xxxx\].com](http://www.[xxxx].com) or call 1-888-xxx-xxxx. You may also write

to the Settlement Administrator at the email address [xxxx]@[xxxx].com or the postal address [Address] [City], [State] [Zip Code].

EXHIBIT 4
OPT-OUT FORM

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Your contact information will be used by the Settlement Administrator to contact you, if necessary, about your request for exclusion. Provision of your phone number is optional.

Section III – Attestation, Opt-Out Request, Signature, and Submit

Through the submission of this form, I attest under the penalty of perjury that I have received notice of the class action Settlement in this case and I am a member of the class of persons described in the notice. I further attest that I request exclusion from the Settlement Class in *Johansen v. Eric Mabry, et. al., S.D. Oh. Case No. 2:21-cv-36*. By signing below, I agree to the submission of this Opt-Out Form.

IF SUBMITTED ELECTRONICALLY:

Checking this box constitutes my electronic signature and election to opt out of the Settlement on behalf of myself.

IF SUBMITTED BY U.S. MAIL:

Date (mm/dd/yyyy)

Name/Signature

EXHIBIT 5
[PROPOSED] FINAL APPROVAL ORDER

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

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.)	
)	
)	

{PROPOSED} FINAL APPROVAL ORDER AND JUDGMENT

On _____ (month) ____ (day), 2023, this Court heard the motion for final approval of the class action settlement and for entry of judgment filed by Plaintiff.¹ This Court reviewed: (a) the motion and the supporting papers, including the Settlement Agreement and Release (“Settlement Agreement”); (b) any objections filed with or presented to the Court; (c) the Parties’ responses to any objections; and (d) counsel’s arguments. Based on this review and the findings below, the Court found good cause to grant the motion.

FINDINGS:

1. Upon review of the record, the Court hereby finds that the Settlement Agreement is, in all respects, fair, adequate, and reasonable and therefore approves it. Among other matters considered, the Court took into account: (a) the complexity of Plaintiff’s theory of liability; (b) the arguments raised by The Northwestern Mutual Life Insurance Company, Eric Mabry and Landon

¹ Capitalized terms in this Order, unless otherwise defined, have the same definitions as those terms in the Settlement Agreement.

Pilcher (collectively, “Defendants”) in their pleadings that could potentially preclude or reduce the recovery by Settlement Class Members; (c) delays in any award to the Settlement Class that would occur due to further litigation and appellate proceedings; (d) the amount of discovery that has occurred; (e) the relief provided to the Settlement Class; (f) the recommendation of the Settlement Agreement by counsel for the Parties; and (g) the low number of objectors to the Settlement Agreement, demonstrating that the Settlement Class has a positive reaction to the proposed settlement.

2. The Court also finds that extensive arm’s-length negotiations have taken place, in good faith, between Settlement Class Counsel and Defendants’ Counsel resulting in the Settlement Agreement. These negotiations were presided over by an experienced, court-appointed mediator.

3. The Settlement Agreement provides substantial value to the Settlement Class in the form of cash payments.

4. Notice was provided to Class Members in compliance with Section 4 of the Settlement Agreement, due process, and Rule 23 of the Federal Rules of Civil Procedure. The notice: (i) fully and accurately informed Settlement Class Members about the lawsuit and settlement; (ii) provided sufficient information so that Settlement Class Members could decide whether to accept the benefits offered, opt-out and pursue their own remedies, or object to the settlement; (iii) provided procedures for Class Members to file written objections to the proposed settlement, to appear at the hearing, and to state objections to the proposed settlement; and (iv) provided the time, date, and place of the final fairness hearing.

5. Defendants filed a copy of the notice they gave pursuant to 28 U.S.C. § 1715(b), and the notice complies with the requirements of 28 U.S.C. § 1715(b).

6. Plaintiff and Settlement Class Counsel have fairly and adequately protected the Settlement Class's interests, and the Parties have adequately performed their obligations under the Settlement Agreement.

7. For the reasons stated in the Preliminary Approval Order, and having found nothing in any submitted objections that would disturb these previous findings, this Court finds and determines that the proposed Class, as defined below, meets all of the legal requirements for class certification, for settlement purposes only, under Federal Rule of Civil Procedure 23 (a) and (b)(3).

IT IS ORDERED THAT:

8. **Class Members.** The Settlement Class is certified as a class of 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.

