

(b) With respect to the Settlement Class, for settlement purposes only, certification is appropriate under Federal Rules of Civil Procedure 23(a) and (b)(3). This Court finds that members of the Settlement Class will receive notice of the settlement through the notice program described below.

(c) The class notice (as described in the Settlement Agreement) fully complies with Federal Rule of Civil Procedure 23(c)(2)(B) and due process, constitutes the best notice practicable under the circumstances, and is due and sufficient notice to all persons entitled to notice of the settlement of the Action.

IT IS THEREFORE ORDERED THAT:

3. For the reasons stated on the record and in Plaintiff's Motion for Preliminary Approval, the Settlement proposed in the Settlement Agreement has been negotiated in good faith at arm's length and free of collusion, and is preliminarily determined to be fair, reasonable, adequate, and in the best interests of the Settlement Class, in light of the factual, legal, practical and procedural considerations raised by this case.

4. The following class (the "Settlement Class") is preliminarily certified solely for the purpose of settlement pursuant to Federal Rules of Civil Procedure 23(a) and (b)(3):

Those Persons who received an autodialed payment and/or debt-collection call in the United States to their cellular telephone number from Terminix or some person on its behalf on or after August 22, 2012 through the date of this Preliminary Approval Order without providing consent to receive such calls who are on the Class List.

5. The Court makes a preliminary finding that this Action satisfies the applicable prerequisites for class action treatment under Federal Rules of Civil Procedure 23(a) and (b). The Settlement Class is so numerous that joinder of all Members is not practicable, there are questions of law and fact common to the Settlement Class, the claims of the Class Representative

(as defined below) are typical of the claims of the Settlement Class, and the Class Representative will fairly and adequately protect the interests of the Settlement Class. Questions of law and fact common to the Members of the Settlement Class predominate over any questions affecting only individual Members, and a class action is superior to other available methods for the fair and efficient adjudication of the controversy.

6. The Court preliminarily appoints Tomorrow Black-Brown as class representative of the Settlement Class (“Class Representative”) and finds that she meets the requirements of Federal Rule of Civil Procedure 23.

7. The Court preliminarily appoints Jonathan Cohen, John Yanchunis, and Morgan & Morgan Complex Litigation Group as Class Counsel for the sole purpose of seeking to achieve a settlement of this Action on behalf of the Class.

8. The Settlement Administrator shall be Angeion Group. Terminix shall pay the Settlement Administrator’s expenses.

9. Within fourteen (14) days of entry of this Order, Terminix’s Counsel shall provide the Settlement Administrator with the list of phone numbers from which the Class List shall be generated.

10. The Settlement Administrator shall give notice to the Settlement Class of the Settlement, its terms, the right to opt out, the right to appear, and the right to object to the Settlement as set forth in the Settlement Agreement. The Settlement Agreement’s plan for class notice is the best notice practicable under the circumstances and satisfies the requirements of due process and Federal Rule of Civil Procedure 23. That plan is approved and adopted, and Settlement Class Counsel is ordered to ensure notice is issued to the Settlement Class as set forth in the Settlement Agreement.

11. Notice Administration. No later than sixty (60) days after the entry of the Preliminary Approval Order, the Settlement Administrator shall notify the potential Class Members included on the Class List of the Settlement by postcard via the United States Postal Service. To increase the accuracy of the mailing information, the Settlement Administrator shall run the names and addresses on the Class List through the National Change of Address database. The Settlement Administrator may distribute the Class Notice and Claim Form using any bulk rate or pre-sorted mail rate made available by the United States Postal Service. The Settlement Administrator will make available on an Internet website copies of the following items: (1) all court papers filed by the Parties, (2) the Class Notice, (3) the Settlement Agreement, and (4) this Order. The Settlement Administrator will make available to Class Members, upon request received by mail at a mailing address to be identified in the Class Notice, copies of the following items: (1) all court papers filed by the Parties, (2) Class Notice, (3) the Settlement Agreement, and (4) this Order.

12. Declaration of Notice Compliance. At least seven (7) days prior to the Fairness Hearing, Defendant's counsel shall provide Class Counsel and the Court with a declaration from a competent declarant stating that the Class Notice has occurred.

