

*Crystal Chapman v. America's Lift Chairs, LLC*, No 4:21-cv-245

# If you received a telemarketing call from America's Lift Chairs, you may be entitled to a payment of up to \$40 from a class action settlement.

A court authorized this notice. You are **not** being sued. This is **not** a solicitation from a lawyer.

- Call records indicate that you may be affected by a Settlement<sup>1</sup> of a class action lawsuit claiming that Defendant America's Lift Chairs, LLC ("America's Lift Chairs") violated a federal law called the Telephone Consumer Protection Act ("TCPA") when their telemarketing vendor Prospects DM sent pre-recorded calls and/or made calls to individuals who were on the national Do Not Call Registry on their behalf. America's Lift Chairs denies that it violated the law.
- The lawsuit is called *Crystal Chapman v. America's Lift Chairs, LLC*, Case. No 21-cv-245. Judge R. Stan Baker decided that this settlement should be a class action on behalf of a Class, or group of people that could include you, and a Settlement has been reached affecting this Class.
- The Settlement offers payments to Class Members who file valid Claims.
- Your legal rights are affected whether you act or do not act. Read this notice carefully.

YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT:	
SUBMIT A CLAIM FORM	If you are a member of the Class, you must submit a completed Claim Form to receive a payment of up to \$40.03 per claimant. If the Court approves the Settlement and it becomes final and effective, and you remain in the Class, you will receive your payment by check.
EXCLUDE YOURSELF	You may request to be excluded from the Settlement and if you do, you will receive no benefits from the Settlement.
OBJECT	Write to the Court and appear at a hearing if you do not like the Settlement.
DO NOTHING	You will not receive a payment if you fail to timely submit a completed Claim Form, and you will give up your right to bring your own lawsuit against America's Lift Chairs about the claims in this case.

- These rights and options—**and the deadlines to exercise them**—are explained in this notice.
- The Court in charge of this case still has to decide whether to approve the Settlement. If it does, and after any appeals are resolved, benefits will be distributed to those who submit qualifying Claim Forms. Please be patient.

<sup>1</sup> Capitalized terms herein have the same meanings as those defined in the Settlement Agreement.

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## BASIC INFORMATION

### 1. Why was this notice issued?

The Court authorized this notice because you have a right to know about a proposed Settlement of a class action lawsuit. You have legal rights and options that you may exercise before the Court decides whether to give final approval to the Settlement, as described below. Judge Stan Baker of the United States District Court for the Southern District of Georgia is overseeing this class action. The lawsuit is called *Chapman v. America's Lift Chairs, LLC*, Case. No 21-cv-245 (S.D. Ga.).

### 2. What is this lawsuit about?

Plaintiffs Chapman and Nelums claims that America's Lift Chairs violated the Federal Telephone Consumer Protection Act (TCPA) when their telemarketer Prospects DM made telemarketing calls to cellular telephone numbers, including numbers on the National Do Not Call Registry. America's Lift Chairs denies these allegations.

### 3. What is a class action and who is involved?

In a class action, one or more people called "class representatives" (in this case, Crystal Chapman and Joseph Nelums) sue on behalf of a group of people who may have similar claims. The people together are a "class" or "class members." The individual who sues—and all the class members like them—is called the plaintiff. The company that they sue (in this case, America's Lift Chairs) is called the Defendant. In a class action, the Court resolves the issues for all class members, except for those who exclude themselves from the class.

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

The Court decided that this lawsuit can be a class action because it meets the requirements of Federal Rule of Civil Procedure 23, which governs class actions in federal courts.

### 5. Why is this there a settlement?

The Court has not found in favor of Plaintiff or America's Lift Chairs. Instead, the parties have agreed to a Settlement. By agreeing to the Settlement, the parties avoid the costs and uncertainty of a trial, and if the Settlement is approved by the Court, Class Members will receive the benefits described in this notice. America's Lift Chairs denies all legal claims in this case, but is settling to avoid the uncertainties and costs attendant with litigation. Plaintiffs and their lawyers think the proposed Settlement is best for everyone who is affected.

## WHO IS PART OF THE CLASS AND SETTLEMENT

You need to determine whether you are affected by this lawsuit.

### 6. Am I part of the class and included in the settlement?

The Settlement includes the following class that the Court certified: "All users or subscribers to telephone numbers that received a pre-recorded telemarketing call by Prospects DM on behalf of America's Lift Chairs, LLC and/or that were on the national Do Not Call Registry and received a telemarketing call from Prospects DM, Inc. and any related entities on behalf of America's Lift Chairs, LLC from August 31, 2017 through the date of preliminary approval."