9. **Binding Effect of Order.** This Order applies to all claims or causes of action settled under the Settlement Agreement and binds all Settlement Class Members, including those who did not properly request exclusion under the Preliminary Approval Order. This Order does not bind persons who filed timely and valid requests for exclusion.

10. **Release.** Plaintiff and all Settlement Class Members who did not properly request exclusion are: (1) deemed to have released and discharged Defendants from all claims arising out of or asserted in the Action and all claims released under the Settlement Agreement; and (2) barred and permanently enjoined from asserting, instituting, or prosecuting, either directly or indirectly, these claims. The full terms of the release described in this paragraph are set forth in Sections Settlement Agreement and are specifically incorporated herein by this reference.

11. Class Relief. Defendants are directed to provide the Settlement Fund to the Settlement Administrator according to the terms and timeline stated in the Settlement Agreement. The Settlement Administrator is further directed to issue payments to each Settlement Class Member according to the terms and timeline stated in the Settlement Agreement.

12. Fees, Costs, and Expenses Award. Settlement Class Counsel are awarded \$ _____ from the Settlement Fund in fees and costs. Payment shall be made pursuant to the manner and timeline stated in Section 3 of the Settlement Agreement.

13. Settlement Administrator Expenses. The Settlement Administrator is awarded \$ _____ from the Settlement Fund.

14. Service Award. The Plaintiff is awarded \$ _____ from the Settlement Fund.

15. Cy Pres Distribution. Pursuant to the Settlement Agreement, any unpaid portion of the Settlement Fund shall be paid to _____.

16. Miscellaneous. No person or entity shall have any claim against Defendants, Defendants' Counsel, Plaintiff, the Settlement Class Members, Settlement Class Counsel, or the Settlement Administrator based on distributions and payments made in accordance with the Agreement.

17. Court's Jurisdiction. Pursuant to the Parties' request, the Court will retain jurisdiction over this Action and the Parties for all purposes related to this settlement.

SO ORDERED this ___ day of _____, 2023.

THE HONORABLE SARAH D. MORRISON
UNITED STATES DISTRICT COURT

EXHIBIT B

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

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.)	
)	
)	

[PROPOSED] PRELIMINARY APPROVAL ORDER

This Court has reviewed the motion for preliminary approval of class settlement filed in this Action, including the Settlement Agreement and Release (“Settlement Agreement”).¹ Based on this review and the findings below, the Court finds good cause to grant the motion.

FINDINGS:

1. The Court hereby preliminarily approves the Settlement Agreement and the terms and conditions of settlement set forth therein, subject to further consideration at the Final Approval Hearing.

2. The Court has conducted a preliminary assessment of the fairness, reasonableness, and adequacy of the Agreement and hereby finds that the settlement falls within the range of reasonableness meriting possible final approval. The Court therefore preliminarily approves the proposed settlement as set forth in the Settlement Agreement.

¹ Capitalized terms in this Order, unless otherwise defined, have the same definitions as those terms in the Settlement Agreement.

3. The Long-Form Notice, Postcard Notice, and Opt-Out Form (all attached to the Settlement Agreement), and their manner of transmission, comply with Rule 23 and due process because the notices and forms are reasonably calculated to adequately apprise class members of (i) the pending lawsuit, (ii) the proposed settlement, and (iii) their rights, including the right to either participate in the settlement, exclude themselves from the settlement, or object to the settlement.

4. For settlement purposes only, the Class is so numerous that joinder of all Class Members is impracticable.

5. For settlement purposes only, Plaintiff's claims are typical of the Settlement Class's claims.

6. For settlement purposes only, there are questions of law and fact common to the Settlement Class which predominate over any questions affecting only individual Settlement Class Members.

7. For settlement purposes only, class certification is superior to other available methods for the fair and efficient adjudication of the controversy.

IT IS ORDERED THAT:

8. **Settlement Approval.** The Settlement Agreement, including the Long-Form Notice, Postcard Notice, and Opt-Out Form attached to the Settlement Agreement as Exhibits 2-5 are preliminarily approved.

9. **Appointment of the Settlement Administrator and the Provision of Class Notice.** AB Data, Ltd. is appointed as the Settlement Administrator. Defendants and the Settlement Administrator will notify Class Members of the settlement in the manner specified under Section 4 of the Settlement Agreement.