13. Fairness Hearing. The Fairness Hearing shall be held before this Court on **February 23, 2018 at 10:00 A.M.**, which is two hundred and ten (210) days after the entry of this Order, in Courtroom 10, C. Clyde Atkins U.S. Courthouse, United States District Court for the Southern District of Florida, 301 N. Miami Ave., Miami, FL 33128. The purposes of the Fairness Hearing shall be: (1) to determine whether a Class shall be finally certified; (2) to determine whether the Settlement of the Action on the terms and conditions provided for in the Settlement Agreement is fair, reasonable, and adequate to the Settlement Class and should be

approved by the Court; (3) whether the Final Judgment and Order of Dismissal with Prejudice (“Final Judgment”) as provided in Paragraph 9.15 of the Settlement Agreement should be entered herein; (4) to entertain any objections of any affected persons as to the certification of the Class, the proposed Settlement, the requested attorneys’ fees, or any other related matters; and (5) to rule on all other matters pertaining to the proposed Settlement and such other matters as the Court may deem appropriate. The Court reserves the right to adjourn the date of the Fairness Hearing without further notice to Class Members and retains jurisdiction to consider all further applications arising out of or connected with the Settlement. The Court may approve the Settlement, with such modifications as may be agreed to by both Defendant’s Counsel and Class Counsel, without further notice to the Class.

14. Exclusion from Class Membership. Any Class Member may submit a written request to be excluded from the Settlement Class. Such requests for exclusion must be signed and post-marked no later than ninety (90) days from the date the Class Notice is mailed and must include the name and number of this case, the name and street address of the person seeking exclusion, all telephone numbers belonging to the person seeking exclusion from August 22, 2012 to the present, and a statement to the effect that the potential Class Member does not want to participate in the Settlement. Within ten (10) days after expiration of the deadline for Class Members to request exclusion from the Settlement Class, Named Plaintiff’s Counsel shall furnish the Opt-Out List to Terminix’s Counsel.

15. Binding Nature of Settlement. All Settlement Class Members who do not submit timely and valid written requests for exclusion shall be bound by all orders and judgments in the Action concerning the Settlement.

16. Injunction Against Other Proceedings. Pending the Final Judgment and Order, neither the Named Plaintiff nor any Class Member shall either directly, representatively, or in any capacity, commence, prosecute, participate in, or continue the prosecution of any action or proceeding in any court or tribunal asserting any Released Claims against any Released Parties unless such person has opted out of the Action in accordance with the terms of the Settlement and this Order. In the event the Settlement is approved by the Court, such injunction shall continue to the extent provided in the Final Judgment.

17. Objections of Class Members. Class Members may present written objections to the Settlement or appear at the Fairness Hearing in the manner set forth in the Settlement Agreement. Any objections must comply with the procedures outlined in this Order and the Class Notice appended to this Order as Exhibit A. Strict compliance with these procedures is required.

a. Any Class Member who wishes to object to the approval, fairness, reasonableness, adequacy, or any other aspect or effect of this Settlement Agreement, or to any award of attorneys' fees and expenses, must file a written objection with the Clerk of the United States District Court for the Southern District of Florida. The objection must be filed by no later than ninety (90) days from the date the Class Notice is mailed, and must refer to the name and number of this case. Copies of the objection must be served on counsel for the Parties, postmarked by that same date. Written objections must include the name, telephone number and street address of the person objecting, identification of all attorneys who assisted in preparation of the objection, a list of all other class action cases in which the person objecting or counsel for the person objecting has filed objections to settlements, and a statement of the reasons for the objection.

Additionally, any objector who wants to state an objection in person at the fairness hearing must include in the written objection a statement of an intention to appear, either in person or through counsel, and identify the names of any witnesses the objector intends to call to testify, as well as any evidence the objector intends to introduce.

b. Plaintiff and Terminix shall submit any briefs or evidentiary materials in opposition to the objections and in support of the Settlement by no later than thirty days prior to the Fairness Hearing.

18. Deadline for Submitting Claim Forms. Claim forms shall be returned by potential Class Members to the Settlement Administrator with a postmark of no later than ninety (90) days from the date that the Class Notice is mailed. Claims not postmarked by that date shall be barred.