You may be part of the class if you received a telemarketing call from Prospects DM for America's Lift Chairs and:

- Your name and phone number appeared in calling records obtained for this case, in which case you may have received a notice email or postcard from the settlement administrator.
- Even if you did not get an email or postcard, you may still be part of the class if your cell phone number appears in the calling records obtained for this case. If you would like to check your cell phone number against the calling records, please call the Settlement Administrator at [###-#####] and provide your name, cell phone number, and a current email.

#### **7. What if I'm still not sure if I am included?**

If you are still not sure whether you are included, you can call the *Chapman v. America's Lift Chairs, LLC*, Case. No 21-cv-245 (S.D. Ga.) Settlement Administrator at [###-#####]. Or you can get free help by calling the lawyers in this case at the phone number listed in question 24.

### **THE SETTLEMENT BENEFITS**

#### **8. What does the settlement provide?**

America's Lift Chairs has agreed to a Settlement Sum of \$1,700,000. The Settlement Sum will be used to pay all settlement costs, including settlement administration costs, any attorneys' fees, costs, and expenses awarded to Class Counsel by the Court, and all Approved Claims. Members of the Class who submit Approved Claims shall receive an amount not to exceed forty dollars and three cents (\$40.03), less each Class Member's share of any attorneys' fees and Expenses. In the event that claims exceed a certain threshold the amount will also be reduced by each Class Member's share of notice and administration costs. Only Approved Claims will be paid. Only one claim per Class Member per telephone number will be validated and deemed an Approved Claim. There may be tax consequences to the Class Member associated with this recovery.

America's Lift Chairs has also agreed to implement enhanced policies and procedures to ensure future compliance with the TCPA.

#### **9. How do I file a claim?**

If you qualify for a cash payment you must complete and submit a valid Claim Form. You can file your Claim Form online at [www.xxxxx.com](http://www.xxxxx.com), send it by email to [xxxx@xxxx.com](mailto:xxxx@xxxx.com), or send it by U.S. Mail to the address below. The deadline to file a Claim online or by email is **11:59 p.m. PST on DATE**.

Claim Forms submitted by mail must be postmarked on or before **DATE** to:

America's Lift Chairs Settlement Administrator  
PO Box XXX, City, State XXXXX-XXXX

No matter which method you choose to file your Claim Form, please read the Claim Form carefully and provide all the information required.

**10. When will I receive my payment?**

Payments to Class Members will be made only after the Court grants Final Approval to the Settlement and after any appeals are resolved (*see* “Final Approval Hearing” below). If there are appeals, resolving them can take time. Please be patient.

**EXCLUDING YOURSELF FROM SETTLEMENT**

If you do not want benefits from the Settlement, and you want to keep the right to sue or continue to sue America’s Lift Chairs on your own about the legal issues in this case, then you must take steps to get out of the Settlement. This is called excluding yourself – or it is sometimes referred to as “opting-out” of the Class.

**11. How do I get out of the settlement?**

To exclude yourself from the Settlement, you must send a timely letter by mail to:

America’s Lift Chairs Settlement Administrator  
PO Box XXX  
City, State XXXXX-XXXX

Your request to be excluded from the Settlement must be personally signed by you, be dated, include your full name (or, if a business, business name), address, and the telephone number that allegedly received calls from America’s Lift Chairs during the Class Period, and must clearly state that the Person wishes to be excluded from the Litigation and the Agreement. Absent excluding yourself or “opting-out” you are otherwise a member of the Class.

Your exclusion request must be postmarked no later than **DATE**. You cannot ask to be excluded on the phone, by email, or at the website. Opt outs must be made individually and cannot be made on behalf of other members of the Class.

**12. If I do not exclude myself, can I sue the defendant for the same thing later?**

No. Unless you exclude yourself, you give up the right to sue America’s Lift Chairs or any of the Released Parties for the claims that the Settlement resolves. You must exclude yourself from this Settlement to pursue your own lawsuit.

**13. What am I giving up to stay in the settlement?**

Unless you opt-out of the Settlement, you cannot sue or be part of any other lawsuit against America’s Lift Chairs or any of the Released Parties about the issues in this case, including any existing litigation, arbitration, or proceeding. Unless you exclude yourself, all of the decisions and judgments by the Court will bind you.

The Settlement Agreement is available at [www.xxxxx.com](http://www.xxxxx.com). The Settlement Agreement provides more detail regarding the Release and describes the Released Claims with specific descriptions in necessary, accurate legal terminology, so read it carefully.

**14. If I exclude myself, can I still get a payment?**

No. You will not get a payment from the Settlement Sum if you exclude yourself from the Settlement.