10. Claim for a Settlement Award. Class Members who want to receive an award under the Settlement Agreement must not request Exclusion from the Settlement.

11. Objection to Settlement. Any Class Member who has not submitted a timely written exclusion request pursuant to paragraph 13 below and who wishes to object to the fairness, reasonableness, or adequacy of the Settlement Agreement, the Fees, Costs, and Expenses Award, or the Service Payment must deliver written objections to the Settlement Administrator (by postal mail or electronically) or the Court no later than sixty (60) calendar days after the entry of this Order. Written objections must: (a) clearly identify the case name and number; (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. Any Class Member who timely submits a written objection, as described in this paragraph, has the option to appear at the Final Approval Hearing, either in person or through personal counsel, to object to the fairness, reasonableness, or adequacy of the Settlement Agreement or the proposed settlement, the Service Payment, or to the Fees, Costs, and Expenses Award. However, Settlement Class Members (with or without their attorneys) intending to make an appearance at the Final Approval Hearing must include on a timely and valid objection a statement substantially similar to "Notice of Intention to Appear." Only Settlement Class Members who submit timely objections including Notices of Intention to Appear may speak at the Final Approval Hearing. If a Settlement Class Member makes an

objection through an attorney, the Settlement Class Member will be responsible for his or her personal attorney's fees and costs. The objection will not be valid if it only objects to the lawsuit's appropriateness or merits.

12. Failure to Object to Settlement. Settlement Class Members who fail to object to the Settlement Agreement in the manner specified above will: (1) be deemed to have waived their right to object to the Settlement Agreement; (2) be foreclosed from objecting (whether by a subsequent objection, intervention, appeal, or any other process) to the Settlement Agreement; and (3) not be entitled to speak at the Final Approval Hearing.

13. Requesting Exclusion. Settlement Class Members may elect not to be part of the Class and not to be bound by this Settlement Agreement. Individual requests for exclusion may be submitted to the Settlement Administrator electronically (through the Settlement Website) or by postal mail, but if submitted by postal mail, each Settlement Class Member must pay for postage. No mass opt-outs are allowed. All requests for exclusion must be in writing and must: (a) clearly identify the case name and number; (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 Settlement Class Member seeking exclusion; (d) contain a statement that the requestor does not wish to participate in the settlement; and (e) be signed personally by the Settlement Class Member. A request for exclusion must be submitted no later than ninety (90) calendar days after entry of this Order.

14. Provisional Certification. The Settlement Class is provisionally certified as 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.

15. Conditional Appointment of Class Representative and Class Counsel.

Plaintiff is conditionally certified as the class representative to implement the Parties' settlement in accordance with the Settlement Agreement. The law firms of Paronich Law, P.C., Murray Murphy Moul + Basil, LLP are conditionally appointed as Settlement Class Counsel. Plaintiff and Settlement Class Counsel must fairly and adequately protect the Settlement Class's interests.

16. Stay of Other Proceedings.

The Court hereby orders that any actions or proceedings in any court in the United States involving any Released Claims asserted by any Releasing Parties, except any matters necessary to implement, advance, or further the approval of the Settlement Agreement are stayed pending the Final Approval Hearing and issuance of any Final Order and Judgment.

17. Termination.

If the Settlement Agreement terminates for any reason, the following will occur: (a) class certification will be automatically vacated; (b) Plaintiff and Settlement Class Counsel will stop functioning as the class representative and class counsel, respectively, except to the extent previously appointed by the Court; and (c) this Action will revert to its previous status in all respects as it existed immediately before the Parties executed the Settlement Agreement, other than as to payments made to, or owed for work already incurred by, the Settlement Administrator (not to exceed \$75,000). Neither the settlement nor this Order will waive or otherwise impact the Parties' rights or arguments.

18. No Admissions. Nothing in this Order is, or may be construed as, an admission or concession on any point of fact or law by or against any Party.

19. Stay of Dates and Deadlines. All discovery and pretrial proceedings and deadlines are stayed and suspended until further notice from the Court, except for such actions as are necessary to implement the Settlement Agreement and this Order.

20. Modifications. Counsel for the Parties are hereby authorized to utilize all reasonable procedures in connection with the administration of the settlement which are not materially inconsistent with either this Order or the terms of the Agreement. The Parties may further modify the Settlement Agreement prior to the Final Approval Hearing so long as such modifications do not materially change the terms of the settlement provided therein. The Court may approve the Settlement Agreement with such modifications as may be agreed to by the Parties, if appropriate, without further notice to Settlement Class Members.