19. Motion for Attorneys' Fees, Costs and Expenses and Motion for Service Award for the Named Plaintiff. Class Counsel's motion for attorneys' fees, costs and expenses and motion for a service award for the Named Plaintiff shall be filed and served no later than sixty (60) days from the date the Class Notice is mailed. The Settlement Administrator shall post a copy of the motions on the Internet website described in Paragraph 11.

20. Briefs Regarding Final Approval. All papers including memoranda or briefs in support of final approval of the Settlement shall be filed and served no later than thirty (30) days prior to the Fairness Hearing.

21. No Admission by the Parties. Neither the Settlement nor the Settlement Agreement constitutes an admission, concession, or indication by the Parties of the validity of any claims or defenses in the Action, or of any wrongdoing, liability, or violation of law by Defendant. Defendant vigorously denies all claims and allegations raised in the Action.

22. Defendant's Option to Terminate. Defendant will have the option to terminate this Settlement in its sole discretion if the number of requests for exclusion from the Settlement exceeds two percent (2%) of the individuals on the Class List.

23. Effect of Termination. If the Settlement Agreement is terminated pursuant to its terms prior to the Effective Date, then all other provisions of the Settlement Agreement (other than those explicitly excepted within Paragraph 13.3 of the Settlement Agreement) shall be deemed null and void *ab initio* and without force or effect. In such event, the Settlement Agreement shall not be offered in evidence or used in this or any other Suit for any purpose, including the existence, suitability for certification, or maintenance of any purported class. In such event, the Settlement Agreement and all negotiations, statements, proceedings, and documents prepared in connection herewith (including all legal briefs and exhibits thereto) shall not be deemed or construed to be an admission or confession by any party of any fact, matter, or proposition of law and shall not be offered by anyone adverse to the Defendant for any purpose whatsoever in any Suit. In the event of such termination, all Parties to this Action shall stand in the same position as if this Settlement Agreement had not been negotiated, signed, or filed with the Court.

DONE AND ORDERED in Chambers at Miami, Florida, this 28th day of July, 2017.


ALICIA M. OTAZO-REYES
UNITED STATES MAGISTRATE JUDGE

cc: Counsel of Record

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION

TOMORROW BLACK-BROWN)
on behalf of herself and all other similarly)
situated,)

Plaintiff,)

Case No. 1:16-cv-23607

vs.)

TERMINIX INTERNATIONAL COMPANY)
LIMITED PARTNERSHIP,)

Defendant.)

NOTICE OF PROPOSED CLASS ACTION SETTLEMENT
WITH ATTACHED CLAIM FORM

TO: Persons who may have received an autodialed and/or prerecorded payment and/or debt-collection call within the United States to their cellular telephone number from Terminix International Company Limited Partnership (“Terminix”) on or after August 22, 2012 through _____, 2017 [Insert date of the Court’s Preliminary Approval Order] without providing consent to receive such calls (the “Settlement Class”).

A. WHY HAVE YOU RECEIVED THIS NOTICE? This is a Court-authorized notice of a proposed settlement (“Notice”) in a class action lawsuit. The settlement would resolve a lawsuit brought on behalf of individuals who allege they received, but did not consent to receive, automated and/or prerecorded payment and/or debt-collection calls within the United States on their cellular phones made by persons or entities working on behalf of Terminix. This lawsuit relates only to such calls that were made without the called party’s consent and that were made to a cellular phone using an automatic telephone dialing system or prerecorded voice message. You have been identified as someone who may have received one of these automated or prerecorded telephone calls on or after August 22, 2012 through _____, 2017 [Insert the date of the Court’s Preliminary Approval Order].

B. WHAT IS THE CONSENT TO RECEIVE AUTOMATED PAYMENT AND/OR DEBT COLLECTION CALLS? If you or a member of your household provided Terminix with your cellular phone numbers in connection with purchasing or receiving services from Terminix, then you provided consent to receive automated and prerecorded payment and/or debt collection calls, unless you subsequently revoked such consent by contacting Terminix. This lawsuit only applies to individuals that did not give such consent, or who were called after they revoked their consent.