**THE LAWYERS AND THE PLAINTIFF REPRESENTING YOU**

**15. Do I have a lawyer in the case?**

The Court has appointed Avi Kaufman and Anthony Paronich to represent the Class. They are called “class counsel.” They are experienced in handling similar class action cases. More information about these lawyers, their law firms, and their experience is available at <https://kaufmanpa.com/> and [www.paronichlaw.com](http://www.paronichlaw.com).

**16. Should I get my own lawyer?**

You are not required to hire your own lawyer because class counsel is working on your behalf. If you want to hire your own lawyer, you certainly can, but you will have to pay that lawyer yourself. If you do hire your own lawyer, they may enter an appearance for you and represent you individually in this case.

**17. How will the lawyers be paid?**

You do not have to pay class counsel, or anyone else, to participate. Instead, Class Counsel intend to request attorneys’ fees in an amount not to exceed one-third of the Settlement Sum, plus reimbursement of out-of-pocket Expenses incurred in the litigation. The fees and Expenses awarded by the Court will be paid out of the Settlement Sum. The Court will decide the amount of fees and Expenses to award.

**OBJECTING TO THE SETTLEMENT**

**18. How do I tell the Court if I do not like the Settlement?**

If you are a member of the Class (and do not exclude yourself from the Class), you can object to any part of the Settlement. To object, you must timely submit a letter that includes the following:

- 1) A caption or title that identifies it as “Objection to Class Settlement in *Chapman v. America’s Lift Chairs, LLC* No. 21-cv-245 (S.D. Ga.)”;
- 2) Your name, address, and telephone number;
- 3) The name, address, and telephone number of any attorney for you with respect to the objection;
- 4) The factual basis and legal grounds for the objection, including any documents sufficient to establish the basis for your standing as a Class Member, including the phone number(s) at which you received call(s) covered by this Settlement;
- 5) Identification of the case name, case number, and court for any prior class action lawsuit in which you and/or your attorney (if applicable) has objected to a proposed class action settlement; and
- 6) Submit yourself immediately to discovery and/or deposition by the parties.

If you wish to object, you must file your objection with the Court by (a) using the Court’s electronic filing system, (b) mailing it to the Clerk’s Office for the United States District Court for the Southern District of Georgia, 8 Southern Oaks Ct., Savannah, GA, or (c) filing it in person at that location. Your objection must be filed and/or postmarked by **DATE**.

**19. What is the difference between objecting and asking to be excluded?**

Objecting is telling the Court that you do not like something about the Settlement. You can object to the Settlement only if you do not exclude yourself. Excluding yourself is telling the Court that you do not want to be part of the Settlement. If you exclude yourself, you have no basis to object to the Settlement because it no longer affects you.

**THE FINAL APPROVAL HEARING**

The Court will hold a hearing to decide whether to approve the Settlement and any requests for attorneys' fees and Expenses ("Final Approval Hearing").

**20. When and where will the Court decide whether to approve the settlement?**

The Court has scheduled a Final Approval Hearing on **DATE at TIME**, in **ADDRESS**. The hearing may be moved to a different date or time, or may be set for remote appearances, without additional mailed notice, so it is a good idea to check [www.xxxxxTCPAsettlement.com](http://www.xxxxxTCPAsettlement.com) for updates. At this hearing, the Court will consider whether the Settlement is fair, reasonable, and adequate. The Court will also consider the requests by Class Counsel for attorneys' fees and Expenses. If there are objections, the Court will consider them at that time. After the hearing, the Court will decide whether to approve the Settlement. It is unknown how long these decisions will take.

**21. Do I have to attend the hearing?**

No. Class Counsel will answer any questions the Court may have. You are welcome to attend the hearing at your own expense.

**22. May I speak at the hearing?**

If you attend the Final Approval Hearing, you may ask the Court for permission to speak if you have timely objected and you so choose. However, you cannot speak at the hearing if you exclude yourself from the Settlement.

**IF YOU DO NOTHING**

**23. What happens if I do nothing at all?**

If you are a member of the Class and do nothing, meaning you do not file a timely Claim, you will not get benefits from the Settlement. Further, unless you exclude yourself, you will be bound by the judgment entered by the Court.

**GETTING MORE INFORMATION**

**24. Where do I get more information?**

For more information, call the Settlement Administrator at 1-\_\_\_-\_\_\_- \_\_\_\_, write to the Settlement Administrator, [address], or call Class Counsel at 1-\_\_\_-\_\_\_- \_\_\_\_. For a complete, definitive statement of the Settlement terms, refer to the Settlement Agreement at [www.xxxxxTCPAsettlement.com](http://www.xxxxxTCPAsettlement.com).

**PLEASE DO NOT TELEPHONE THE COURT OR THE COURT CLERK'S OFFICE TO INQUIRE ABOUT THIS SETTLEMENT OR THE CLAIM PROCESS.**