21. Final Approval Hearing. On _____ (month) ____ (day), 2023, at _____, this Court will hold a Fairness Hearing to determine whether the Settlement Agreement should be finally approved as fair, reasonable, and adequate. Plaintiff's motion in support of the Final Judgment shall be filed on or before fourteen (14) calendar days before the Final Approval Hearing. Any brief Defendants may choose to file shall be filed on or before seven (7) calendar days before the Final Approval Hearing. This Court may order the Fairness Hearing to be postponed, adjourned, or continued. If that occurs, the updated hearing date shall be posted on the Settlement Website, but other than the website posting, the Parties will not be required to provide any additional notice to Settlement Class Members.

22. Summary Timeline. The Agreement and this Order provide for the following timeline dates and deadlines related to the provision of notice and the Final Approval Hearing:

Last day for Plaintiff to provide the Settlement Administrator the Class List	On or before 14 days after entry of this Order
Last day for the Settlement Administrator to publish the Settlement Website and begin operating a toll-free telephone line, email address, and P.O. Box to accept inquiries from Settlement Class Members	On or before 30 days after entry of this Order
Settlement Administrator provides Postcard Notice to Settlement Class Members	On or before 30 days after entry of this Order
Last day for Settlement Class Counsel to file motion in support of Fees, Costs, and Expenses Award and apply for Service Payment	On or before 49 days after entry of this Order
Last day for Settlement Class Members to object, or request exclusion from the Settlement Class	On or before 60 days after entry of this Order
Last day for Settlement Class Counsel to file motion in support of Final Approval	On or before 14 days before Final Approval Hearing
Last day for Defendants to file optional brief in support of Settlement	On or before 7 days before Final Approval Hearing

SO ORDERED this ___ day of _____, 2022.

 THE HONORABLE SARAH D. MORRISON
 UNITED STATES DISTRICT COURT

EXHIBIT C

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO**

KENNETH JOHANSEN, individually and on behalf of a class of all persons and entities similarly situated,

Plaintiff,

vs.

THE NORTHWESTERN MUTUAL LIFE INSURANCE COMPANY, et al.,

Defendants.

Case No. 2:21-cv-00036

Judge Sarah D. Morrison

Magistrate Judge Chelsey M. Vascura

Declaration of Brian K. Murphy in Support of Motion for Preliminary Approval

I, Brian K. Murphy, declare under penalty of perjury:

1. I make this declaration in support of the Plaintiff's Unopposed Motion for Preliminary Approval of Class Action Settlement.

2. I am an attorney duly admitted to practice in Ohio and Illinois, I am over 18 years of age, I am competent to testify, and I make this declaration on personal knowledge. I have extensive experience in the prosecution of class actions on behalf of consumers.

3. I am co-counsel of record for Plaintiff Kenneth Johansen.

Qualification of Counsel

4. I and my firm, Murray Murphy Moul + Basil LLP, have extensive experience in the prosecution of class actions on behalf of consumers, including claims under the Telephone Consumer Protection Act, 47 U.S.C. §227. I make this declaration to describe the work that I and my co-counsel have done in identifying, investigating, and prosecuting the claims in the action and to set forth my qualifications to serve as class counsel and to state that based on my

experience, I consider this settlement an excellent result for the class that merits both preliminary and final approval from the Court.

5. I was involved in every stage of litigation in this case, from pre-trial investigation, analysis of Plaintiff's potential claims, drafting and researching the complaint and discovery work, review of documents, discovery and general preparation for mediation. I additionally participated in settlement negotiations and strategy, participated in the mediation process and contributed on preparing the proposed settlement agreement and motion for preliminary approval.

6. I am a 1994 graduate of The Ohio State University College of Law. In 1994, I was admitted to the Bar of Illinois. In 1999, I was admitted to the Bar of Ohio. Since then, I have been admitted to practice before numerous Federal District and Appellate Courts and the United States Supreme Court. From time to time, I have appeared in other State and Federal District Courts *pro hac vice*. I am in good standing in every court to which I am admitted to practice.