C. WHAT IS THIS LAWSUIT ABOUT AND WHY IS THERE A SETTLEMENT? This lawsuit alleges that Terminix (“Defendant”) violated the federal Telephone Consumer Protection Act (“TCPA”) by making automated and/or prerecorded payment and/or debt-collection telephone calls to the cell phones of called parties within the United States who did not give consent to receive such calls. Defendant denies the claims in Plaintiff’s complaint and denies that it violated the TCPA. The Court did not decide in favor of the Plaintiff or the Defendant. Instead, both sides have agreed to a Settlement. The Settlement avoids the cost, risk, and delay of trial.

D. WHAT IS THE PROPOSED SETTLEMENT? Without admitting any fault or liability, and in exchange for a release of all claims against it, if the settlement is finally approved, Defendant has agreed to arrange to make payments of \$60.00 to each class member who submits a proper and approved claim form, to pay a service award to Plaintiff for serving as the class representative, and to pay attorneys’ fees and expenses awarded by the Court. If the Court approves the settlement, all Settlement Class Members who submit a valid and timely Proof of Claim Form (attached) will be mailed a check for \$60.00. Settlement Class Members will also give up any right to file or continue a lawsuit against Terminix and its affiliates, subsidiaries and agents, as well as The ServiceMaster Company LLC and its affiliates, subsidiaries and agents (“Released Parties”), arising from automated payment and/or debt-collection calls to cell phones within the United States made by or on behalf of Terminix. Unless you formally exclude yourself from this Settlement, you will release your claims, whether or not you submit a Claim Form and receive payment. The Court has preliminarily approved this settlement, subject to a fairness hearing that will occur on _____, 201_, at __:__ a.m./p.m., in Room __, C. Clyde Atkins U.S. Courthouse, United States District Court for the Southern District of Florida, 301 N. Miami Ave., Miami, FL 33128.

E. WHAT ARE YOUR OPTIONS?

1. Return a Valid, Completed Claim Form: To receive a settlement payment, you must complete, sign, and return a Claim Form on or before _____, 2017, which is ninety (90) days after this Notice was mailed to you. The Claim Form is attached to this Notice and is also available online at www.terminixtcpasettlement.com. If the Court approves the settlement and if your Claim Form is timely, valid, and complete, you will be mailed a check for \$60 after the Court’s order approving the Settlement becomes final. If there is an appeal of the Settlement, payment will be delayed. The Settlement Administrator will include information about the timing of payment at www.terminixtcpasettlement.com.

2. Do Nothing: If you do nothing, you will receive no money from the Settlement. Unless you exclude yourself from the Settlement, you will not be able to file or continue a lawsuit against the Released Parties regarding any released claims. You will not be paid unless you submit a valid and timely Claim Form.

3. Opt Out of the Settlement: You have the right to exclude yourself from the Settlement by sending a written request for exclusion to the Settlement Administrator at Terminix Settlement Administrator, 1801 Market Street, Suite 660; Philadelphia, PA 19103.

Your completed, signed statement advising of your election to opt out must be postmarked no later than _____, 2017, which is ninety (90) days after this Notice was mailed to you. If your request is not postmarked by that date, your right to opt out will be deemed waived and you will be bound by all orders and judgments entered in connection with the Settlement. Your request must list your name, street address, all of your telephone numbers between August 22, 2012 and the present, and the name and number of this case, and it must indicate your request for exclusion (for example, "Exclude me from the Terminix settlement").

4. Object to the Settlement: If you wish to object to any aspect of the Settlement or plaintiff's counsel's request for attorneys' fees, you must file a written objection with the Clerk of the United States District Court for the Southern District of Florida, 400 N. Miami Ave.; 8th Floor SOUTH; Miami, Florida 33128. Your objection must be postmarked by _____, 2017, which is ninety (90) days after this Notice was mailed to you, and must refer to the name and number of this case. You must also serve copies of your objection on Class Counsel (Jonathan Cohen and John Yanchunis, Morgan & Morgan Complex Litigation Group, 201 N. Franklin St., 7th Floor, Tampa, FL 33602) and Defendant's attorney (Rachel Niewoehner, Harrison Law LLC, One North LaSalle St., Suite 2001, Chicago, IL 60602), postmarked by the same date. Your objection must include your name, telephone number, and street address, all attorneys who have assisted you in the preparation and filing of your objection, a list of all other class action cases in which you or your counsel have filed objections to the settlements, and a statement of the reasons for your objections. Additionally, if you want to state your objection in person at the fairness hearing, either on your own behalf or through counsel, you must indicate in your written objection your intention to appear at the hearing and identify the names of any witnesses you intend to call to testify, as well as any evidence you intend to introduce.

F. WHEN WILL THE COURT DECIDE WHETHER TO APPROVE THE SETTLEMENT? The Court will hold a final fairness hearing on _____, 2017, at ___:___ a.m./p.m., in Room ___, C. Clyde Atkins U.S. Courthouse, United States District Court for the Southern District of Florida, 301 N. Miami Ave., Miami, FL 33128, and hear any timely and properly-filed objections and arguments about the settlement and request for attorneys fees. Unless you object to the settlement, you are not required to attend this hearing. The fairness hearing may be continued to a future date without further notice.

G. WHO REPRESENTS THE CLASS, AND WHAT WILL THEY BE PAID? Tomorrow Black-Brown is the Class Representative. Her attorneys are Class Counsel. They are: Jonathan Cohen and John Yanchunis, Morgan & Morgan Complex Litigation Group, 201 N. Franklin Street, 7th Floor Tampa, FL 33602. As part of the settlement, Plaintiff will seek a service award of \$5,000 for her service on behalf of the Class in this litigation. Class Counsel may seek an award of attorneys' fees in an amount less than or equal to \$295,000.

H. WHERE CAN YOU GET MORE INFORMATION? This Notice only summarizes the litigation and the settlement. You can obtain more information about the settlement at www.terminixtcpasettlement.com or by contacting the Settlement Administrator at the following email address: TerminixTCPA@AdminitratorClassAction.com. You may also contact Class Counsel. The court files for this case are available for your inspection at the Clerk

of the United States District Court for the Southern District of Florida, 400 N. Miami Ave.; 8th Floor SOUTH; Miami, Florida 33128.

**DO NOT CONTACT THE JUDGE, THE JUDGE'S STAFF,
OR THE CLERK OF THE COURT BECAUSE THEY ARE NOT PERMITTED
TO ANSWER YOUR QUESTIONS ABOUT THIS SETTLEMENT.**

PROOF OF CLAIM

Black-Brown v. Terminix International Company Limited Partnership

This is a claim made in connection with settlement of a class action. By signing your name immediately after any statement below, you attest under penalty of perjury that the information in that statement is true and correct to the best of your knowledge or belief. You also confirm your understanding that the Settlement Administrator has the right to verify your responses.

You Must Complete *All THREE* Steps to Receive a Settlement Payment:

- 1. You must provide your contact information, including any nicknames or aliases or any name you use to obtain mobile telephone service for you or your family members.**

Name (first, middle initial, last): _____

Additional Name(s) (first, middle initial, last): _____

Company, if any: _____

Address/City/State/Zip Code [List all addresses from August 22, 2012 to the present and the dates you resided at each address]: _____

Cellular Phone Number(s) [List all cellular telephone phone numbers you used from August 22, 2012 to the present and the dates those numbers were assigned to you and to a cellular telephone]: _____

- 2. You must verify ownership of the number(s) listed in #1 above and sign one of the statements below.**

(a) The following cellular telephone number(s) listed above, _____, was/were assigned both to me and to a cellular telephone as of _____ [date(s)]; and neither I nor a member of my household provided that/those number(s) to Terminix at any time, or I or a member of my household informed Terminix on _____ [date(s)] that I did not consent to receive autodialed or prerecorded calls at that/those number(s) and subsequently received an autodialed or prerecorded payment or debt-collection call within the United States from Terminix at that number.

Sign your name here: X _____; OR:

(b) The following cellular telephone number(s) listed above, _____, was/were assigned to me and to a cellular telephone within the United States; I or a member of my household provided that/those number(s) to Terminix; and neither I nor a member of my household ever informed Terminix that I did not consent to receive autodialed or prerecorded voice calls from Terminix at that/those number(s) and then subsequently received an autodialed or prerecorded payment or debt-collection call from Terminix at that/those number(s).

Sign your name here: X _____

- 3. You must return this completed Claim Form to the Settlement Administrator by mail, postmarked no later than _____, 2017, sent to the following address:**

Terminix Settlement Administrator
1801 Market Street, Suite 660
Philadelphia, PA 19103