7. Since 1999, I have been a partner with Murray Murphy Moul + Basil LLP in Columbus, Ohio.

8. Jonathan Misny is a 2013 graduate of The Ohio State University College of Law who was admitted to the Bar of Ohio in 2013 and has worked at Murray Murphy Moul + Basil LLP since 2015. A substantial portion of Mr. Misny's work at the firm involves prosecuting TCPA class claims.

9. A sampling of class actions in which my firm and I have participated are as follows:

Securities Litigation

Murray Murphy Moul + Basil LLP has developed into one of the most experienced securities litigation firms in the State of Ohio. Since 2011, the firm has been a member of the Ohio Attorney General's Securities Panel, providing ongoing advice to the office related to potential securities claims affecting Ohio's public pension funds. The firm has represented numerous public pension funds for the State of Ohio under both Republican and Democratic administration since 2006. The firm has also prosecuted matters on behalf of other large pension funds. The following is a short summary of a representative sampling of the securities cases the firm has been involved with over the years:

In re Cardinal Health Securities Litigation

(United States District Court for the Southern District of Ohio)

Murray Murphy Moul + Basil LLP was co-counsel in this matter, which resulted in a \$600 million settlement for the class—the largest securities class action settlement in the history of the Sixth Circuit. The settlement was approved by Judge Marbley on November 14, 2007. The Complaint alleged that Cardinal, and certain of its officers and directors, issued materially false statements concerning the Company's financial condition. The Complaint was on behalf of all persons who purchased the publicly traded securities of Cardinal Health, Inc. between October 24, 2000 and June 30, 2004 inclusive. After a review of in excess of six million documents and extensive depositions and interviews, and a lengthy and extensive mediation process, the parties entered into the settlement agreement pursuant to which the \$600 million settlement fund was created.

In re Marsh & McLennan Cos., Inc. Securities Litigation

(United States District Court for the Southern District of New York)

Murray Murphy Moul + Basil LLP was appointed by former Attorney General Jim Petro as co-counsel in this matter in which the Public Employees' Retirement System of Ohio, State Teachers' Retirement System of Ohio, and Ohio Bureau of Workers' Compensation were appointed as co-Lead Plaintiffs. The case was settled at the end of 2009 for \$400 million.

In re Abercrombie & Fitch Securities Litigation

(United States District Court for the Southern District of Ohio)

Murray Murphy Moul + Basil LLP was co-counsel in this PSLRA case which alleged that Abercrombie (a) carried out a scheme to deceive the investing public; (b) made untrue statements of material fact and/or omitted to state material facts necessary to make the statements not misleading; and (c) engaged in acts, practices, and a course of business which operated as a fraud and deceit upon the purchasers of the Company's securities in an effort to maintain artificially high market prices for Abercrombie securities. The Court certified the class, and a settlement was eventually reached in the amount of \$12 million in the middle of 2010.

Ohio Board of Deferred Compensation v. Pilgrim Baxter
(United States District Court for the District of Maryland)

Murray Murphy Moul + Basil LLP assisted in the prosecution of this securities class action brought on behalf of purchasers and holders of Pilgrim Baxter mutual funds from November 1, 1998 to November 13, 2003 who were harmed by a pattern of market timing trading practices. The Ohio Board of Deferred Compensation was appointed as the lead Plaintiff in this litigation, and Murray Murphy Moul + Basil served as co-counsel. The case was settled for \$31,538,600 in 2010.

In Re Bank of New York Mellon Foreign Currency Transaction Litigation
(United States District Court for the Southern District of New York)

Murray Murphy Moul + Basil LLP represented the co-Lead Plaintiffs, the Schools Employees Retirement System of Ohio and the Ohio Police and Fire Pension Fund, in a class action brought against the Bank of New York Mellon by customers who had utilized the Bank's foreign currency exchange services and who were charged inaccurate exchange rates. The case settled for in excess of \$500 million in 2015.

Anthony Basile, et al v. Valeant Pharmaceuticals, et al
(United States District Court for the Central District of California)

Murray Murphy Moul + Basil LLP represented the co-Lead Plaintiff, the State Teachers Retirement System of Ohio, in a class action brought against Valeant Pharmaceuticals and hedge fund manager Bill Ackman alleging massive insider trading violations related to Valeant's attempted hostile tender offer for Allergan. The case settled in 2018 for \$250 million, representing the largest settlement ever for a case based on insider trading allegations.

Shenk v. Mallinckrodt PLC
(United States District Court for the District of Columbia)

Murray Murphy Moul + Basil LLP represents the Lead Plaintiff, the State Teachers Retirement System of Ohio, in a class action brought against pharmaceutical manufacturer Mallinckrodt PLC related to securities violations engaged in by the company and its management. The case is currently pending.

Other Class Litigation Experience

Murray Murphy Moul + Basil LLP has served as Lead Class Counsel in prosecuting other large class actions, including Violette, et al v. P.A. Days, Inc. (S.D. Ohio 2004) and Adkins v. Ricart Properties, et al., (S. D. Ohio 2004), two certified class actions that included over 100,000 class members. Similarly, Murray Murphy Moul + Basil LLP served as Co-Lead Counsel in the certified class action of Mick v. Level Propane Gases, Inc., 203 F.R.D. 324 (S.D. Ohio 2001). The firm has also appeared in the United States Supreme Court in a putative class action arising in the Southern District of Ohio. Household Credit Services, et al v. Pfennig, 124 S.Ct 1741 (2004).

Murray Murphy Moul + Basil LLP has also served as Defense Counsel in two putative class actions asserting claims against Ohio state agencies. Murray Murphy Moul + Basil LLP was trial counsel in the matter of S.H and all other similarly situated, et al v. Taft et al, Case Number: 2:04-cv-1206 and co-counsel in J.P. and all others similarly situated et al v. Taft et al, Case Number: 2:04-cv-692.

Murray Murphy Moul + Basil LLP also served as Lead Counsel in class litigation that have been resolved in favor of the Classes: Downes v. Ameritech Corp., et al., Case No. 99 CH 11356 (Cook County, IL), Bellile v. Ameritech Corp., et al., Case No. 99-925403-CP (Wayne County, MI), Gary Phillips & Assoc. v. Ameritech Corp., 144 Ohio App. 3d 149, 759 N.E.2d 833 (Franklin County, OH) and Prestemon, et al v. Echostar Communication and WebTV Networks, Case No. 2002-053014 (Alameda Cty, California Sup. Court).

The firm was also successful in bringing about one of the largest class settlements ever at the time for a class of consumers besieged by telemarketing prerecord robocalls in Desai v. ADT

Security Systems, Case No. 11-cv-01925 (N.D. Illinois). The firm was Co-Lead Counsel on behalf of nationwide class that received \$15,000,000 in 2013.

SIGNED UNDER PAINS AND PENALTIES OF PERJURY THIS 21st DAY OF NOVEMBER, 2022.

/s/ Brian K. Murphy
Brian K. Murphy

EXHIBIT D

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO**

KENNETH JOHANSEN, individually and on behalf of a class of all persons and entities similarly situated,

Plaintiff,

vs.

THE NORTHWESTERN MUTUAL LIFE INSURANCE COMPANY, et al.,

Defendants.

Case No. 2:21-cv-00036

Judge Sarah D. Morrison

Magistrate Judge Chelsey M. Vascura

DECLARATION OF ANTHONY I. PARONICH

Anthony I. Paronich declares as follows:

1. I make this declaration in support of Plaintiff's Motion for Preliminary Approval of Class Action Settlement to state my opinion that the settlement represents an excellent result for the Settlement Class and to advise the Court of my adequacy to be appointed as class counsel. Except as otherwise noted, I have personal knowledge of the facts set forth in this declaration and could testify competently to them if called upon to do so.

2. Plaintiff's counsel have extensive experience and expertise prosecuting complex class actions, and are particularly experienced in the litigation, certification, and settlement of nationwide TCPA class action cases.

1. I am an attorney duly admitted to practice in the Commonwealth of Massachusetts, I am over 18 years of age, and I am competent to testify and make this affidavit on personal knowledge. I have extensive experience in the prosecution of class actions on behalf of consumers, particularly claims under the TCPA.

2. I am a 2010 graduate of Suffolk Law School. In 2010, I was admitted to the Bar in Massachusetts. Since then, I have been admitted to practice before the Federal District Court for the

District of Massachusetts, the Northern District of Illinois, the Eastern District of Michigan, the Western District of Wisconsin, the Southern District of Indiana, the First Circuit Court of Appeals, the Seventh Circuit Court of Appeals, and the Ninth Circuit Court of Appeals. From time to time, I have appeared in other State and Federal District Courts *pro hac vice*. I am in good standing in every court to which I am admitted to practice.

3. I was an associate at Broderick Law, P.C. in Boston, Massachusetts from 2010 through 2016.

4. I was a partner at Broderick & Paronich, P.C. in Boston, Massachusetts from 2016 through 2019.

5. In 2019, I started Paronich Law, P.C., focused on protecting consumers in class action lawsuits.

6. I have been appointed class counsel in more than 45 TCPA cases, including the following:

- i. Desai and Charvat v. ADT Security Services, Inc., USDC, N.D. Ill., 11-CV-1925, a TCPA class settlement of \$15,000,000 granted final approval on June 21, 2013.
- ii. Jay Clogg Realty Group, Inc. v. Burger King Corporation, USDC, D. Md., 13-cv-00662, a TCPA class settlement of \$8,500,000 granted final approval on April 15, 2015.
- iii. Charvat v. AEP Energy, Inc., USDC, N.D. Ill., 1:14-cv-03121, a TCPA class settlement of \$6,000,000 granted final approval on September 28, 2015.
- iv. Bull v. US Coachways, Inc., USDC, N.D. Ill., 1:14-cv-05789, a TCPA class settlement finally approved on November 11, 2016 with an agreement for judgment in the amount of \$49,932,375 and an assignment of rights against defendant's insurance carrier.
- v. Smith v. State Farm Mut. Auto. Ins. Co., et. al., USDC, N.D. Ill., 1:13-cv-02018, a TCPA class settlement of \$7,000,000.00 granted final approval on December 8, 2016.
- vi. Mey v. Frontier Communications Corporation, USDC, D. Conn., 3:13-cv-1191-MPS, a TCPA class settlement of \$11,000,000 granted final approval on June 2, 2017.
- vii. Heidarpour v. Central Payment Co., USDC, M.D. Ga., 15-cv-139, a TCPA class

settlement of \$6,500,000 granted final approval on May 4, 2017.

- viii. Abante Rooter and Plumbing, Inc. v. Birch Communications, Inc., USDC, N.D. Ga., 1:15-CV-03562-AT, a TCPA class settlement of \$12,000,000 granted final approval on December 14, 2017.
- ix. Abante Rooter and Plumbing, Inc. v. Pivotal Payments, Inc., USDC, N.D. Ca., 3:16-cv-05486-JCS, a TCPA class settlement of \$9,000,000 granted final approval on October 15, 2018.
- x. In re Monitronics International, Inc., USDC, N.D.W. Va., 1:13-md-02493-JPB-JES, a TCPA class settlement of \$28,000,000 granted final approval on June 12, 2018.
- xi. Thomas Krakauer v. Dish Network, L.L.C., USDC, M.D.N.C., 1:14-CV-333 on September 9, 2015. Following a contested class certification motion, this case went to trial in January of 2017 returning a verdict of \$20,446,400. On May 22, 2017, this amount was trebled by the Court after finding that Dish Network’s violations were “willful or knowing”, for a revised damages award of \$61,339,200. (Dkt. No. 338). The Fourth Circuit Court of Appeals unanimously affirmed the judgment in May of 2019. *Krakauer v. Dish Network, L.L.C.*, 925 F.3d 643 (4th Cir. 2019). The United States Supreme Court rejected *certiorari* of this matter in December of 2019. *See DISH Network L.L.C. v. Krakauer*, 140 S. Ct. 676 (2019).
- xii. Abante Rooter and Plumbing, Inc. v. Alarm.com Incorporated, et. al., USDC, ND. CA., 4:15-cv-06314-YGR, a TCPA class settlement of \$28,000,000 granted final approval on August 13, 2019.
- xiii. Charvat v. Carnival Corporation & PLC, et. al., USDC, ND. Ill., 1:13-cv-00042, a TCPA class settlement of \$12,500,000 granted final approval in April of 2020.
- xiv. Loftus v. Sunrun, Inc., USDC, N.D. Ca., 3:19-cv-1608, a TCPA class settlement of \$5,500,000 granted final approval on May 11, 2021.

3. Class Counsel zealously represented Plaintiff and the Settlement Class Members’ interests throughout the litigation and will continue to do so.

I declare under penalty of perjury of the laws of the United States that the foregoing is true and correct.

Dated: November 16, 2022

/s/ Anthony I. Paronich
Anthony I. Paronich